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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

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STATEMENT OF OBJECTS AND REASONS.

The High Court having ruled,* in supersession of previous rulings to the contrary, that in any clandestine or fraudulent transaction with respect to making salt in an illicit manner, and having stated their opinion that the collecting of salt-earth from salt swamps, or being in possession of salt-earth for the purpose of making salt, does not come within any of the terms of Section 18 of Regulation I of 1805, the Board of Revenue recommend (Proceedings, 1st October 1877, No. 4581), to obviate the loss to the salt-revenue which such a reading of the law will inevitably entail, that a short Act be passed declaring that such proceedings are offences within the meaning of the section quoted.

2. It is sufficiently obvious, with reference to the extent of country in which salt-earth is found, that, unless measures are taken to restrict the unrestrained employment of the abundant material from which salt can be made, the local authorities will be quite unable to check illicit manufacture and consequent loss to the State Revenue.

MADRAS,
2nd February 1878.

D. F. CARMICHAEL.

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Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

A Bill to make further provision for the punishment of fraudulent practices in connection with the Revenue from Salt.

(Statement of Objects and Reasons.)

May 1878 L. 343.

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No. OF 1878.

A

BILL

TO

Make further provision for the punishment of fraudulent practices in connection with the Revenue from Salt.

WHEREAS it is expedient to make further provision for the protection of the salt revenue in the Presidency of Fort St. George, it is enacted as follows:—

1. This Act shall be called "The Earth-Salt Act, 1878"; and shall come into force in every district or part of a district within the Presidency of Fort St. George, to which it may be applied by notification of the Governor in Council published in the *Fort St. George Gazette*.

2. In this Act—

(a.) "Salt-earth" means earth naturally impregnated with salt.

(b.) "Earth-salt" means salt manufactured from salt-earth.

3. In every district or place within the Presidency of Fort St. George to which this Act shall be applied, every person who shall, without license from competent authority, have in his possession any earth-salt, or any salt-earth with the intention of making or manufacturing the same into earth-salt, shall be deemed to have committed an offence under section 18, Regulation I of 1805, and, on conviction before a Magistrate, shall be liable to punishment as provided in the said section and in Act No. XVII of 1840.

3. This Act shall be read with and taken to be part of Regulation I of 1805 and Act No. XVII of 1840.

Act to be read as part of Regulation I of 1805 and Act XVII of 1840.

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Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

A

BILL

TO

Make further provision for the punishment of
fraudulent practices in connection with the
Revenue from Salt.

(THE HON'BLE D. F. CARMICHAEL.)

Introduced

February 1878.

Amended by L. 16343. Rev 503/78

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GOVERNMENT OF MADRAS.

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LEGISLATIVE DEPARTMENT.

1st February 1878, No. 18.

Salt Earth Bill.

Read the following papers:—

No. 1. *Proceedings of Government in the Revenue Department, dated 14th November 1877, No. 3247.*

Read the following Proceedings of the Board of Revenue, dated 1st October 1877, No. 451.

Read Proceedings of the High Court of Judicature at Madras, dated 18th September 1877, No. 2119.

Read Register of Summary Trials held by the Deputy Magistrate of Ganjam in Cases Nos. 11 to 15 and 7 to 24 of 1877.

In Cases Nos. 17, 18, 19, and 20 the accused have been convicted of collecting salt earth from salt swamps or of being in possession of salt earth for the purpose of making salt illicitly, and have been sentenced in three cases (Cases 17, 19, and 20) to pay fines, and in one case (Case No. 18) to be imprisoned for seven days.

The convictions purport to be under Act XVII of 1840. That Act, however, does not define what acts amount to breaches of the salt laws, but merely invests the Magistracy (as distinguished from the then Criminal Courts) with certain powers of punishment in respect of acts which, under the existing law, amounted to breaches of the salt laws. The declaratory law as to what acts amount to breaches of the salt laws is contained in Madras Regulation I of 1805. Section 18 of that Regulation enacts that "any person engaging in any clandestine or fraudulent transaction with respect to rowannahs or passes, smuggling or conniving at the smuggling of salt, making, purchasing, obtaining, selling, or weighing salt in an illicit manner shall, on conviction, besides being fined at the discretion of the Judge according to the circumstances of the case, be liable to permanent exclusion from the service of the Company."

The High Court are of opinion that the collecting of salt earth from salt swamps or the being in possession of salt earth for the purpose of making salt does not come within any of the terms of Section 18 of Regulation I of 1805.

The Court are aware that a contrary decision was arrived at in 1869 (High Court Proceedings, 1st July 1869), when it was held that being in possession of salt earth for the admitted purpose of making salt was an "engaging in a clandestine and fraudulent transaction with respect to making salt in an illicit manner." That decision was also followed in a subsequent case decided in April 1871.

In one of the cases now under consideration (Case No. 20) the purpose for which the salt earth was collected was admitted to be the making of salt. In the other three cases it does not appear that any evidence was given or that any admission was made as to the purpose for which the salt earth was intended. It is not, however, sought on that ground to distinguish the cases now before the Court from the case decided in the Proceedings of the 1st July 1869.

The High Court are of opinion that the ruling of July 1869 was erroneous, and they think that the decision then arrived at should be overruled.

An enactment (Act No. VI of 1874) is now on the Statute Book under which the acts for which the accused have now been punished might be legally dealt with. The local Government have not, however, issued the notification required by law to bring that Act into force in the district in which the cases now dealt with arose. Until the new Act is brought into force, convictions such as those now before the Court must be held to be illegal.

The High Court annul the convictions of the accused in Cases Nos. 17, 18, 19, and 20 on the file of the 1st-class Deputy Magistrate of Ganjam, and direct that the fines levied be refunded to the accused persons.

Ordered accordingly.

(Signed) T. WEIR,
Acting Registrar, Appellate Side.

The Board resolve to call the attention of Government to the very serious effects on the Salt revenue which is likely to be produced by the foregoing ruling as soon as it obtains publicity, and to suggest that the earliest possible steps may be taken to remedy the defect in the law as now interpreted. Doubts have long been entertained as to whether the use of salt earth was a punishable offence as the law stands, and, although it might be argued with truth that the salt earth is often really an impure salt seeing that a specimen obtained by the Salt Commission from a swamp near Vizagapatam contained as much as 69 per cent. of chlorides, chiefly chloride of sodium, the Board do not suppose that the High Court would be prepared to reconsider their decision on this ground only. In illustration of the necessity which exists for adopting stringent measures for the repression of earth salt manufacture, the Board need only refer to that portion of the report of the Salt Commission which treats of the subject, paragraphs 257 *et seq.*; the vast extent of the salt swamps, the difficulty of guarding them effectually, the extensive consumption of salt produced from the salt earth, and the results of the active measures taken to suppress the manufacture clearly appear, and if such difficulties have been experienced in keeping within some bounds a practice which has hitherto been popularly believed to be illegal and so regarded by the Courts, it is evident that, as soon as this impression is removed, a great impetus will be given to the collection of salt earth and manufacture of salt therefrom: the small Police force at present engaged would be powerless to oppose the large bodies of men who would unite and openly carry on the traffic which is now clandestine.

2. The Board are not in possession of any data on which the loss of revenue likely to be involved in an unrestricted use of salt produced from salt earth can be determined with any approach to accuracy, but that it will amount to a considerable sum throughout the East Coast a rough estimate of the effects of illicit practices of this nature on the consumption of Ganjam and Vizagapatam alone based on the figures at pages 166 and 167 of the Salt Commission Report will serve to show. A total of 696,458 was arrived at as the probable annual consumption of the two Madras districts above specified, the Tributary Bahals, and the Central Provinces tract below the Customs line; deducting the amount consumed outside this Presidency, viz., 264,138 maunds, the balance, 432,320 maunds, is approximately the consumption of the two northern districts, or 9.31 lbs. per head, but the average consumption arrived at for the whole Presidency after the exclusion of three millions in the Ceded Districts who eat no sea salt was 12.38 lbs. per head; it may be assumed therefore that the consumption is at least 3 lbs. per head below the proper standard; the population being 3,821,342 the loss is 11,464,026 lbs. = 139,320 maunds, valued at Rupees 278,640, for two districts only; that this estimate does not err on the side of exaggeration is almost certain; the local officers consulted by the Salt Commission estimated the consumption at only 7.3 lbs. and 6.6 lbs. per head for the Ganjam and Vizagapatam Districts respectively. A similar computation is not feasible for other East Coast Districts, but from paragraph 259 of the Report already quoted it may be gathered that illicit practices prevail to some extent all along the East Coast and that the revenue is seriously affected thereby in South Arcot, Trichinopoly, and Madura.

3. It is abundantly evident, therefore, that the risk of so heavy a loss cannot be accepted, and the best plan appears to the Board to be the immediate enactment of a short Act declaring that any person engaging in the collection of salt earth or swamp salt, being in the possession of salt earth for the purpose of making salt or manufacturing salt from salt earth, shall be held to have committed an offence within the meaning of Section 18, Regulation I of 1805. The Act would not extend to the West Coast in which the Excise Act has already been introduced, and need not be brought into operation in the Ceded Districts and Kurnool where the manufacture is recognized, until the question of its suppression is settled. Such a complete remodelling of the salt laws as is shown by the Commissioners to be necessary if the present system is to continue could not be undertaken at a moment's notice, and the general introduction at once of the Excise Act, which is the remedy hinted at in the High Court judgment, is out of the question. The Board suggest the advisability of passing a Bill of the nature indicated through the local Legislature without delay.

(A true Copy and Extract.)

(Signed) C. A. GALTON,
Sub-Secretary.

His Grace the Governor in Council desire that the Advocate-General will prepare the draft of a Bill in accordance with the suggestions of the Revenue Board.

(True Extract.)

(Signed) C. G. MASTER,
Secretary to Government.

No. 2. *Proceedings of Government in the Revenue Department, dated 21st January 1878, No. 101.*

Read the following Proceedings of the Board of Revenue, dated 19th December 1877, No. 5,286.

Read the following Proceedings of the Madras Government, dated 11th December 1877, No. 3,376, Revenue Department.

ABSTRACT.—Desiring Board to draft and submit a Bill to meet the proposals made in their Proceedings of 26th November last in connection with the punishment of fraudulent practices in breach of Salt Laws in Madras Presidency.

In accordance with the requisition contained in the foregoing Order, the Board submit draft of a Bill for amending the Salt Laws. The Bill is so drawn as to be capable of application to all districts, whether placed under the Salt Excise Act or not, and whether manufacture of earth salt is allowed, as in the Ceded Districts, or not. The possession and sale of swamp salt sold on account of Government is not interfered with, such salt not being contraband; but persons in possession of swamp salt will have to prove that it has been licitly obtained. This requirement will not be found oppressive in practice, as swamp salt is sold for Government only in a few localities, and will there be easily identifiable by its physical character.

2. Clauses 5 and 6 are based on Sections 18 and 48 of the Bombay Salt Act of 1873.

(A true Extract.)

(Signed) C. A. GALTON,
Sub-Secretary.

His Grace the Governor in Council is of opinion that the Bill should provide merely to meet the case of the collection or possession of salt earth with the intention of making salt.

2. A draft modified accordingly with a note of "Objects and Reasons" will accordingly be forwarded to the Legislative Department for revision and introduction in due course into the Legislative Council.

3. The Honorable Mr. Carmichael will take charge of the Bill.

(T Extract.)

(Signed) C. G. MASTER,
Secretary to Government.

Draft Bill and Statement of Objects and Reasons.

No. 3. ORDER THEREON, 1st February 1878, No. 18.

His Grace the Governor in Council approves with slight modifications the draft Bill for punishing illicit possession of salt earth and the Statement of Objects and Reasons as prepared in the Revenue Department.

2. Early steps will be taken for the introduction of the Bill into the local Legislature as directed in the foregoing order.

(T Extract.)

W. M. Scherlieb

Assistant Secretary to Government,
Legislative Department.

To the Revenue Department.
Honorable D. F. Carmichael.

*in the copy of Bill & Statement
of Objects & Reasons.*

Exd. J. W. Fischer.

with 5 spare copies

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Revenue Department
No 503

Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

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PAPERS

(o. 1.)

RELATING TO

A Bill to make further provision for the
punishment of fraudulent practices in connection
with the revenue from salt.

28th Dec 1878

Dated 1st } February
Recd 25 }

Ex-2

G. O., Legislative Department, 1st February
1878, No. 18.

No 343
Communicated to the
1 of Revenue

7 Feb 78

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