M.R.O. 14–5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 799 Press ~~Mis.~~

97-58

Dated 5-4-1867.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 5th April 1867.

No. 97. Read the following letter from the Secretary to the Board of Revenue, to the Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 1st April 1867:—

1. I am directed by the Board of Revenue to acknowledge the receipt of G. O., dated 27th ultimo, No. 725, regarding the introduction of the License Act, (No. XXI of 1867,) and to submit the following remarks on the subject:—

2. In paragraph 3 of their Order, the Government have been pleased "to appoint all Sub-Collectors, Head Assistants, Assistants, and Deputy Collectors in independent revenue charge, or in charge of the Treasury or Salt Departments, to exercise and perform within their respective charges or stations all the powers and duties conferred and imposed by the Act on Collectors of Land Revenue." These powers and duties consist of—

1. The granting of Licenses (Section 6).
2. The determining the class under which each person is to be licensed (Section 10).
3. The preparation of the lists (Section 11).
4. The hearing of appeals against decisions under Section 10 (Sections 12 and 13).
5. The authorization of prosecutions (Section 18).
6. The trial (where the Officer has the powers of a Magistrate or Sub-Magistrate of the first class, or is a Justice of the Peace) of offences against the Act.

3. The Board would submit, for consideration, that these incongruous functions had better not be imposed on the same individual.

4. They would suggest that the first three duties had better be intrusted to the Tahsildars and Deputy Tahsildars within their respective ranges, and to the Sub-Magistrates in the Zemindary tracts. The three next duties they would assign to the Divisional Officers, Sub-Collectors, Head Assistants, &c.

5. The Government are aware that the charges of Sub-Collectors, Head Assistants, and general duty Deputy Collectors, comprise at least two large talooks, and that some of the Head Assistants and Assistants do not reside in their charges. Looking at the size of the present talooks, the people will undoubtedly be put to great inconvenience, and considerable delay will occur in the issue of licenses, if the duty of granting them be restricted to the Officers named by Government, of whom there are rarely more than six or seven in each district.

6. The Talook Officers have better means of judging in what class each person should be placed; their ranges being less extensive, they will be able to visit a greater number of places, and the appeal will lie from their decisions to the Divisional Officers, who can, for this purpose, so arrange their tours as to afford the people every reasonable facility for obtaining redress if over-assessed, and who from having had no concern with the original assessments, will be in the position of unbiassed judges.

7. The Board would, therefore, propose that under Section 22, the powers and duties imposed on a Collector by Sections 6, 10, and 11 be conferred on Tahsildars,

and those imposed on a Collector by Sections 12, 13, and 18, on Sub-Collectors, Head Assistants, Assistants, and Deputy Collectors in independent Revenue charge, or in charge of the Treasury. The Salt Deputy Collectors' charges comprise merely the isolated salt stations along the coast, and, under any circumstances, it would be highly inconvenient to give them powers under the Act.

8. In the large Zemindaries, where Government maintain no establishment save Deputy Tahsildars and Sub-Magistrates, special arrangements may be necessary, and in respect to these the Board will address Government after communicating with the Collectors.

9. If the Board's recommendation be adopted, any talooks which for revenue purposes may be under the direct management of the Collector will be allotted, for the purposes of the Act, to either his Treasury Deputy or an Assistant, and the Collectors may then be vested throughout their districts with the powers of Commissioners under Section 13. It is scarcely necessary for the Board to point out, that except in Madras, itself, it would not be in their power to exercise appellate powers with any real efficiency. The only data on which their judgment could be founded would be either oral testimony or the production of books or papers, shewing the income of the appellant. It would be almost a mockery of justice to tell a trader, say in Ganjam or Tinnevelly, that his appeal must be preferred to an authority hundreds of miles away, before whom he must produce his witnesses or books. And this course involves the anomaly of requiring the people of two or three talooks, which happen to be under the Collector's direct management, to incur the inconvenience, expense, and delay of an appeal to Madras, while their neighbours have the advantage of an appeal to the Collector, who is close at hand, and can personally investigate their claims with ease, expedition, and efficiency.

10. The Board would, of course, exercise a general control over the proceedings of the local authorities, and this, in truth, is all that they can effectually do.

11. The Board are in communication with the Municipal Commissioners of Madras, in respect to the practicability of collecting the Imperial and Municipal License taxes by means of the same agency, and they will only remark here that the Supreme Government have apparently overlooked the facts that the rating under the Municipal Act is on the gross rental of the shops occupied by traders, or the nature of the profession exercised, while that under the License Act is on the profits or income of the previous year; that appeals against assessments under the two Acts lie to different authorities; that the assessments are payable at different periods and in different proportions; and that while the licensee under the Imperial Act has to apply for his license, the Municipal Commissioners have first to make their demand. These divergences will be productive of considerable embarrassment.

12. The Government will also observe that the Municipal payments to be deducted under Section 4 of the Act are only such payments of Municipal License tax as shall have been made before the 1st of May next can be taken in abatement of the License tax. Now, as the Municipal License taxes, both Town and Provincial, are payable half-yearly, on the 1st of June and 1st of December, it is clear that no such tax, *for the Imperial License tax year*, (*i. e.*, for the year beginning May 1st, 1867, and ending April 30th, 1868,) will have been paid on the 1st of May next. It will be necessary, therefore, for the order of the Governor General under this Section to

specify distinctly that all payments of Municipal License taxes which may have been made between May 1st, 1866, and April 30th, 1867, shall be taken in abatement of the Imperial License tax for 1867-68. Should the application referred to in paragraph 4 of the Government Order not have pointed this out, it would perhaps be well to do so by telegram. Such an order will, in the Board's opinion, be in accordance with the spirit of the enactment; for, though it professes to impose a License fee for the year 1867-68 payable in advance, the amount of this fee is arrived at by an assessment of the income obtained in 1866-67.—(See Clause 2 of the form of petition under Section 12, which is appended to the Act.)

13. As the law stands the process will be as follows:—Supposing the Collector to assess at 100 Rupees a person who has been assessed by the Municipality at 20, and has paid that assessment, the Collector in May 1867 will collect from him (100—20=) Rupees 80. The Municipality will collect from him 10 Rupees in June, and the like sum in December, and in the following May the Collector will give him an abatement of 20, and again collect 80 Rupees from him for the ensuing year. Hence the collection of the two taxes by the same agency will neither simplify matters nor lessen expense. The Board apprehend that nothing short of an alteration of the Municipal Act, assimilating it in rating, periods of payments, &c., to the Imperial Act will admit of the arrangements proposed by the Supreme Government being carried out; but they will discuss this question at once with the Commissioners.

14. The Board presume that instructions have been or will be issued to the Pay Department to allow this abatement to persons taxed under Section 20 of the Act.

15. The Board beg to draw attention to the wording of Clauses 1, 2, and 3 of Section 3. Clause 1 exempts "*Officers*" of the Army in Police employ whose pay, &c., do not exceed 6,000 Rupees per annum. Clause 2 exempts "Non-Commissioned Officers and Privates" of the Army in Police employ without reference to their pay. Clause 3 exempts "*Officers* of any Police Force" drawing less than Captain's pay. There is no clause corresponding to Clause 2 exempting other Police employés than "Officers," and the Board presume that the term "Officers" in Clause 3 means any superior *member* of the Police force.

16. The instructions conveyed in paragraph 6 of the letter of the Supreme Government shew that every person liable to the tax is to attend in person and settle with the licensing Officer. In many cases this will be productive of much inconvenience to the public, and will compel the licensing Officers to visit a large number of places in each talook.

17. The Board would recommend that the form be altered by the addition of a column in which the licensee should himself enter the class in which he claims to be assessed. Even with this guide, licensing Officers will find it extremely difficult to ascertain the profits of the smaller class of traders whose business and means are unknown beyond their villages, all of which cannot of course be visited for this sole purpose.

18. On receipt of the order of Government on the Board's proposals as above set forth, the Board will submit, for the approval of Government, the rules which they deem it necessary to prescribe under Section 23 of the Act.

19. In conclusion the Board direct me to request instructions as to the application of the Act to those Zemindary estates in which the Moturpha is still collected by the proprietors in accordance with the permission contained in the Order of Government, dated 25th November 1865, No. 2,906.

No. 98. ORDER THEREON, 5th April 1867, No. 799.

Miscellaneous.

1. The Government observe that the review of any original assessment to the License Tax, contemplated by Section 12 and the first part of Section 13 of the Act, is not of the nature of an appeal to a distinct authority, but is evidently intended to be made by the Officer who fixed the original assessment on consideration of the further information produced by the applicant for a license, and cannot be withheld from any Officer vested with the powers of a Collector of Land Revenue under the Act to make original assessments.

2. The power to institute prosecutions under the Act will be restricted to Collectors of Districts and Sub-Collectors. The Deputy Collectors in charge of the Salt Department will, for the present, be excluded from the list of Officers vested with the powers of Collectors under the Act, but the Government are of opinion that the occasional exercise of such powers would in no way interfere with the discharge of the ordinary duties appertaining to the salt charge, while to confer them would probably relieve from considerable inconvenience many substantial traders resident in coast towns. The Government therefore desire that the Board will re-consider this point.

3. The Government are not competent to debar any Magisterial Officer from the exercise of any powers vested by law in Officers of the grade to which he belongs, and as the offences made punishable by the Act are only the failure to take out, or to shew a license when required to do so by the Law, the Government fail to see that any necessity exists for such a restriction as the Board recommend.

4. On the Board's recommendation, the Government resolve to vest all Tahsildars with the powers of a Collector of Land Revenue under the Act for the purpose of making assessments, and all Divisional Officers with the power to receive and decide appeals from such assessments made by Tahsildars of the talooks included in their respective Divisions.

5. Thus the assessments can be made by Tahsildars with an appeal to the Divisional Officers, by Divisional and Treasury Officers with an appeal to the Collector, and by Collectors with an appeal to the Board.

6. It will be well for the Board to instruct the Collectors that they and all Officers thus vested with the appellate jurisdiction, should be chary of exercising the power to make original assessments, so as to lessen the inconvenience of appeals to a distant authority.

7. The Government await the Board's further proposals in regard to assessments in Zemindaries, and to the collection of the tax by means of the Municipal establishments.

8. They approve the arrangements suggested by the Board in regard to the talooks under the direct management of the Collectors.

9. The necessary steps will be taken to ensure the allowance of the amount paid on account of Municipal license or professional tax for the twelve months preceding 1st May 1867, in abatement of the Imperial License Tax payable on or after that date, and the Pay Department will be instructed to allow the abatement on assessments to be realized from pay drawn on 1st June in all cases in which receipts for the Municipal tax accompany the abstract in support of the claim; and similarly on all future occasions.

10. On paragraph 15 of the Board's letter the Government observe, that the 3rd exemption in Section 3 of the Act clearly includes all Police Officers whose pay and allowances are less than the pay and allowances of a Captain of Infantry.

11. The Government approve the addition to the form of application for a license proposed by the Board in paragraph 17.

12. The Board will instruct the Collectors of North Arcot and Nellore *not* to assess to the Imperial License Tax traders and others resident in the Zemindaries of Vencatagiri, Kalastri, and Kavetnuggur, or in the Arni Jaghire, (in which the Moturpha tax is still leviable by the Zemindars and Jaghirdar under the peculiar terms of their Sunnuds and by long established custom,) so far as regards trade and professions carried on and exercised within the limits of those estates.

13. Such traders, &c., will, however, be liable to the tax equally with others in respect of any shops or establishments, or traffic maintained or carried on beyond the boundaries of the estate in which they may reside.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
„ the Accountant General.
„ the Public Works Dept

Exd. S. T. Augustin.

Rev Dept

Notification

Under the authority vested in him by Section 22 Act XXL of 1864 for Licensing Trades and Professions &c. the Govt in C. is pleased to appoint all Tahsildars to exercise and perform within their respective taloob charges, all the powers and duties conferred and imposed by the Act on Collrs of Land Revue for the purpose of making assessments under the Act (the authority to institute prosecutions being specially excepted) and to vest all Revue Divisional officers as Sub Collrs - Head Asstts - Assists and Dy Collrs in independent Revue charge with the powers

powers of a Commissioner of Revue under the Act for the purpose of trying objections to assessments made by the Tahsildars of the Taloks within their respective divisions under the above powers.—

Revenue Department

No. 799

Proceedings of the Madras Government

Under date the 5th April 1867.

Read the following letter from the Secretary Board of Revenue.

Submitting remarks on the subject of the introduction of Act 21 of 1867 (License Act) into the Madras Presidency.

(Here enter 1st to 4th April 1867)

The Government observe that the revision of any original assessment to the license tax contemplated by Section 12. and the first part of Section 13 of the Act is not of the nature of an appeal to a distinct authority but is evidently intended to be made by the officer who fixed the original assessment on consideration of the further information produced

produced by the applicant for a License and cannot be withheld from any officer vested with the powers of a Collector of Land Revenue under the Act to make original assessments.

The power to institute prosecutions under the Act will be restricted to Collectors of Districts and Sub-Collectors. The Deputy Collectors in charge of the Salt department will for the present be excluded from the list of officers vested with the powers of Collectors under the Act but the Government are of opinion that the occasional exercise of such powers would in no way interfere with the discharge of the ordinary

ordinary duties appertaining to the Salt charge while to confer them would probably relieve from considerable inconvenience many substantial traders resident in Coast towns. The Government therefore desire that the Board will re-consider this point.

The Government are not competent to debar any Magisterial officer from the exercise of any powers vested by law in officers of the grade to which he belongs and are the offences made punishable by the Act are only the failure to take out or to show a license when required to do so by the Law

Law - the Government fail to see that any necessity exists for such a restriction as the Board recommend.

On the Board's recommendation the Govt resolve to vest all Tahsildars with the powers of a Collector of Land Revenue under the act for the purpose of making assessments - and all divisional officers with the power to receive and decide appeals from such assessments made by Tahsildars of the taluks included in their respective divisions.

Thus the assessments can be made by Tahsildars with an appeal to the

divisional

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divisional officers -

by divisional and Treasury officers - with an appeal to the Collector and by Collectors with an appeal to the Board

It will be well for the Board to instruct the Collectors that they and all officers they have vested with the appellate jurisdiction should be

Board's further proposals in regard to a permanent Land Valuation and to the Collection of the Tax by means of the Municipal Establishments.

His Excellency has approved the arrangements suggested by the Board in regard to the future valuations under the direct management of the Collectors.

The necessary steps will be taken to ensure the allowance of the amount paid on account of Municipal Licenses or Professional Tax for the twelve months preceding 1st May 1867 in abatement of the Imperial License Tax payable on or after that date. And the Department

be chary of exercising the power to make new original assessments, so as to lessen the inconvenience of appeals to a distant authority.

The Government await the Board's

Department will be instructed to allow the abatement on assessments to be realised from pay drawn on 1st June in all cases in which receipts for the Municipal tax accompany the abstract in support of the claim, and similarly on all future occasions.

On para 15 of the Board's letter the Government observe that the exemptions in Sec 3 of the Act clearly includes all Police officers in those pay and allowances are less than the pay and allowances of a Captain of Infantry.

The Government

approve the addition to the form of application for a license prescribed by the Board in para 17.

The Board will instruct the Collectors of Salt to accept and refer not to apply to the Imperial license tax traders and other residents in the Zemindaries of Vizagapatam Ganjam Malabar and Canara in which the Municipal tax is still leviable by the Zemindars and Jaghirdars under the peculiar terms of their Sunnuds and by long established

established custom, so far as regards trades and professions carried on and exercised within the limits of those States.

Such traders, however, will be liable to the tax equally with others in respect of any shops or establishments of traffic maintained or carried on beyond the boundaries of the State in which they may reside.

14 To the Board of Ordnance &c
by Copy to the Accts. Genl. &
21 to the Public Works Office
20 May

Ed. Tidswell

Revenue 1867 Despte
Pro of Govt for April

No 799

Pro of the Madras Govt
dy 5th April 67

Arrangements proposed by the Board of Revenue for the introduction of License Tax, sanctioned -

No 97498.