M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2276 Press Mis.

65-67

Dated 9—12— 1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 9th December 1861.

No. 65. Read the following Proceedings of the Madras Government in the Judicial Department, dated 15th November 1861, No. 1,391 :—

Read the following Extract of a letter from THOMAS SYDNEY SMYTH, Esq., Advocate General, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 17th October 1861.

SIR,

Para. 9. The three cases under the Income Tax Act also require notice. The first No. 15, for receiving bribes, was acquitted, though the evidence seemed very clear. Probably the Jury considered the receiving of two four anna pieces as too trumpery a matter for a formal indictment, and one which the Magistrate ought to have disposed of summarily. I can imagine no other ground for the case was a very clear one, and the prisoner himself confessed, saying, when asked what he had to say for his defence, "There is fault upon me."

10. It certainly was a trumpery case; but as to the Magistrate's not disposing of it summarily, the Act is more in fault than the Magistrate; and, I submit, requires amendment.

11. Section 224 professes to give the Magistrates summary jurisdiction over all offences within the jurisdiction of the Supreme Court, where the punishment is fine or forfeiture, or fine and imprisonment for *not more* than *six* months—meaning, *apparently* to include the offences enumerated in Clause 4 of Section 195. This Clause however, while limiting the original imprisonment to six months, and the fine to one thousand Rupees, goes on to enact, that, if the fine be *not* paid, the offender shall be liable to *further* imprisonment of not more than six months. The Magistrate therefore considered (and I concur with him, though I submitted the contrary view to the Court, to elicit its opinion) that this latter clause made the punishment amount to *twelve* months imprisonment, and so deprived him of any jurisdiction, and so the Court seemed to think, though it gave no express decision on the point. Unless the Magistrates are given summary jurisdiction in these matters, the inconvenience of having nearly the whole Income Tax Office Establishment dancing attendance for several days at the Sessions, as was the case this time, on account of the three cases committed there—two of them *very* trumpery—may be very serious.

12. Case No. 1, for assaulting Income Tax Officers while distraining, was a very trumpery case (owing in a great degree to somewhat over-hastiness on the part of the Income Tax Officer) which, if taken under Section 214, as a case of obstructing of the Officers, might clearly have been summarily dealt with under Section 224. The first prisoner was acquitted, the second convicted, and sentenced to two months' imprisonment with hard labor.

13. Case No. 10, for breach of trust, in applying to the prisoner's own use a sum of Rupees 36-13-3, was one which might clearly have also been disposed of summarily by the Magistrate, under Section 28 of the Police Act XIII of 1856. The prisoner throughout admitted that he was responsible for, and liable to make good the money—but, in the first instance, he denied to Mr. Winscom that he had actually received the money, though saying he had made himself responsible for it to the Serjeant; but next day he confessed the whole truth to Mr. Ellis, the Special Commissioner. But for a monstrously false defence which he set up at his trial (the witnesses called to support which entirely broke down on cross-examination), I should not have been surprised if the Jury had felt doubts of his having had any intention originally to defraud Government. The prisoner was sentenced to eighteen months' imprisonment with hard labor.

Para. 2. Paragraphs 9 to 13 of the report will be referred to the Revenue Department for consideration. Paragraph 15 will be communicated to the Military Department.

(True Extract.)

(Signed) T. PYCROFT,
Chief Secretary.

Proceedings of the Madras Government, Revenue Department, 9th December 1861.

No. 66. ORDER THEREON, 9th December 1861, No. 2,276.

Ordered to be communicated to the Income Tax Commissioners for their information. The attention of the Government of India will be drawn to paragraphs 10 and 11.

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

Ordered that the following letter be despatched.

No. 67. From J. D. SIM, Esq., Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, Financial Department, dated 9th December 1861, No. 2,277.

SIR,

I have the honor under the orders of His Excellency the Governor in Council, to forward to you herewith an Extract from a letter* from the Advocate General at this Presidency, and to request the attention of the Government of India to paragraphs 10 and 11 thereof, in which Mr. Smyth points out that the Income Tax Act requires amendment.

* 17th October 1861.

JUDICIAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following Extract of a letter from THOMAS SYDNEY SMYTH, Esq., Advocate General; to the Chief Secretary to Government, Fort Saint George, dated 17th October 1861.

Para. 9. The three cases under the Income Tax Act also require notice. The first, No. 15, for receiving bribes, was acquitted, though the evidence seemed very clear. Probably the Jury considered the receiving of two four annas pieces as too trumpery a matter for a formal indictment, and one which the Magistrate ought to have disposed of summarily. I can imagine no other ground for the case was a very clear one, and the prisoner himself confessed, saying, when asked what he had to say for his defence, "There is fault upon me."

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ORDER THEREON, 15th November 1861, No. 1,391.

Para. 2. Paragraphs 9 to 13 of the report will be referred to the Revenue Department for consideration. Paragraph 15 will be communicated to the Military Department.

(True Extract.)

Chief Secretary.

To the Revenue Department.

Exd. F. Cartledge.

Rev Dept

No 2277

To

The Secretary to the Govt of India

Financial Department

Sir,

I have the honor under
the orders of His Excellency
the Governor in Council to
forward to you herewith
an Extract from a letter from
the Advocate General at this
Presidency and to request the
attention of the Govt of India
to paras 10 and 11 thereof in
which Mr Smyth submits
that the Income Tax Act
requires amendment.

I have &c

J. A. Lewis

Fort St George
9th Decr 61

× 17th October 1861.

Rec 22nd Dec 1861
Read & Entered
Dated 9th Dec 1861
Rec'd 10th Dec 1861
Answered 13th Dec 1861

Rev Dept

No 2276

Extract a Letter from the Advocate General
to the Secretary to Government
dated 17th October 1861

Para 10 & 11

Mr Smyth suggests that the Clause
of the Act which exempts from
taxation Incomes derived from
Property vested in Trustees for
Charitable purposes should be
amended so as to limit the
exemption to Incomes derived
from Property vested in Trustees
for Charitable purposes within
the Territories subject to the
Government of India.

Para 11

Mr Smyth suggests that the Clause
which exempts from taxation
Incomes derived from Property
vested in Trustees for Religious
purposes should be amended so
as to limit the exemption to
Incomes derived from Property
vested in Trustees for Religious
purposes within the Territories
subject to the Government of India.

Fort St George
9th Decr 1861

Rev Dept

No 2276.

9th December
1861.

Answered