M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1277 Press ~~Mis.~~

385-386

Dated 31-7- 1860.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 31st July 1860.

No. 385. Read the following Proceedings of the Madras Government in the Judicial Department, dated 24th July 1860, No. 929 :—

Observing that there ought not to be much difficulty in recovering by Civil process the penalty provided for a breach of the 5th and 6th conditions of the Muchalka executed by a Vender of Spirits, and making a suggestion for the Board's consideration on the subject.

(Vide Judicial Proceedings, 24th July 1860, Nos. 153, 154.)

No. 386. ORDER THEREON, 31st July 1860, No. 1,277.

Ordered to be recorded.

(Signed) J. D. BOURDILLON,
Secretary to Government.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

ad the following letter from A. HATHAWAY, Esq., Magistrate of Bellary, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 11th July 1860, No. 33.

1. I have the honor to submit for the consideration of Government, the accompanying tract from the Proceedings of the Foujdari Adálat, under date the 20th November 1852; erein it is ruled, that the penalty attached to an infringement of the 5th and 6th conditions of Muchilka, executed by a vender of spirits, can only be recovered by a Civil action; and to gest that the Legislative Council be moved to pass a short Act, empowering the Magistrate inflict the fine stipulated for in the concluding paragraph of the Muchilka (vide Circular Order, ard of Revenue, 29th June 1835, form No. 2) or in default to order a short period of imprisment.

2. At present, the Magistrate is bound to try such cases; and in the event of conviction st institute a Civil suit to enforce the penalty awarded.

Extract from the Proceedings of the Foujdari Adalat under date the 20th November 1852.

Read letter under date the 4th November 1852, from the Session Judge of Coimbatore.

It was ruled by the Court of Foujdari Adálat under date the 31st May 1850, that a fine ld not be imposed upon parties convicted of "selling liquor to European Soldiers and Sailors" ler Clause eighth, Section VI, Regulation I of 1820, and that as Clause fifth of the above Sec- makes no provision for the recovery of any penalty which the stipulations of the Moochilka cuted by a vender may have attached to an infringement of the terms of his license, that penalty ld only be recovered by a Civil action, and on the acknowledged principle that all penal ctments must be construed strictly. The Court of Foujdari Adalat are of opinion that above ruling was correct.

Ordered that Extract from these Proceedings be sent to the Session Judge of Coimbatore, communication to the Magistrate.

(True Extract.)

(Signed) C. F. CHAMIER,
Registrar.

the Magistrate of Bellary.

(True Copy.)

(Signed) J. H. GOLDIE,
Acting Session Judge.

ORDER THEREON, 24th July 1860, No. 929.

In the Proceedings of the Foujdárí Adálat, under date the 20th November 1852, copy of ch accompanies Mr. Hathaway's letter recorded above, it is shown that "as Clause fifth, ection VI, Regulation I, 1820, makes no provision for the recovery of any penalty, which the "stipulations of the Moochilka executed by a "vender, may have attached to an infringement "of the terms of his license, that penalty could "only be recovered by a Civil action." This ruling applies to the 5th and 6th conditions, and the penalty provided for a breach of them, in the Mochilka, form No. 2, in the Circular Order of the Board of Revenue, 29th June 1835.

. Not to open my shop before sunrise, r keep it open after 8 p. m., and not to har- r any person in it during the night."

Not to sell any quantity of liquor to uropean Soldiers or Sailors."

If I transgress either of the 5th, or 6th nditions, I hereby agree to pay a fine not xceeding 50 Rupees, on proof of the same fore the Magistrate."

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2. Mr. Hathaway remarks that the Magistrate is bound to try cases infringing these conditions, and, in the event of conviction, must institute a Civil suit to enforce the penalty awarded —and suggests that the Legislative Council be moved to pass a short Act empowering the Magistrate to inflict the fine stipulated for.

3. The Government do not deem it advisable to apply for a special Act to provide for the point submitted by Mr. Hathaway. It is not probable that the Council would be disposed to legislate for it singly.

4. His Excellency in Council observes, in reference to the existing arrangement, that there ought not to be much difficulty in recovering the penalty by Civil process. As, however, the Board of Revenue are competent, under Clause second, Section V of the Regulation, to alter the rules framed under it, it will be suggested for their consideration whether it might not be made a further condition of the Moochilka that parties so offending, should on proof thereof to the satisfaction of the Collector, be subject to a revocation of their licenses and to have their shops immediately closed.

(True Extract.)

Chief Secretary.

To the Magistrate of Bellary.
„ Board of Revenue.
„ Revenue Department.

Exd. F. Cartledge.

20. Spare copies