M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2049	Press Mis.
71-72	
Dated 5 — 11 — 1860.	

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 5th November 1860.

No. 71. Read the following Extract from the Proceedings of the Right Honorable the Governor General of India in Council, in the Home Department, under date the 20th October 1860, No. 2,390 :—

The Honorable H. B. Harington.
Mr. R. Temple.
Baboo Prosono Comar Tagore.

Read Resolution dated the 29th ultimo, appointing a Committee consisting of the gentlemen named in the margin to consider and revise the Income Tax Forms prescribed under Section 246 of the Act.

Read Report by the Committee dated the 6th instant, submitting revised forms for the Returns No. 7, Part 1 ; No. 7, Part 2 ; and No. 11 ; and also a new form providing for a general statement of aggregate profits from all sources, which they recommend should be allowed as an optional form in cases in which such profits amount to not less than 10,000 Rupees yearly.

1. The Governor General in Council having attentively considered the Committee's report and the revised forms which accompany it, is pleased to approve of the latter, and directs that they be communicated without delay to the several local Governments and Administrations. Having regard, however, to the time which has elapsed since the introduction of the Act, and considering that in many places returns will have been already made under the existing forms, while probably they will every where have been distributed among the people, His Excellency in Council does not think it advisable (with one exception) formally to substitute the new forms for the old ones by notice in the official Gazette. He thinks it preferable, for the current year, to let the present forms continue as the legal forms, and to permit the practical substitution of the new forms wherever the returns under Schedule 1 and 2 are still unrendered.

2. For this purpose all Commissioners, Special Commissioners, and Collectors charged with the duty of assessing the Income Tax should be furnished with copies of the Revised Forms, No. 7, Parts 1 and 2, and of the new Form of, 'General Statement of Aggregate Profits' and should be directed to exercise their discretion in allowing the use of them in substitution of the old forms, whenever it may appear that it will afford relief and satisfaction to the people to do so.

3. It will, under this arrangement, be necessary to make formal service of the legal forms, intimating to the parties that if they prefer the use of the simpler forms their returns will be accepted in that shape, provided that the Commissioner or Collector shall be satisfied of their fairness.

4. The exception above referred to is the revised Form No. 11. This form, the Governor General in Council, having regard to the remarks of the Committee in the 25th paragraph of their Report, considers it desirable at once to adopt as the legal form in substitution of the present form. He directs accordingly that it be notified in the next issue of the *Gazette*, and in the two following issues.

5. In the 29th paragraph of their Report the Committee bring to notice that the Act allows no deduction in favor of the Zamíndárs on account of expenses incurred in the management of their estates and in the Collection of their rents, and that it has been represented to them that the Zamíndárs think they have a claim to some deduction on those accounts.

6. The Governor General in Council, as at present informed, is not prepared to recognise this claim, but he will refer the point to the Lieutenant Governor of Bengal (to which Presidency the question mainly relates) with a request that his Honor will consider it and communicate his opinion upon it.

Bengal.
Madras.
Bombay.
N. W. Provinces.
Punjab.
Oude.
Nagpore.
Pegue.
Tenasserim.

Ordered that a copy of this Resolution and of the several papers mentioned in it be forwarded for information and guidance to the local Governments and Administrations named in the margin.—Ordered, that a copy be communicated to the Financial Deparment.

FORT WILLIAM, HOME DEPARTMENT, *the 29th September* 1860, *No.* 39.

RESOLUTION.

1. Representations having been made regarding the great difficulty experienced, by many persons, and more especially by the Native land-holders, Bankers and Traders, in filling

up the Forms of Income Tax Returns, which have been prescribed by the Governor General in Council, by reason of their technical and complex character, and the adoption of more simple forms being very desirable, the Governor General in Council has been pleased to appoint the following gentlemen to be a Committee for considering and revising the forms, *viz*:—

The Honorable H. B. Harington.
R. Temple, Esq.
Baboo Prosunno Comar Tagore.

2. His Excellency in Council does not consider it necessary to lay down any detailed directions for the guidance of the Committee. Their general object will be to reduce the forms under which persons are required to return their income and profits to a shape as simple as shall be consistent with the full security of the public interests.

3. It will probably be inconvenient that the revised forms, instead of superseding altogether those which have been already prescribed, should be used as alternative forms in all cases in which the Income Tax Commissioners and the Revenue Authorities, subject to the orders of the local Government, may think it expedient to substitute them.

4. The Committee will of course consult with the Income Tax Commissioners in Calcutta, and also, as far as may be found practicable, with intelligent members of all the great classes of tax-payers.

From the Committee for revising Income Tax Form, to W. GREY, Esq., Secretary to the Government of India, dated 6th October 1860.

1. We have the honor to acknowledge the receipt of your separate letters to our address, dated the 29th ultimo, and numbered respectively 1854, 1855 and 1856, with the accompanying copies of a Resolution of the Supreme Government appointing us a Committee to consider and revise the Forms of the Income Tax Returns, with a view to their being rendered more simple.

2. In pursuance of our appointment we held two Meetings, at which the Forms of the Income Tax Returns now in use were carefully considered by us.

3. The first Meeting, which was held on Thursday, the 3rd instant, was attended by Mr. A. Grote, the President of the Income Tax Commissioners for the Town of Calcutta, Mr. Claude Brown, a partner in the Firm of Messrs. Jardine, Skinner and Co., Moonshee Ameer Ali, a Pleader in very large practice in the Court of Sudder Dewany Adawlut for the Lower Provinces of Bengal, and a land-holder, and Mr. Manickjee Rustomjee, a most respectable and intelligent Parsee Merchant, who we are given to understand accompanied a deputation of Marwaree Merchants, which lately waited on the Honorable the Lieutenant Governor of Bengal, to complain of the Forms of the Returns, in which, as extensive Bankers and Traders, they are most interested, and acted as spokesman on the occasion.

4. The gentlemen mentioned in the preceding paragraph attended the meeting of our Committee on Thursday last, at our invitation, and we are under very great obligations to them for much useful information, and for many valuable suggestions.

5. Our second Meeting was held yesterday, Friday the 5th October. Previously to the Meeting Baboo Ramaprushaud Roy, the Government Pleader in the Sudder Court at Calcutta, waited on Mr. Harington, one of the Members of our Committee, and pointed out several alterations in the present Forms which he considered it very desirable should be made. Those alterations were fully considered and discussed at the Meeting held by us yesterday, and have for the most part been adopted. To Baboo Ramaprushaud Roy also we consider ourselves greatly indebted for the assistance which he has afforded us in carrying out the object of our appointment.

6. The Forms of the Income Tax Returns, which appear not to be generally understood, or to which objections are made, are the following, viz:—Form No. 7, Part I; Return, Part I; Return under Schedule 1 of Act XXXII of 1860, of property in and profits arising from lands and houses in India, being Part I of General Return; Form No. 7, Part II, Return Part II; Return under Schedule 2, Act XXXII of 1860, of profits arising from property, professions, trades or employments, and for interest of money, annuities, and other annual profits, mentioned in the cases specified below and in Rules under Schedule 2, being Part II

of General Return, Form No. II, List of Lodgers, Inmates, Clerks and servants under Act XXXII of 1860, Section XLII.

7. The principal difficulty experienced in preparing the Return No. 7, Part I, and the chief objection taken to the Form of that Return as now in use, have arisen from the introduction into Rule 4, Section XCVII of Act XXXII of 1860 of the following clause, which was not in the Bill as settled by the Select Committee, but was inserted when the Bill was passing through a Committee of the whole Council, viz: "Every Return required by this "Section shall be accompanied by a rent-roll containing the name of every person to whom such "lands or houses, or any part thereof, are underlet by the person making such Return, and the "amount of rent payable in every such case and every such return and rent roll shall be filed in "the Collector's Office, and shall be conclusive evidence against the person making such Return "in any suit for the recovery of rent as to the amount payable by any tenant included in such "rent-roll for the period to which such Return applies, and shall also be conclusive evidence "against him in all other actions or suits."

8. We are informed that a rent-roll such as is required by the Section mentioned in the preceding paragraph is kept up in very few estates in Bengal, and that owing to the immense number of cultivators in some of the larger estates, its preparation with any approach to accuracy would often be found to be quite impossible, and, where practicable, would be a work of considerable time and labor. Mr. Brown informed us that in one of the estates belonging to the house in which he is a partner, there are no less than 100,000 cultivators, each of whom would have to be entered separately by name with the quantity of land cultivated, and the amount of rent payable by him. It does not appear to us that this rent-roll is necessary for the protection of the interests of Government, and, though required by the Act, we strongly recommend that the Government should for a time at least dispense with its submission. The declaration as to the correctness of his Return, which every land-holder is required to make, with the knowledge that the accuracy of the Return may be tested whenever any doubts are entertained in respect to it, by a searching inquiry through the Revenue Department, will we hope be found sufficient to ensure generally correct Returns being given in by the Proprietors of land, without entailing upon them the labor and expense of preparing and filing a rent-roll such as now required.

9. The introduction into the same Section of the words entered in the margin, which was also ordered while the Bill was passing through a Committee of the whole Council, has likewise we are informed led to much misapprehension, and caused some alarm lest the requirments of this part of the law should not be complied with. We have simplified the headings of the columns in which the information required under this head is to be given, and we are led to hope that little, if any, difficulty will now be experienced in preparing those columns, and that as altered they will not be found objectionable.

"*All persons in the actual receipt, whether as owners or not, of any rents or profits arising out of any lands or houses not included in the said first general rule, whether paying revenue to the Government or not, shall return and deliver, as aforesaid, a statement of all the several estates, tenures, sub-tenures, lands, and houses held by them, and of the nature of such estates, tenures and sub-tenures, and of the amount of the rents and profits whereof they shall be in receipt as aforesaid, under any title whatever, and in whatever District situated, and of the rents and profits of whatsoever nature or kind, received and receivable by them on account of every such separate Estate, tenure, sub-tenure, lands, and houses, as the rent or profits payable for the preceding year, that is to say the revenue year immediately preceding the year of assessment, and shall be chargeable upon the annual amount of such rents and profits.*"

10. The word "receivable" as used in the heading of column 5 of this Return, though sanctioned by the Act, is strongly objected to, and we think with good reason.

11. An apprehension appears to be entertained that unless the word "receivable" is retained, and the duty assessed not upon the rent or profits actually received during the year, but upon what is receivable, though a considerable portion thereof may never be realized, the Government will suffer loss, but we do not share in this apprehension.

12. We need scarcely say that few Zamindárs receive within the year, or when due, the whole of the rents of that year to which they are entitled, but though it generally happens that

a balance on the year remains due, the rents realized almost always include a portion of the rent of the preceding year, or it may be several years which remaind outstanding. The arrear, so recovered, should be included among the rents or profits on which the assessment is made, equally with the proper rents or profits of the year, and taking one year with another, the return will in most cases include a sum equal to the annual profits or rent of the Estate. The Government will thus obtain its dues, and the landholders will be relieved from the difficulty of having to prepare a return (required under heavy penalties to be strictly accurate) for the preparation of which they have often no certain or correct data. By requiring that the Return shall be confined to the rents and profits of all kinds actually received during the year, Column 9 of the Return may be dispensed with, and the troublesome and often difficult inquiry which will be necessary, if the receivable profits or rents are required to be returned, and a deduction afterwards allowed on any of the grounds mentioned in Column 9 of the Return, as now in use, will be avoided.

13. We proposed that the information required to be given in Column 6 of the Return should be confined to those co-sharers who hold possession jointly with the party making the return. In Bengal the co-sharers are often very numerous. The co-sharers in one part of an Estate are frequently not known to the shareholders of another part, and if they have no interest in common beyond what is derived from their being co-proprietors of the same estate, there seems no reason why every co-sharer should be required to mention in the return made by him other than the co-parceners who hold possession jointly with himself, nor does more appear to be necessary to protect the interests of Government.

14. We recommend that the whole of the notes to this return should be struck out. The first note will be unnecessary if the rent-roll referred to in it be no longer required, and the remaining notes, so far from elucidating the object of the Return, have been found rather to produce the contrary effect, and we are informed that they have not only been misapprehended but that they have excited apprehensions.

15. The next form to which exception has been taken is Form No. 7, Part II of profits arising from property, professions, trades or employments, &c. The first objections related to columns 2 and 5, which apparently required a detail of each trade and profession. It was said there would be difficulty in ascertaining the requisite particulars from distant places; that Native traders would apprehend that a disclosure of their business was demanded, and that the form of return seemed to preclude the losses on one business being balanced with the profits of another, as permitted in Rule 24, Section XCVIII of the Act. We have now proposed a wording for the column in question that shall only require the description of the trade, profession, or employment, and a statement of profits derived therefrom.

16. The next objection referred to column 4, which required the names and residences of partners to be stated. It was said that many firms would be averse to naming their partners, and we have no doubt that such aversion really exists; moreover it is said, and with truth, that the names of all the partners are often not known to the party making the Return. Considering that the entering of the names of partners is not absolutely necessary, we have provided merely that the party shall state whether the business is conducted in partnership or not, and if so that he shall specify the name and style of the firm.

17. Considering that the accounts of many firms are not made up until after the lapse of some time, and in many cases are never made up at all, we have provided that the Return may be estimated either on the profits of the last preceding year, or of the latest year for which accounts have been made up, or on an average of the three years immediately preceding the year of assessment.

18. The 6th Column relating to the Return of profits for broken periods we have proposed to strike out, as it does not appear to be really needed, and is calculated to give rise to misapprehension.

19. It was represented to us that columns 7, 8 and 9 relating to deductions allowable under the Act would not be understood; it appears to us that they are not needed; that the party making the Return is sure for his own sake to make all lawful deductions, and that the multiplication of columns only serves to create misapprehension. We therefore propose to omit these columns.

20. The columns for the third case under the Form No. 7, regarding profits of uncertain yearly value, appear to us not to be necessary, and we propose to strike them out also.

21. The cases intended to be entered in those columns may conveniently be included in the columns appropriated to the 5th case. The fourth of these last columns may also we think be omitted. The object of the column is not understood, and great difficulty is experienced in filling it up.

22. The forms for the fourth and fifth cases relating to profits from property out of India, and profits not falling under any specific head, have not been objected to, and we propose to retain them as they seem quite simple.

23. But we have further deemed it desirable to propose a general Form for profits derived from all sources for cases in which such profits amount to not less than 10,000 Rupees yearly. In ordinary cases the tax-payer returns his profits separately, either under the Form for lands and houses, or under the Form for professions, trades, or employments. But many cases exist in which the profits arising from landed property are in a manner mixed up with the profits of business. For instance a landed property may be held by a firm for the purpose of carrying on a Silk business and an Indigo business, and the whole affair may be managed by one establishment. The income derived from the property and the business forms the aggregate of profits on which the duty is to be levied. To discriminate between the profits derived from such source would be difficult and harassing to the tax-payer, if not altogether impracticable. Some very large properties are held in this manner, and some of the most important cases under the Act will belong to this class. We have therefore proposed a Form containing only five columns, and drawn, as we believe, with the utmost simplicity, consistent with the object in view, whereby the aggregate of profits derived from all sources may be stated in one column. In those cases where the annual profits returned shall not be less than 10,000 Rupees, the party should in our opinion be allowed in the first instance to Return in this form. But the Collector or Commissioner, if dissatisfied with the Return, should, we think, have the power of demanding a Return according to Parts I and II of Form 7.

24. We think that Column 5 of this statement may be omitted as unnecessary.

Form No. 9, Under Section XL.,

25. This Return has been construed to require that the name not only of every male inhabitant of the house of the party making the Return should be entered in it, but also the names of his female relatives residing with him as well as of his children, however young they may be. It will be readily understood how objectionable such a requirement must be regarded by the Hindoo and Mahomedan communities. We feel certain that whatever may be the wording of the law, it was never intended to be enforced in the manner supposed, and we have proposed such alterations in the headings of the columns of this Return, as will, we think, remove all just grounds of objection or alarm, and at the same time sufficiently guard the interests of Government. We can see no reason for requiring any person to enter in this Return the names of persons not residing with him simply because they are in his employ. Such persons should be returned at the place at which they reside, and they should be assessed in the usual manner.

Form No. 2, List of Lodgers, &c., Under Section XLII.

26. In the course of our examination it has come to our notice that the Bengalee and Oordoo translations of the Forms prepared under the directions of the Bengal and North-Western Provinces Governments respectively are defective and erroneous in some particulars. Some of the errors are calculated to cause much misapprehension.

27. We have now endeavoured so to simplify these important Forms as to obviate all reasonable objection, which have either been represented to us or have occurred to ourselves. The original Forms would appear to have been prepared strictly in accordance with the Act, and many of the columns which we have proposed to omit, were no doubt added, not only to secure the interests of Government, but also to ensure justice to the Tax-payers, by the specification of deductions and abatements allowable under the Act. We may add that the original

Forms do not appear to us to be really complex, and beyond the comprehension of any person of ordinary intelligence and attention ; but we have borne in mind what indeed was known before, that the Returns are novel to the people ; that the Native traders are fearful of disclosing their affairs, and that requisitions for even simple particulars are calculated to rouse alarm and suspicion. Keeping these facts in view, we have endeavoured to abbreviate and simplify the Returns, so as to give satisfaction to the tax-payers without compromising any of the interests of Government.

28. In reference to paragraph 3 of the Government Resolution intimating that it might be desirable to use the new Forms as alternatives to be substituted for the original Forms whenever convenient, we venture to submit that a double set of Forms might be objectionable, and might lead to some confusion. If the new Forms, as now proposed, meet with the approval of Government, we strongly recommend that they be substituted altogether, and that the original Forms be cancelled. A further revision of the Forms may hereafter become necessary, as experience shall be collected from various parts of the country.

29. We have been requested to bring to the notice of Government that Act XXXII of 1860, allows no deduction in favor of the Zamíndárs and other landholders on account of the expenses incurred in the management of their estates, and in the Collection of their rents, though they are sometimes very heavy, and in many instances include the charge of keeping in good repair extensive embankments. It is urged that traders and others are required to return only their net profits after deducting all expenses immediately connected with their trade, &c., and a similar indulgence is claimed by those who derive their means of support from land. We consider that it does not fall within our province to make any suggestion on this point, and that all that we can properly do in the matter is to state for the consideration of Government what has been represented to us.

30. Several other objections to the detailed rules of assessment in this Act have been brought to our notice, but we have not thought it to be our duty to consider these, and without such consideration we could not venture to offer any suggestions. But we would take the opportunity of observing, that as the Act comes into actual operation, it is probably that a variety of minor points in the different Presidencies and Provinces will arise demanding consideration. If all Officers engaged in the management of the tax be invited to offer from time to time such practical suggestions as may occur to them, a mass of valuable information will in a short time be collected and might be carefully collated. By such means the Government, or the Legislature will be enabled to effect improvements and remove objections.

31. A set of the Forms of the Returns corrected as proposed by us is herewith submitted.

No. 72. ORDER THEREON, 5th November 1860, No. 2,049.

Ordered to be communicated to the Board of Revenue and to the Income Tax Commissioners.

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

Revenue 1860 Sept.
Gen: of Govt. for November -

No. 2407

Extract from the Pro:
of the Govt of India -

Dated 20 } October 1860
Rec. 27 }

10. Encls:

Furnishing Copy of a Resolution on the Report by the Committee to revise the Income Tax Forms, together with the Revised Forms which accompanied it -

No 2049

Ordered to be communicated to the Board of Revenue and to the Income Tax Commissioners.

Fort St. Geo.
5 November 1860.

12 Copies

To the Board of Rev. with 4 Forms - Disp: 6
13 " Resident & C. Comm" — do — 5
3 " Jpt. Coun — do — 5

From the Under Secy to the Govt of India 22d Novr to Oct. 2727 No
in Pro 4 Dec. No 2300. 2725

No 71 & 72 -

No 2049. 5 Nov.
With an order.