

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1995	Press
	67	~~Mis.~~
Dated	6-11-1918	1863

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
6th November 1863.*

Dated 6th November 1863, No. 1,995.

No. 67.

Read again letters from the Collector of Ganjam, dated 7th and 23rd September, Nos. 176 and 188, and recorded in Proceedings 25th September and 2nd October 1863, Nos. 1,763 and 1,807.

1. The Government observe that in G. O. dated 29th September 1860, No. 1,748, the Collectors of the several Districts were appointed Collectors of Stamp Revenue, under Section XIX Act XXXVI of 1860, but in order to remove all doubts of the competency of such Collectors to act also as Collectors of Stamp Revenue, they resolve under Section 34 of Act X of 1862 to re-appoint all Collectors and Acting Collectors of Land Revenue and the Governor's Agents in Ganjam and Vizagapatam to be Collectors of Stamp Revenue in their respective Districts.

2. The Board will inform the Collectors that Suits, Prosecutions, &c., under Section LII of Act X of 1862, should be conducted by them as Collectors of Stamp Revenue.

(True Extract.)

(Signed) J. D. SIM,

Secretary to Government.

To the Board of Revenue.

Exd. S. T. Augustin.

prosecute persons for offences affecting the public

From Clement Dale Esquire Government Pleader, Madras
To J. P. Sim Esquire Secretary to Government

Madras 20th October 1863

Sir,

I have

25 September 1863 N 1763
Revenue Department

the honor to acknowledge the receipt of the Proceedings of Government under the date and number noted in the margin, and to advise that no motion be taken in the matter referred to, as it appears to me that the whole of the proceedings have been adopted and conducted under a misapprehension, and are altogether erroneous.

2 If I understand the proceedings correctly Captain Grove acted in a twofold character, 1st as the Prosecutor and 2^d as the Judge.

3 Such a course is opposed to the sense entertained of the mode in which Justice should be administered in British Courts, The Honorable The Governor in Council may deem it worthy of observation with the view of preventing the repetition of a similar course.

4 As observed by the Session Judge, Section 52 of Act X of 1862 Expressly limits the power to prosecute persons for offences affecting the public

Revenue under that Act, to "The Collector of Stamp
"Revenue" of the District, or other officer specially
"authorised by the Government in that behalf."

5 Under the provision of Section 34 the
Government is to divide the Presidency into Districts,
and is directed to appoint an Officer to each District.
The several Collectors do not, as such, constitute
"the Officers for the collection of the Stamp Revenue"
or "Collectors of Stamp Revenue," but must be specifically
appointed as such by Government, if it be wished
that they should act in that capacity, and they must
have Districts assigned to them; before they can
Exercise any of the provisions of the Act.

6 I am not aware whether such a course has
been pursued by Government.

7 From the papers before me I gather that
Captain Grove has not been so appointed, and has not
had any such District assigned to him.

8 It also appears Captain Grove was not
specially authorised by Government to prosecute
for the alleged offence.

9 And I am of opinion that Regulation
7 of 1828 does not apply to any case coming under
the provision of Act X of 1862.

10 Hence it follows that in my opinion
the prosecution by Captain Grove was illegal.

11 I think it right to observe, that in my
opinion an "authority from the Collector of the Stamp
Revenue" of the District, would not be sufficient to
authorise a prosecution under the 32^d Section of Act
of 1862, as would appear to be the opinion of the
High Court. The authority to prosecute must in
my opinion be by Government, in all cases other
than those presented by the Collector of the
Stamp Revenue of the District.

12- For obvious reasons I recommend my
opinion should not be circulated.

I have the honor to be

Sir,

Your most obedient servant

Wm. D. D. D.
Government Pleader
Madras

No 119

To the Act. 2/63

My dear Sir

I have looked
at Act H of the Manual
for the Stamp Dept
but do not think it will
suffice as the rules were
passed under Act 38/1860
which has been repeated

I have advised that
the Rees shod be divided
into districts & then that
the collector of each district
shod be appointed. Very

1863

2557
From Government
Chas

To Secretary to Government

Patented } October 1863.
Chas

No 118

Of opinion the
proposition by Captain
James was ill & S.

provision by Capt. Lane
from no ill effect.

reason for putting it in
that way is that Govt
may by a General Rule
say that ^{each of} the present
Collectors shall be
a trustee within the
provision of the 34th Sec of Act I
& that will stand good
until a new Act is
passed or an alteration
Collectors take place.

I think one order
directing that the next
Collector shall be the officer

for the Collection (not
management) of the
Stamp Book within their
respective districts. ^{and} in the event of
proceeds it would be necessary
to prove that Mr. A. A.
was the collector when that
order was passed. Possibly
some such general rule
as those you sent me
might do, but if any
objections were taken it
would lead to discussion.
The safer way is when
a Collector is appointed to
add "and to be the Officer

provision by Captain
 James was illegal.

for the collection of the
 the Res within such
 district under Act
 No X of 1862" when one
 forget into a not pen
 no further trouble with
 because while the
 saving of a few words
 may lead to discomfiture
 in the High Court

Return the
 manual.

Ask me

your time

Yours

Let him by

by him time - ...
 ... I think all going
 before ... or ...
 I think you also ...
 copy for ... of 29. Sept 65
 No. 1748. ...
 I am disposed to think
 that this order ...
 ... the reservation
 in Sec. 1. Act X. of 1862
 is the effect of repealing
 36 of 50. on proceedings

provision by 10th law
James was ill at.

or matters of law taken
place before this act of 1842,
shall continue, free
right to test, & also to
the power proposed to be
enforced on them by a
just order.

It admits however of
doubt, and in any case
it will not cover the
cases act of 1842.
7. of 28. does not apply
in such cases as Dale
says he considers that

it doesn't (and I think
it's wrong). In case
Dale doesn't claim that
it's not in his jurisdiction
Chargable: service
to the person of the
person, and the
act of 1842. or at least
the power of jurisdiction.
It would be as well to let
this be plain & stated.
As to Dale's objection

X of 1862 should have been conducted
by them as I am of
Stamp Rev.
J. D.
St. George's
Nov 1862

Revenue 1862 Sept 15th
No 1 of 1862 for 1863

No 1995

No 1 of the 1862 for 1863
No 1 of 1862 for 1863

Collectors and Acting
Collectors of Land Revenue
and the Government Agents
in various Provinces
reappointed to the 1862
of 1862 Revenue in
their respective Districts

No 67