M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1976 Press ~~Mis.~~

445-446

Dated 27—10—1869.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
27th October 1860.

No. 445. Read the following letter from R. S. ELLIS, Esq., C.B., Income Tax Special Commissioner, to J. D. BOURDILLON, Esq., Secretary to Government, in the Revenue Department, dated Madras, 20th October 1860, No. 33 :—

SIR,

1. I have the honor to enclose a copy of a Memorandum, submitted by me to the Income Tax Commissioners and of their reply.

2. The object I had in view in submitting this Memorandum was, to elicit from the Commissioners their opinion as to the exact limitation of the duties of the Income Tax Special Commissioner, the passages in Act XXXII relating to the duties of the Special Commissioner, being sometimes indefinite and apparently contradictory.

3. The Commissioners have expressed in decided terms their opinion, in which I concur.

4. According to this opinion, the duties of Special Commissioner would be to assess applicants, surcharging if necessary. The assessment once made, the Special Commissioner would issue either the duplicate assessments contemplated in Section 143, or, as would be desired by almost all applicants, the certificates of number as provided for in Section 150.

5. So long as the party fulfils on his part the condition of payment as provided for in Sections 154, 155, and 156, the secret of his returns and of his assessment will remain inviolate.

6. It will only be when the party assessed and who has received a certificated number, becomes a defaulter, that the course prescribed by Section 157 will be pursued and his assessment made known.

7. As the course above suggested, which is that contained in the enclosed communication from the Commissioners, appears to be that best calculated to secure for parties making returns to the Special Commissioner, entire secrecy, I beg respectfully to suggest that the Government exercising the powers with which the Act, Part II, Section 7, has invested them, should sanction this interpretation of the Act as regards the functions of the Special Commissioner.

8. As considerable anxiety upon the subject of this reference is felt by the public, I shall feel greatly obliged to the Government for an early communication of their orders.

Memorandum from R. S. ELLIS, Esq., C.B., Income Tax Special Commissioner, dated Madras, 9th October 1860, No. 16 :—

1. By Section 61 it is provided that the Special Commissioner, having made his assessment, which is final, (except in case of fraud) shall thereupon seal up the papers and transmit them to the Commissioners, and by Section 62 the custody of Returns and Records is, in the Presidency Towns, with the Commissioners.

2. These Sections would seem to limit the duties of the Special Commissioner to fixing assessments only, and to transfer all subsequent action connected with the assessments made by the Special Commissioner, to the Commissioners, or else these Sections may only be a provision that a complete record of all assessments, made within the Presidency Town, should be preserved in the Commissioners' Office.

3. In Part XV, Section 143, it is provided that the Collector or the Commissioners, "*authorized to make assessments*" in respect of the assessments made by them, shall, as soon as possible after the assessments shall have been determined, issue out and deliver to the respective collecting officers duplicates of the assessments.

4. The question arises whether the Special Commissioner, as an officer "authorized to "make assessments," should issue the duplicates of the assessments made by him, or should these be issued by the Commissioners from the Records forwarded to them under the provisions of Section 61.

5. If under Section 143 the Special Commissioner can issue duplicate assessments, it would follow that he should issue the certificates described in Section 150, Part XVI.

6. It appears to me that, although not specially named, the functions of Special Commissioner are very much those of Collector as described in the Act.

7. As for example, in form of surcharge No. 16, only the signature of two Commissioners or the Collector is provided for, though by Section 59 of the Act, it is evident that the notice of surcharge must be sent by the Special Commissioner, and in both Sections 59 and 60, the Collector and Special Commissioner are mentioned together as if their duties were synonymous.

8. The question, therefore, for determination is, whether the duties of the Special Commissioner terminate in each case after the final assessment has been made by him, or whether the further proceedings alluded to above, of issuing duplicate assessments and certificates of number or letters, should be held by the Special Commissioner in the same manner as by a Collector in a District or the Commissioners in a Presidency Town.

From F. WALTHEW, Esq., Secretary to the Income Tax Commission, to R. S. ELLIS, Esq., C.B., Income Tax Special Commissioner, dated Madras, 18th October 1860, No. 100 :—

SIR,

In reply to your letter, No. 16 of the 9th instant, respecting the powers of the Special Commissioner, I have been directed by the Commissioners to state that they are of opinion that the wording of the Act upon this subject is very obscure, but that they consider, in order to preserve, inviolate, that secrecy in assessments for which your appointment evidently intends to provide, your powers must necessarily be the same as those of the Commissioners, and your duties should not cease until the party assessed becomes a defaulter, and in consequence it is necessary to issue the duplicate order to demand payment, with his name and description mentioned therein to the collecting Officer, as directed in Section 157 of the Act.

(True Copies.)

(Signed) R. S. ELLIS,
Income Tax Special Commissioner.

No. 446. ORDER THEREON, 27th October 1860, No. 1,976.

The Government entirely concur with the Commissioners and the Special Commissioner, in the view which they have taken of the functions of the latter Office. The Governor in Council does not consider that Section 7 of the Act has reference to questions respecting the interpretation of the Act; but as the Commissioners wish for an expression of the views of Government on the point in question, he willingly gives it.

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

1860
Revenue Department
Stamp Office
Dublin 6th October
No. 23275
To
The Solicitor to the Commissioners of Stamps
Somerset House
London

Sir

I am directed by the Commissioners of Inland Revenue to transmit herewith for your information a copy of a letter from the Solicitor to the Board of Works, dated the 20th ult., and of the reply thereto, No. 33, dated the 27th ult., relative to the duty chargeable on a Lease of Fishery Rights granted by the Commissioners of Public Works in Ireland to the Corporation of Galway.

I am, Sir,
Your obedient Servant
[illegible]

Date 20th Oct 1860
Rec'd 20th Oct
No. 33
Enclosure and
No. 21976. 27th Oct.

Solicitor states as to the Exemption of this Lease and requests the views of Commissioners thereon

Referred to Mr Pitt
27th Oct 1860
[illegible]

Commissioners—

If it is necessary that the authority of Govt. should be taken as it appears that the Lease is legally chargeable, the Board will recommend that it should be done. But Govt. may not desire that Section VII of Act 16 & 17 Vict. cap. 59 should be construed as an interference with the question of the duty chargeable on the Lease, which is the only point submitted to the Board.

[illegible]

However, should the Special Commissioners desire to have the opinion of Counsel, I will take the necessary steps to obtain it.

[illegible]

No. 21976.

The Government entirely concurs with the Commrs. and the Special Commrs., in the views which they have taken of the functions of the latter office. The Govt. in Council does not consider that Sec: VII of the Act has any reference to questions respecting the interpretation of the Act; but as the Commrs. wish for an expression of the views of Govt. on the point in question, he willingly gives

[illegible]

Rob. L. Geo. & Pto
27 Oct 1860