M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 238 Press ~~Mis.~~

126-127

Dated 22. 2. 1861 19 .

3/7

Not to be folded or roughly handled

Proceedings of the Madras Government Judicial Department, 22nd February 1861.

No. 126. Read the following Proceedings of Government in the Revenue Department, dated 19th February 1861, No. 394.

Communicating a Notification from the Government of India, stating that the Court of a Cantonment Joint Magistrate exercising Civil Jurisdiction under Act III of 1859, *is a Civil Court within the meaning of Act XXXVI of* 1860, *and that all Documents, &c., filed in such a Court are liable to Stamp duty, &c., and stating the same in regard to the Military Courts constituted under Act XI of* 1841.

(Vide Proceedings Revenue Department, dated 19th February 1861, Nos. 272 & 273.)

No. 127. ORDER THEREON, 22nd February 1861, No. 238.

Communicated to the Sudder Court, for the issue of such instructions as they may consider necessary.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. T. O'Connor.

N.

Chamber of Commerce

Madras 10th October 1860

To

The Secretary to Government

Revenue Department

Fort St George

Sir

I have the honor by desire of the Chamber of Commerce to request that the Madras Government will direct the attention of the Government of India to certain clauses of the Stamp Acts No. 36 of 1860 and No 40 of 1860.

Clause 7 of Act 36 provides that the duties imposed by this Act on Foreign Bills of Exchange shall be paid "on account of all Bills drawn out of the British Territories which shall be payable within those territories or shall be endorsed transferred or otherwise negotiated within those territories wherever the same may be payable." Supposing the price of a set of Bills to be received from China drawn there, and payable in London, the Merchant

receiving such Bill normally requires to negotiate it immediately. In that case there is no stamp provided by the Act. If it be said that he must wait the arrival of the second and third of the set, there will then be a great hardship, distinctive to trade, and possibly ruinous to the owner of the Bill. Irrespective of a delay of weeks or perhaps months in arriving, the second and third or one of them may be lost or miscent to a distant place. There is no requirement in the Act that these Bills be negotiated at one and the same time. Clause 10 which is referred to below, affecting only those bills drawn within the British territories in India.

Clause 10 enacts in its second part that if any person shall within the British territories in India transfer or negotiate any such Bill of exchange as aforesaid purporting to be drawn in a set of three and shall not at the same time transfer or deliver on proper duly stamped as aforesaid the whole number of Bills which such Bill purports the set to consist of, every such person so offending

(1)

in any such cases shall be liable to the penalty prescribed in section 3 of this Act. The words as aforesaid show that this clause refers to Bills drawn in India and payable out of India: Supposing a Bill to be drawn in Madras on London and sent to Bombay for negotiation, then the person receiving it at Bombay must negotiate all the parts at the same time a precaution which will cause great delay and possibly damage. For, irrespective of loss of time pending the arrival in due course of the remainder of the set, these may be lost on the road, and never arrive. The very object for which bills are drawn in sets is thus defeated, and duplicates and triplicates will be a source of danger instead of safety. It is proper that when Bills are drawn in parts, these should travel singly, and not together; but the effect of this clause is to make them of no value unless they are together.

4. I am also desired to state that the Chamber is advised that letters of

hypothecation for shipping documents of goods attached to Bills of Exchange required under Section 11 Part 4 of Schedule A the same stamp as Promissory Notes. As these letters are usually taken in duplicate, the duty would be 12 Rupees upon the amount of Rupees 5000 & that of Rupees 10,000, and two in addition to the stamps on the Bills of Exchange attached thereto. It is hoped that the Government of India will accept to exempt these documents when they are attached to the Bills of Exchange to which they relate.

This answers Para 41 of Schedule B.

(3)

5. Clause 6 of Act 10 of 1866 imposes a stamp on all agreements to cultivate on which an advance is made. The stamp is at the same rate as for Bonds, on the amount advanced, and is therefore a considerable tax. The Chamber desires to express an opinion that this impost is highly impolitic, as it will be an obstacle to the employment of Capital in the cultivation of the soil, which it has hitherto been the avowed object of

(4)

Government to encourage. It appears to be inconsistent with the outlay of large sums in improving road communications with the Coast, and with the abolition of export duties, that a tax should be laid on cultivation before the seed is sown, and superadded to the charges on land already levied by Government.

6. I have the honor to request that you will move His Excellency the Governor in Council to forward this letter to the Government of India, with such support as he may see fit to accord to it.

I have the honor to be

Sir

Your most Obed't Servant

W Nelson

Chairman

Revenue 18th Dec.
Dis. of Gr. for Retter.
No. 2302.
From the Chairman of Commissr
Re Chamberlain Commissariat
Dated 10th Retter 1860
Rec'd 18th Retter 1860.
Requests that the Madras
Govt may direct the attn
of the Govt of India
to Section Clause 7 Stamp
Act 1st of 1860.

No 1467.

Rd 1955. 25th October

Revenue Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following :—

No. 272.

FORT WILLIAM,

HOME DEPARTMENT,

SEPARATE REVENUE,

The 8th February 1861,

NOTIFICATION.

The following letter is published for general information :—

From the Officiating Under Secretary to the Government of India, in the Foreign Department, to the Secretary to the Government of the Punjab and its Dependencies, No. 5,618, dated the 21st November 1860.

1. With reference to your docket dated 5th instant, No. 710, I am directed to state for the information of the Lieutenant Governor, that the President in Council has no doubt that the Court of a Cantonment Joint Magistrate, exercising Civil Jurisdiction under Act III of 1859, is a Civil Court within the meaning of Act XXXVI of 1860, and that all petitions and other documents filed in such a Court in cases under Act III of 1859 are liable to Stamp duty under Schedule B of the Stamp Act.

2. His Honor in Council holds the same opinion in regard to Military Courts constituted under Act XI of 1841. Though called Military Courts, they are in reality nothing but Civil Courts appointed for the trial of "actions of debt and other personal actions" against Native Officers, Soldiers and Camp-followers. They are vested with the powers of Civil Courts in respect to the examination of witnesses, and their decrees are executed by Civil process. His Honor in Council thinks therefore, that in the absence of any express exemption, all petitions and other documents filed in such Military Courts of Requests are liable to duty under Schedule B of the Stamp Act.

By order of the President in Council,

(Signed) W. GREY,

Secretary to the Government of India.

No. 287.

Copy forwarded to the Government of Fort Saint George for information and guidance.

Copy forwarded to the Foreign Department for communication to the Administrations under its control.

(Signed) W. GREY,

Secretary to the Government of India.

ORDER THEREON, 19th February 1861, No. 394.

Ordered to be communicated to the Judicial and Military Departments, and to the Board of Revenue.

(True Extract.)

Deputy Secretary to Government.

To the Judicial Department.
" Military do.
" Board of Revenue.

Exd. S. T. Augustin.

21 Cyc. March

15/4/13 ✓
7-9-17

Pros. 28 Feby
Judicial 1861 Deptt.
238 of 22.2.61.

Pros. of Govt. in the
Rev. Deptt. 1859-

Dated 19th Feby 1861-
Read 20th Feby 1861-

3 Share Agias

Ref. Ltr. 1/3 Cattle Rd.

№ 280

Forwg a Notification from the Govt. of India stating that the Courts of Cantonment Joint Magistrate presiding Civil Jurisdiction under Act 8 of 1859 are Civil Courts within the meaning of Act 26 of 1860 and that all Documents duly filed in such a Court are liable to Stamp duty &c and stating the same in regard to the Military Courts constituted under Act XI of 1861-

126 + 127-

№ 238 — 22nd February 1861.

Communicated to the Sudder Court, for the issue of such instructions as they may consider necessary.

The Sudder Court, Dated 22-2-61. Read