M.R.O. 14-5,450-22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1357A	Press Mis
& 2464 2466	
Dated 18 6 1867.	

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
18th June 1867.

No. 246A. Read the following Proceedings of the Board of Revenue, dated 4th June 1867.

Read the following letter from the Acting Sub-Collector in charge, Madras, to the Secretary to the Board of Revenue, dated Sydapet, 23rd May 1867, No. 123 :—

1. I have the honour to forward to you a report* by the Collector of License Tax for the Town of Madras.

* To be returned.

2. It seems that the Collector of License Tax has taken considerable trouble to make known the provisions of the Act, but that the persons liable (Europeans and Natives) have simply ignored his notices.

3. Mr. Winscom draws attention to some important points. The first is, that by the Act in order to institute prosecutions against persons who may not have taken out licenses, it is necessary to be provided with evidence to shew that such persons exercise trades or professions, and that their incomes exceed 200 Rupees per annum. If a person applies for a license, there is no difficulty in making a surcharge and leaving him to appeal; but if he does not, then he must be convicted before a Magistrate, and the difficulty of procuring the requisite evidence seems insuperable, for by Section 14 it appears that a Collector or Commissioner can only summon a witness if an application for license has been made, at least the word "petitioner" indicates this. I have the honour, therefore, to request that a legal opinion may be obtained on this point, as it will now be necessary to institute prosecutions.

4. It seems to me also that Mr. Winscom's doubts, as to how the profits for the current year are to be estimated, (*vide* his letter paragraphs 7 and 8,) are reasonable, and that a rule under Section 23 is in consequence needed, if the question is not already decided by the form of appeal petition ordered by the Board.

5. As regards the points raised by Mr. Winscom in paragraph 9, he has clearly overlooked Section 19 of the Act, which provides for such cases.

6. I take this opportunity to make a few remarks on what has occurred in the rest of the district.

7. Due notice has been given, and instructions issued to the Tahsildars; but the result is, if anything, more unsatisfactory than in the Town of Madras. One license has been issued (under Class IV) at Sydapet, and a few at Chingleput to some Court Vakils, but except people come forward, I cannot see how Tahsildars and others are to work the Act.

8. The probable receipt for the district of Madras (excluding the town) may be fairly estimated at about 10,000 Rupees; this calculation I chiefly base on the Income Tax Returns.

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1. Submitted for the information and orders of Government.

2. The Board consider that the Collector should instruct Mr. Winscom to bring into operation the penal provisions of the Act, and they request that Government will afford him the assistance of their Law Officers in conducting the first few prosecutions in which questions of intricacy are likely to be raised.

From the Collector of Licenses, Madras, to the Sub-Collector in charge, Madras, dated Madras, 22nd May 1867, No. 25.

I have the honour to submit to you the following report, in reference to the progress made up to the present date in collecting the Imperial License Tax in the Town of Madras.

1. I have endeavoured to make the requirements of the Act as widely known as possible, and with this view, in addition to the Gazette Notification, I have had advertisements inserted in the daily papers, requesting those liable to apply for forms: and I have also had this advertisement printed on hand-bills in the Tamil and Teloogoo languages, and distributed widely in all the bazaars.

2. I regret to inform you that as yet only fifteen Licenses have been taken out under the classes mentioned in the margin,* and after allowing the deductions to which the parties were entitled on account of payments to the Municipality, the net receipts are Rupees 702.

* Second class 2.
Third do. 5.
Fourth do. 10.

3. Considering that every pains has been taken to circulate the needful information, I have no doubt the higher classes, in both the European and Native communities, are now perfectly aware that in abstaining from taking out their licenses they are breaking the law; but there appears to be a pretty general intention to offer passive resistance to the Act, at any rate until the decision of the Home Government has been received, the idea being prevalent that the tax will not be confirmed by the Secretary of State.

4. As a proof that for the present, unless some additional pressure is brought to bear upon the defaulting parties, I may mention that I forwarded a copy of the Notification, which appeared in the Gazette of the 3rd instant, to all the leading firms and Joint Stock Companies, at the same time requesting them to favour me with a list of their employés drawing upwards of Rupees 1,000 per annum. The total number of the letters and notifications so forwarded was forty-five, but only nine have replied, and among those who have not returned any answer are all the principal houses, as well as the Bank of Madras and the other Joint Stock Companies. It is not to be wondered at that, under these circumstances, less prominent parties should hold back until more decisive steps are taken.

5. Although it is probable that on the decision of the Home Government becoming known, the European and leading Native firms will come forward and take out their licenses in conformity with the Act, I am fully convinced that the present machinery for collection will prove quite inapplicable as regards the bulk of those who form the fifth and sixth classes, and from whom I do not expect the money will be obtained except by means of a house to house collection, as they will not voluntarily come forward themselves to pay the tax, but trust to their obscurity to evade detection.

6. When the tax on incomes lower than Rupees 500 was enforced, a large proportion of it was collected by means of the Distraining officer, but in the License Act no such machinery exists, and, in order to enforce payment, it is necessary to procure a conviction before a Magistrate for neglecting to take out the license, but Section 6th of the Act limits the parties liable to those who are exercising any trade or profession whose income arising therefrom exceeds Rupees 200 per annum. From this it appears to me that, in order to obtain such a conviction under the Act, it will be necessary to prove, in the first place, that the accused party does exercise a trade or profession within the meaning of the Act, and, secondly, that he derives from it an income exceeding Rupees 200 per annum. In the great majority of cases it will be impossible to prove the latter point satisfactorily, and consequently it is not likely that a conviction would be obtained. It, therefore, greatly doubt if the penal clauses of the Act will be found sufficiently strong to prove effective. Before, therefore, any attempt is made to enforce payment, I think it would be well to have this matter subjected to a legal opinion, so as to ascertain whether the *onus probandi* rests with the prosecutor or not.

Proceedings of the Madras Government, Revenue Department,
18th June 1867.

7. Although there is nothing in the Act to shew by what means the profits for the current year are to be ascertained, it would appear from the contents of Schedule C. that the income up to the previous 30th April is to be considered as the basis for the calculation, but all mercantile books are balanced up to the 31st December, and none of them can tell or even have any distinct idea as to what their profits have been since that date.

8. It is well known that, owing to the commercial crisis, and the great fall in the price of cotton, the year 1866 was one of loss to many of the largest and wealthiest houses, it does not appear very clear whether such houses, who are no doubt now doing a large and profitable business, but who last year suffered losses in excess of their profits, are liable for the tax, and if they are not, whether they can continue legally to exercise their business without being furnished with a license.

9. I would also be glad to have an opinion as to whether it is necessary for those Joint Stock Banks to take out licenses whose principal place of business is in London, but who have also branches in Calcutta and Bombay as well as in Madras.

10. In conclusion, I would observe that owing to the deductions which must be allowed on account of the Municipal License Tax, the payments of the smaller classes on account of the Imperial tax can only amount to a very trifling sum, as the two lowest classes under the Municipality pay respectively Rupees 12 and 4, whilst under Act XXI they are charged Rupees 10 and 4, or rather less than the amount which should be deducted.

No. 246B.

Miscellaneous.

ORDER THEREON, 18th June 1867, No. 1,357A.

1. In continuation of the Government Order dated 16th April 1867, No. 891A, His Excellency the Governor in Council resolves to vest Mr. J. Cave Winscom, the Collector of License Tax in the Town of Madras, with the power to institute prosecutions under Section 18 of Act XXI of 1867, which was specially reserved in the former Order.

2. The Government Law Officers will afford him such assistance as he may require in conducting the prosecutions instituted, and will bring to the notice of Government any difficulties that may arise in working this portion of the Act.

3. The Board will obtain from all Collectors and submit for the information of Government a brief report on the general working of the Act in the districts up to the present time.

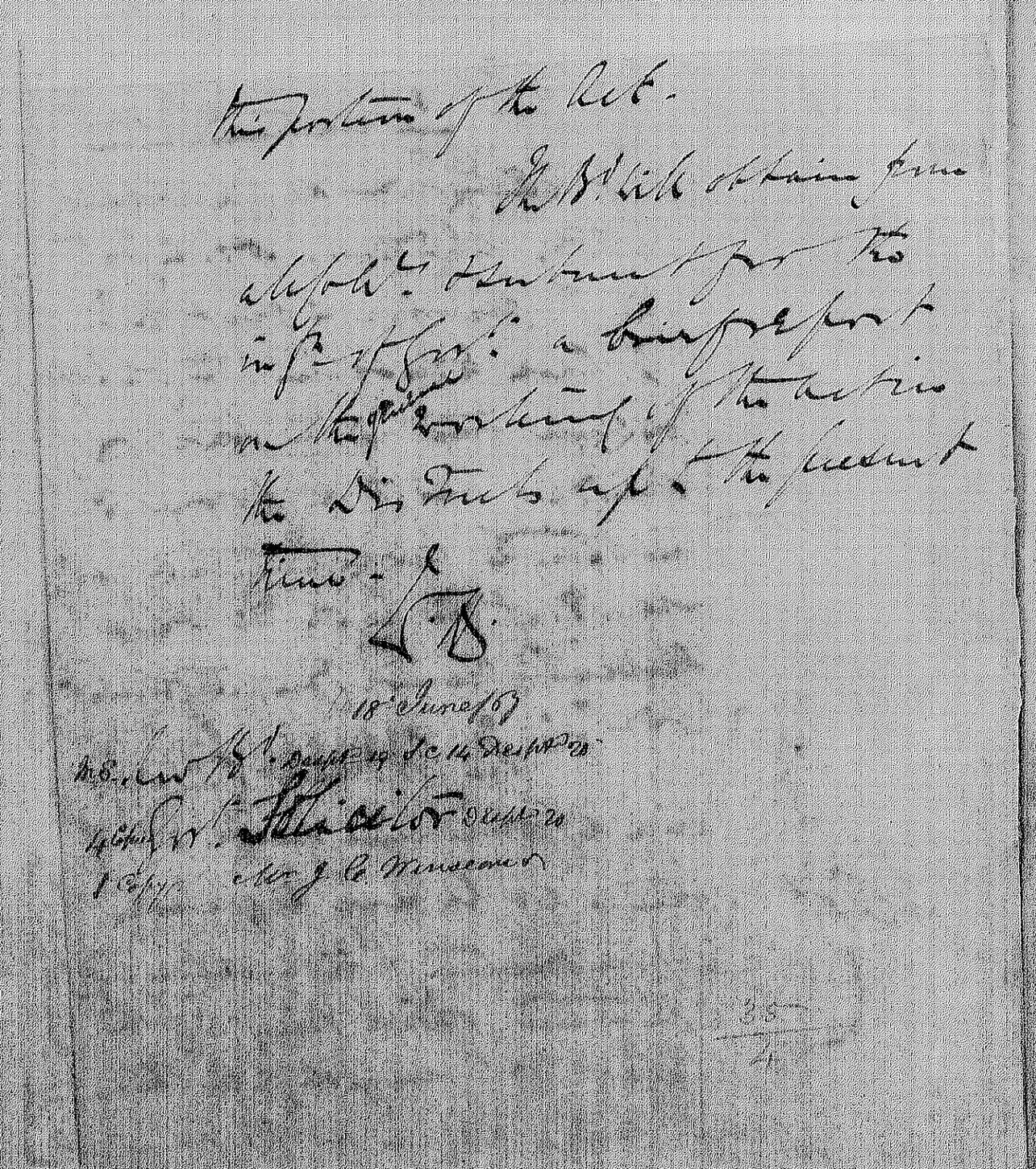
(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Revenue Board.
,, the Government Solicitor.
,, Mr. J. C. Winscom.

Exd. S. T. Augustin.





No 15 Aug. 1805 Nº

Rec'd Dec. 1805 Dehart
Bd of Com. for Clin. Co.

W. Hall

Proceedings of the
Board of Excise

Dated 4th
Dec. 4 } June 1805
Rec'd 3
Encl. 0 No 15

Certificate for exemption
of Commissioners Collectors
Collectors & Clerks of Excise
regarding multiplicity of
Collection of Excise &c for Liquors
& Licenses &c
difficulty experienced in procuring
Excise Debenture requested
Directions on certain points
stated with Letter