M.R. O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 18444 - 187 Press
~~Mis.~~

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Dated 6 - 12 - ~~19~~ 1889

21/22

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
16th December 1864.

Read the following letter from the Committee appointed to prepare a Table of Fees to be charged under the new Act for the Registration of Assurances.
(Here enter 8th December 1864).

ORDER THEREON, 16th December 1864, No. 1814A.

Ordered that the following letter be despatched, and that the thanks of Government be conveyed to the Committee for the careful manner in which they have considered the subject referred to them.

To the Secretary to the Government of India, Home Department.
(Here enter 16th December 1864, No. 1815.)
(True Extract).

Chief Secretary.

To C. Dale, Esq.
„ W. Hudleston, Esq.
„ Major R. M. Macdonald.

Exd. J. H. Burns.

Proceedings of the Madras Government, Judicial Department,
16th December 1864.

No. 188. From C. DALE, Esq., Government Pleader, W. HUDLESTON, Esq., Secretary Revenue Board, and Major R. M. MACDONALD, Staff Corps, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras 8th December 1864.

We have the honor to submit our report on the subject referred to us, for consideration, in G. O., dated 7th November 1864, No. 1608, Judicial Department, viz., the scale of fees to be charged under the new Act for the Registration of Assurances.

2. Two systems for rating fees have been under our careful consideration.

1*st*.—With reference to the value of the property concerned.

2*nd*.—With reference, solely, to the length of the document registered, except in special cases.

The majority of us (Messrs. Dale and Hudleston) are decidedly of opinion that the balance of advantages is greatly in favor of the latter system.

3. In favor of the *ad valorem* system, it is argued that the alternative system may bear so heavily on transactions of small value as to discourage registration, that it is reasonable to take into considration the additional security afforded to property by the system of registration, and to make the registration fee bear some proportion to the value of that additional security, that the system has been found to work successfully in Oude and the Punjaub, that it is the one which we have been informed is about to be adopted at Calcutta, that it is suggested by every officer who has been consulted, that it is the only one which seems likely to realize the amount required to render registration self-supporting, and that any practical difficulties which may occur in the application of this principle to the calculation of a table of fees are precisely similar, in kind and degree, to those which had to be encountered by the framers of the Stamp Act.

4. The following objections to the system appear, however, to the majority of us to counter-balance all that can be urged in its favor.

We consider it very objectionable that the scale should embrace two perfectly different principles of rating, one of which must be purely arbitrary; but this is unavoidable under the *ad valorem* system, in the case of all documents in which *no* value is stated, and also really so in the case of many, in which, although a certain sum of money may be stated, it in no degree represents the real value of the property or right conveyed by the deed or instrument.

We may instance deeds creating or dissolving partnership, mortgages, leases, decrees, awards of arbitration, deeds of division of family property, as cases in which, although sums of money may be mentioned, the amount does not necessarily at all represent the value of the property or right concerned, and the inequality of charge under the *ad valorem* system might be excessive.

5. The expedients that are proposed for getting rid of this objection appear to the majority of us to be either positively objectionable, or destitute of principle. The proposal to argue back from the value of the stamp on the document, to the value of the property, lands us in numerous anomalies, and is in no way warranted by Section 14 of the Registration Act, which merely indicates that method of determining whether, in the case of suits relating to immoveable property, the instrument sued on is receivable in evidence.

The expedient of a separate scale of charge for each kind of document is cumbrous in the extreme, and the results are purely arbitrary; while there is nothing in the system to recommend it to the common sense of the community.

6. The majority of us see very great, if not insurmountable, difficulties; in the way of framing a satisfactory scale of fees on the *ad valorem* principle to meet the great body of documents executed, in which either no amount is stated, or the amount stated does not in any way represent the real value of the property or right concerned. There is also the risk of inducing a system of fraudulent under-statement of value.

We also consider it objectionable that the parties to certain transactions should be made to pay a disproportionately heavy charge, with reference either to the work performed or the security afforded, the effect of which would be that the rate on other transactions might be kept down lower than it otherwise could be. We do not understand that any thing more is required from the system, at the utmost, than that it should pay its expenses, or that it is desired to levy a new *tax* in the form of a fee. The transactions will already, in almost every case, have been *taxed* under the stamp law, and we are convinced that the imposition of a second *tax* will be most unpopular, and seriously interfere with the free working of the system of registration. We see no analogy between the assessment of a tax on transactions such as the stamp duty, and the rating of a scale of fees to meet the cost of work performed.

7. The system of rating the fees, according to the length of the document, is free from these objections.

It has experience in its favor, for it is the system adopted in all the English and Irish Registration Acts, except where registration includes the testing of the title to landed property—a most important difference in object, which fully justifies the change of rule.

It is perfectly reasonable in principle, for it proceeds on the system of wages for work performed, and, as such, will commend itself to the sense of the community.

It will, as a rule, be very fairly proportioned to the nature of the transaction in every case.

It will be an additional advantage if it should induce greater brevity, or less useless prolixity and verbiage in documents.

It will (we believe) produce as large a return as can be obtained from any moderate scale of *ad valorem* fees, and that without discouraging registration, or inducing the sacrifice of lucidity of expression, or completeness of provisions in the attempt to secure greater brevity.

8. So much as to the general principle.

To proceed to details.—We are all agreed in thinking that the scale of charge should not vary, either with reference to the fact that registration is compulsory or voluntary in any case, or because the provisions of the document can be enforced without recourse to a regular suit under Sections 51 and 52.

We consider it altogether unreasonable that a person, the validity of whose title to immoveable property is made dependant on its registration, should be placed at the additional disadvantage of having to pay more heavily for registration than others.

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We think that any special heavier rate for registration in the cases contemplated by Sections 51-52 would be directly opposed to the policy which dictated those provisions, and would be calculated to discourage a resort to them. It will be observed that the enforcement of the obligation in such cases involves the charge of one-quarter of the stamp duty on a plaint, in a regular suit, for the same purpose

9. We are also unanimous on the following points.

That the fee for registration under Section 26 in the *Registrar General's* books, shall be double the amount chargeable in the District and Deputy Registrars offices for the same Act.

That the fee for a search shall be 8 Annas, under such rules as may be prescribed by the Registrar General.

That the charge for extracts, or copies, shall be at the rate of 4 Annas per 100 words, or any fraction of 100 words.

The Act does not appear to contemplate *uncertified* copies or extracts, and we are of opinion that none should be allowed.

10. We are also agreed that the fee for registration *and safe custody* of the sealed envelope purporting to contain a will, codicil, or authority to adopt, shall be 5 Rupees.

11. As to the scale of rates the majority of us are of opinion that the fee should be charged at the rate of 4 Annas per 100 words, or any fraction of 100 words contained in the document registered, and in any necessary endorsement thereon.

12. We have, however, also considered, and submit a scale of rates to be charged *ad valorem*, in the event of the Government preferring that system.

We observe that all the recommendations from the Districts proceed on this system; but we are not aware whether this unanimity was in any way induced by the circular instructions of Government, or whether a system of charging for the work done in each case occurred to the minds of the several authorities consulted.

13. We have communicated with Calcutta, and ascertained that in Bengal it is porposed that the fee shall be calculated on the value of the property concerned, and that in the case of leases such value will be computed at one year's rental of the property leased. The rate of fee is to be apparently a *minimum* of 2 Rupees to cover value of amount not exceeding 1000 Rupees.

	Rs.
Above 1000 Rupees, but not exceeding 5000 Rupees.....	3.
For every additional 5000 Rupees, or fraction thereof.....	1.

It will be remembered that, under the old Registration laws, the fee for registration was uniformly two Rupees for every document, one Rupee for a copy, and half a Rupee for a search.

14. We have considered the several propositions of the District Officers which vary greatly, and are in some cases very elaborate; but we do not find any one scale that appears to us free from objection.

That of Mr. Bird, the Zillah Judge of Combaconum, which is to a certain extent approved by Government, appears moderate in the lower values; but, as compared with the Bengal scale, it increases far more rapidly for the higher values, and it makes no provision for a large class of documents.

15. We have been unable to obtain any satisfactory information as to the scale of rates in other parts of India; but it would seem that, in the Oude Province, the rate is one-half per cent. on the amount or value of property concerned, and that, in the North-Western Provinces, it approximates this scale in the lower values.

16. We confess that we are unable to satisfy ourselves with a scale of fees *ad valorem*; but, on the whole, it appears to us that, if that be the principle ultimately adopted, it will be the least objectionable plan to prescribe one scale of rates, and to lay down rules for determinig value when such is not expressed.

17. In accordance with this view we have prepared and submit for consideration the following scale and rules.

Scale of Fees for Registration.

				RS.	A.	P.
For value not exceeding Rupees 100				0	4	0
Above Rupees 100 and not exceeding Rs.			500	0	8	0
Above	„	500	„ 1000	1	0	0
Above	„	1000	„ 2500	2	0	0
Above	„	2500	„ 5000	3	0	0
For each additional Rupees 1000, or part thereof				0	8	0

The value in the case of decrees and orders of Court shall be certified by the Court passing the decree or order.

The value in the case of leases for periods less than five years, without fine or premium, shall be the aggregate amount of rent payable for the whole term of lease.

The value in the case of other leases *for a term of years*, without fine or premium, shall be calculated at five years' rental.

When a fine is payable with, or without, a rent stipulated, the value shall be the aggregate of the fine and of the rent value (if any), calculated as in the foregoing rule.

The value in the case of mortgages or conveyances, when the consideration is an annual payment for an undefined number of years, shall be calculated at ten times the annual payment. If for a fixed number of years, the value shall be taken to be the aggregate of the amount secured.

The value in the case of conveyances, when no value is expressed, shall be calculated from the stamp borne by the document, and according to the scale of stamp duty for conveyances prescribed in the Stamp Act.

In all cases not provided for by special rule, and in which no value is expressed, the fee, on registration, shall be Rupees 5 for each document.

18. It has not escaped our notice that this last fee may appear high, especially with reference to the scale of rates; but we are of opinion that it is not higher than necessary for the purpose of check on evasion, the remedy being in the hands of the parties themselves, on whom, in the generality of cases, it depends to express the value, or amount concerned.

19. We are agreed that the fee for registering a duplicate, or counter-part, of any document shall be the same as for the original.

20. In regard to decrees affecting immoveable property, it is to be observed that the *Courts* are required to forward a Memorandum of the decree for registration, and that the Registrar is to enter such Memorandum, so that there does not appear

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to be any reason for a second and independant registration by the decree-holder. It needs, however, to be considered how the registration fee is to be recovered in such cases. Section 53 prescribes that no instrument shall be *accepted* for registration until the established fee shall have been paid; but it seems doubtful whether a Registrar would be warranted by this provision in delaying, or declining to enter, the Memorandum received by him from the Court under Sections 43 and 45, especially as such delay might materially affect the object of the law, as regards security of title. It, however, seems right that he should be remunerated for his trouble, and Major Macdonald is of opinion that this charge should be borne by Government. It may, however, be assumed that no decree-holder would grudge the fee in the first instance, and the majority of us think it very desirable that it should, if possible, be levied and remitted by the Court, as in the case of stamp duty and penalties. We consider it perfectly reasonable that this charge should be included in the cost of suit to be awarded at the discretion of the Judge.

12. Major Macdonald, however, dissents from these views on the following grounds:—

"I do not concur with the majority of the Committee in thinking that a fee "should be exacted for entering a Memorandum received from a Civil Court under "Sections 43 and 45. A Memorandum of a decree or order is not an instrument, and "there is nothing in the Act to show that it was ever intended that any fee should "be levied in such cases. In practice, the rule proposed will lead to, at least, one result "directly at variance with one of the main provisions of the Act. It is intended "that there shall be no compulsory registration, when the value of the immoveable "property at stake does not exceed one-hundred Rupees. But the Memorandum "prescribed in Sections 43 and 45 must be forwarded to the Registering "office, whatever may be the value of the property in question, and the Committee "propose that in every case the Court shall levy the fee required. Registrations "relating to immoveable property of less than Rupees 100 in value will, therefore, in "all such cases, be rendered compulsory. Another objection to the proposed rule "seems to be that the High Court may object to being compelled to collect these "registration fees, and in that case a special Act will be required to give effect to "the rule. It seems to me that the cost of entering these Memoranda should be "borne in the first instance by Government. These Memoranda are certainly not "entered in the registers for the benefit of the person, whom the Committee pro-"posed compelling to pay the cost of registration, viz., the party whose instrument "has been declared to be invalid or forged, or whose right or title in the property "has been extinguished. Nor are they entered mainly for the benefit of the decree "holder, to whom it may, in many cases, be a matter of indifference whether the "Memorandum is registered or not. The entries are really made for the benefit of "future purchasers of real property generally, and such persons will, at some future "period, pay for searching the particular register in which such entries are made. "I am, therefore, of opinion that the most reasonable mode of remunerating the "Deputy Registrars for the extra labor imposed on them by the registration of "these Memoranda is for Government to pay them at some fixed rate, say 4 "Annas for every Memorandum, and to allow them to take this amount out of "the portion of the fees, which would otherwise go to the Treasury. A single

is stated, and also

" search at some future period would be sufficient to re-place the amount advanced " for this purpose."

22. We have failed to obtain any estimate or return of the number or class of documents registered under the old law, and time did not admit of a special return being procured from the Districts.

It is, therefore, scarcely possible for us to indicate the comparative operation of the alternative scales proposed with any approximation to correctness ; but we may state that in Oude, where the *ad valorem* scale is one-half per cent., the average fee levied is Annas 7 on each document, and in Lucknow town Annas 12.

This fee in Lucknow town would represent Rupees 150 value, and the fee chargeable on our proposed scale would be Annas 8 on this average value.

23. We also estimate that the average *length* of documents in the vernacular will be between 200 and 300 words, when expressed with reasonable conciseness. The fee for this length of document according to the proposed scale would be Annas 12.

24. In concluding this report, we must express our regret that circumstances did not allow of our having the assistance to be derived from the Honorable Mr. Ellis' intimate acquaintance with the intentions of the framers of the Act.

No. 189. To the Secretary to the Government of India, Home Department, dated Fort Saint George, 16th December 1864, No. 1815.

With reference to my letters of the 7th ultimo and 7th instant, Nos. 1609 and 1767, and adverting to the provisions of Section 53, Act XVI of 1864, I am directed to submit, for the approval of the Governor General in Council, the annexed table of fees payable for the registration of Instruments, for searching the Registers, and for making or granting copies of entries, abstracts or instruments, either on registration or search. Provision is made in the table for special additional fees payable for every registration by the Registrar General, under Section 26. The Governor in Council proposes to adopt this table, experimentally, for the period of 12 months.

2. On reference to the enclosed report of the Committee appointed in the Proceedings of Government, under date the 7th ultimo, to examine the various suggestions which have been made by the local Officers, regarding the fees to be demanded for registration, and to prepare a table of fees for the approval of Government, it will be seen that the majority of the Committee are in favor of fixing the rate of fee with reference solely to the length of the document registered, except in special cases, and have recommended a uniform rate of 4 Annas for every hundred words. The reasons which have induced the majority of the Committee to recommend the adoption of this principle are fully stated in their report. The Governor in Council, however, prefers the *ad valorem* system, which, he understands, has been adopted in some parts of India, and is likely to be extended to others. He thinks it very questionable whether the system proposed by the Committee, unless the rate of fee were fixed higher than it could be, with propriety, in the case of instruments relating to property of small value, would yield a return sufficient to cover the expenses of the Department; and, in principle, he considers that it is only fair that the rate of fee should be determined, in some measure, by the amount of security which the person registering obtains. Adverting to the remarks made in paragraphs 20 and 21 of the Committee's report, I am directed to state that the Madras

Government see no necessity for requiring the payment of fees to the Registering Officers, for performing the functions prescribed in Sections 44 and 45 of the Act. The entry in the Registers of the Memoranda, provided for in these Sections, and transmission thereof to the Registrar General, and other Registering Officers, form part of the general duties of the Registering Officers, for which, in the opinion of His Excellency in Council, no specific remuneration need be given.

3. The Governor in Council proposes to publish the tables now submitted on the 23rd instant, subject to the approval of the Governor General in Council, and I am to request that if the tables are approved in their present form, an intimation, o that effect, may be made by telegraph.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Table of fees payable in the Presidency of Fort Saint George, under Act XVI of 1864, *for the registration of instruments, for searching the registers, and for making or granting copies of entries, abstracts or instruments, either on registration or search.*

Fees payable in the office of every District and Deputy Registrar.

I. The fees, payable in the office of every District and Deputy Registrar, shall be as follows :—

For registering every instrument, the value of which does not exceed Rupees 100. Four Annas.
For registering every instrument, the value of which is above Rupees 100, and not exceeding Rupees 500... ... ... Eight Annas.
For registering every instrument, the value of which is above Rupees 500, and not exceeding Rupees 1000... ... ... One Rupee.
Do. do. Rupees 1000, not exceeding Rupees 2500... ... ... Two Rupees.
Do. do. Rupees 2500 do. do. „ 5000... ... ... Three Rupees.
For each additional thousand Rupees, or part thereof... ... ... Eight Annas.
For every search... ... ... Eight Annas.
For every extract, or copy of any extract, abstract or instrument. } Four Annas for every hundred words, or for any fraction of one hundred words.
For the registration and safe custody of any sealed envelope purporting to contain a will, codicil, or authority to adopt... ... ... Five Rupees.

II. The value in the case of leases, for periods less than five years, without fine or premium shall be the aggregate amount of rent payable for the whole term of lease.

III. The value in the case of other leases for a term of years, without fine or premium, shall be calculated at five years rental.

IV. When a fine is payable with, or without, a rent stipulated, the value shall be the aggregate of the fine, and of the rent value (if any) calculated as in the foregoing rule.

V. The value in the case of conveyances, when no value is expressed, shall be the maximum amount which the stamp borne by the document shall suffice to cover.

VI. In all cases not provided for by special rule, and in which no value is expressed, the fee, on registration, shall be Rupees 5 for each document.

Fees payable in the Office of the Registrar General.

VII. The fee payable to the Registrar General for every registration, search, extract, or copy of any entry, abstract, or instrument made in his office, shall be double the amount above prescribed for the corresponding registration, search, extract, or copy, made in the office of any District or Deputy Registrar: except that no higher fee than 5 Rupees shall be payable to the Registrar General, for registering any instrument coming within the class, or description, mentioned in Rule VI.

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No 1915.
Extract from Directory to the Govt of India
Dated 7th Dec. 1902.

in Oude and the Punjab. that it is the one which we have been informed is about to be adopted at Calcutta. that it is suggested by every officer who has been consulted. that it is the only one which seems likely to realize the amount required to render registration self supporting. and that any practical difficulties which may occur in the application of this principle to the calculation of a table of Fees are precisely similar in kind and degree to those which had to be encountered by the framers of the Stamp Act.

4. The following objections to the System appear however to the majority of us to counter balance all that can be urged in its favor.

We consider it very objectionable that the Scale should embrace two perfectly different principles of rating, one of which must be purely arbitrary, but this is unavoidable under the <u>advalorem</u> System in the case of all documents in which <u>no</u> value is stated. and also really so in the case

of

of many in which, altho a certain sum of money may be stated, it in no degree represents the real value of the property or right conveyed by the deed or instrument.

We may instance Deeds creating or dissolving Partnership, Mort-gages, Leases, Dower, Awards of Arbi-tration, Deeds of division of family property - as cases in which altho sums of money may be mentioned, the amount does not necessarily at all represent the value of the property or right con-cerned, and the irregularity of charge under the advalorem system might be excessive.

5. The expedients that are proposed for getting rid of this objection, appear to the majority of us to be either positively ob-jectionable or destitute of principle.

The proposal to argue back from the value of the Stamp on the document, to the value of the property, lands, is in numerous anomalies - and is in no way warranted by Section 14 of the Re-gistration Act which merely indicates that a method of determining whether in the case of Suits relating to immoveable

immoveable property the instrument sued on is receivable in evidence.

The expedient of a separate scale of charge for each kind of document is cumbrous in the extreme and the results are purely arbitrary. While there is nothing in the system to recommend it to the common sense of the community.

6. The majority of us see very great, if not insurmountable diffi-culties in the way of framing a satisfactory scale of fees on the advalorem principle to meet the great body of documents executed, in which either no amount is stated, or the amount so stated does not in any way represent the real value of the property or right concerned. There is also the risk of in-ducing a system of fraudulent under-statement of values.

We also consider it objectionable that the parties to cer-tain transactions should be made to pay a disproportionately heavy

Charge

charge with reference either to the work performed or the security afforded, the effect of which would be that the rate on other transactions might be kept down lower than it otherwise could be. We do not understand that any thing more is required from the system at the utmost than that it should pay its own expenses, or that it is desired to levy a new tax in the form of a fee. The transactions will already in almost every case have been taxed under the Stamp Laws and we are convinced that the imposition of a second tax will be most unpopular, and seriously interfere with the free working of the system of Registration. We see no analogy between the assessment of a tax on transactions such as the Stamp duty, and the rating of a Scale of Fees to meet the cost of work performed.

7. The system of rating these fees according to the length of the document is free from these Objections

It has experience in its favor, for it is the system adopted in all the English and Irish Registration acts; except where registration includes the testing of the title to landed property, a most important difference in Object which fully justifies the change of rule.

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general principle

To proceed to details. We are
all agreed in thinking that the scale of
charge should not vary either with reference
to the fact that registration is compulsory
or voluntary in any case - or because the
provisions of the document can be en-
forced without recourse to a regula
-tive under Sections 81 and 82

We consider it altogether
unreasonable that a person the validity of whose
title to immoveable property is made dependant on
its registration, should be placed at the addi-
-tional disadvantage of having to pay more heavily
for registration than others.

We think that any special heavier rate
for registration, in the cases contemplated by Sec-
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policy which dictated those provisions and would
be calculated to discourage a resort to them.

It will be observed that the enforcement
of the obligation in such cases involves the
charge of one quarter of the stamp duty as a
plaint in a regular suit for the same purpose

9. We are also unanimous on the follow
-ing points.

That the fee for Registration under
Section 26 in the Registrar Generals books, shall
be double the amounts chargeable in the District
and Deputy Registrars Offices for the same act-

That the fee for a search shall be 8 Annas.
under such rules as may be prescribed by the
Registrar General.

That the charge for Extracts or Copies
shall be at the rate of four Annas per 100 words or

or any fraction of 100 words.

The Act does not appear to contemplate un-certified copies or Extracts and we are of opinion that none should be allowed. No

10. We are also agreed that the fee for Registration and safe custody of the sealed Envelope purporting to con-tain a Will. Codicil - or authority to adopt. shall be 5 Rupees. Yes

11. As to the scale of Rates the Majority of us are of opinion that the fee should be charged at the rate of four annas per 100 words - or any fraction of 100 words contained in the Documents registered and in any necessary endorsement thereon.

12. We have however also considered and sub-mit a scale of Rates to be charged advalorem in the event of the Government preferring that system.

We observe that all the recommendations from the Districts proceed on this system, but we are not aware whether this unanimity was in any way induced by the circular instructions of Government or whether a system of charging for the work done in each case accurred to the minds of the several authorities consulted.

13. We have communicated with Calcutta and as-certained that in Bengal it is proposed that the fee shall be calculated on the value of the property concerned and that in the case of Leases such value will be computed at one year's rental of the property leased. The rate of fee is to be apparently a Minimium of two Rupees to cover value or amount not exceeding one thousand Rupees.

Above Rs 1000 - but not exceeding Rs 5,000 -	Rs 3
For every additional Rs 5,000 or fraction thereof -	1

It will be remembered that under the old Registration laws the fee for registration was uniformly

12 Dec. 62

My dear Colvin

I have read through the Select Committee's Draft Report and such other of the papers as appear to have any bearing on the question arising out of paras 20 21. of that Report.

I return the papers.

I agree generally with the views of Mayor Macdonald; though I doubt coincide in all his reasoning.

For instance I doubt he knew the course proposed by the Majority will lead to

compulsory Registration of all
instruments affecting immovable
property under the Act.

Sec XLIII only requires the Court to
forward a memo of their decree
or order in cases where "instru-
ments shall have been registered."

It appears to me to follow therefore
that where such an instrument
has not been registered, the Court
will not have to forward their
memoranda under Sec XLIII

I think however that Inquiry
No 1 is properly and grounded on
the distinction he draws between
Instruments and Decrees and
orders.

Section XLIII only contemplates
the drawing up of a table of fees
for the registration of Instruments

and it appears to me quite impossible
to read Section XLIII without seeing
that there is a marked distinction
between Instruments and the Decrees
or Orders affecting them.

It appears to me that the Legis-
lature never contemplated any
fee being paid to the Courts. The
machinery is provided for the
Courts levying any such fee from
the Suitor; and if it were it never
could have been intended
to make the Court bear the
cost of doing.

I think the Registrars are
bound to register the Memo-
randa of the Courts, when they
receive them.

As in my view it becomes [illegible]
of their official duty, I do not
see that any special reward
is paid them for what will

probably form a very small part of their duties. But should the Government think that they ought to be paid for all work done, I cannot support a better plan than that proposed by Major Macdonald. Under which L 411 it is optional with parties to employ a fee stamp, or pay fees.

Believe me

Yours very sincerely

John Bruce Norton.

Advt. Genl

P.S

Please let me have this back for answer for ruling. I have had laid my calculation, and can hardly see to work this below accept.

1 The memoranda may be all correct but a memorandum is a very different thing from an abstract. Of course it is only through the latter that the Government can judge of the matter

Judicial

No 2571

From the Committee appointed to prepare a scale of fees to be charged under the Registration Act. dated 8th Dec 1864

For orders

As the system of charging Registration fees and documents to prevail now in some parts of India and to be likely to extend to others it should be tried in this Presidency in the first instance at least and the scale proposed by the Committee para 17 not yet adopted experimentally for say 12 twelve months.

As the point mooted in para 20 of the Consd conditional

for Drawing process-
-tion could be
compelled to pay
the fee to com-
mencement
by Mrs Dale &
Anderton might
be followed. The
Advocate-fiscal might
be consulted on this
point. If, as I shou,
suspect, such pay-
ment could not be
enforced compulsorily
- he Council would
- a convenient
to establish the practice
that a rule to be
laid down might adopt Mr.
Macdonald's
view
See my notes
Madras
JPS

Table of fees payable in the Presi-
-dency of Fort Saint George, under Section
53 Act XVI of 1864, for the registration
of Instruments; for searching the Registers,
and for making or granting Copies of
Entries, Abstracts, or Instruments, either
on registration or search.

The Fees payable in the several Districts and Agencies Registration Offices shall be as follows.

For registration of every Instrument the value of which does not exceed Rupees 100 — Four Annas

For registration of every Instrument the value of which is above Rupees 100 and not exceeding ——— Rs. 500 — Eight Annas

For registration of every Instrument the value of which is above Rs. 500 & not exceeding ——— 1,000 — One rupee

— Do — Do — Rs. 1,000 & not exceeding — 2500 — Two rupees

— Do — Do — Rs. 2,500 — Do — Do ——— 5000 — Three rupees

For each additional Thousand Rupees or part thereof ——— Eight Annas

For every search ——— Eight Annas

For extracts or copies of any entries, abstracts, or Instruments, either on registration or on search — Four Annas for every hundred words or for any fraction of one hundred words

For the registration and safe custody of any sealed Envelope purporting to contain a will, Codicil or Authority to Adopt — Five rupees

~~The value in the Case of Decrees and Orders of Court shall be certified by the Court passing the Decree or Order.~~

See note in the Special table

II The value in the Case of Leases for periods less than 5 years without fine or premium, shall be the aggregate amount of rent payable for the whole term of lease.

III The value in the Case of other Leases for a term of 7 years, without fine or premium, shall be calculated at 5 years rental.

IV When a fine is payable with or without a rent stipulated, the value shall be the aggregate of the fine, and of the rent value (if any) calculated as in the foregoing rule.

The value in the Case of Mortgages or Conveyances, where the Consideration is an annual payment for an undefined number of years, shall be calculated at ten times the Annual

See Annuities in Special table

See Annuities in Special Table

Annual payment. If for a fixed number of years, the value shall be taken to be the aggregate of the amount Secured.

V The value in the Case of Conveyances, when no value is expressed, shall be ~~Calculated~~ the ~~amount~~ stamp ~~duty~~ ~~Calculated~~ on the returns borne by the Instrument ~~shall suffice~~ to cover the ~~duty~~ on the deeds of stamp duty for Conveyances prescribed in the Stamp Act.

VI In all Cases not provided for by special rule, and in which no value is expressed, the fee on registration shall be Rs. 5 for each document.

VII The fee ~~Discharged by the~~ payable to the Registrar general for every registration, search, extract or copy of any entry abstract or instrument made in his office, shall be double that prescribed for the corresponding registration, search

Search Extract or copy
~~of Abstract or Extract~~ made
in the Office of ~~same~~ any
or
District ~~and~~ Deputy
Registrar: except that
two Rupees shall be payable
5 rupees shall be payable
& the Registrar General
for certifying any
instrument ~~under~~
~~Article VI~~ coming within
the clause or description
mentioned in Rule
VI

for the re
Office of
under Sec
Searching
For Ma
Abstract
=tration or
registering such
For instrume
does not
is [illegible]
For last Rema
is above Rs.
-Do- -Do- Rs 5
-Do- -Do- Rs 1
-Do- -Do- Rs
For Each
or part
For Every
Page
For Extra
abstra
Letter
clause

Fees payable
of instruments in the
Registrar General of A
XVI of 1864, fo
in that Office, a
Certified Copies of entr
instruments, either on re
in the said Office:-

The value of which
Rs. 100 - Eight An

The value of which
exceeding ——— 500 - One Rupe
Rs. ——— 1000 - Two Rupe
Rs. ——— 2500 - Three Rup
Rs. ——— 5,000 - Six Rup
Ten thousand Rupees
——— One Rup
——— One Rup

For every Sheet of any entries,
instruments,
ation or Ex
Explanation
hundred words or for
tion of one hundred words

~~In the Case~~
~~this Office of Court the~~
~~stipped by the Court~~
~~Decree or Order.~~
The value in the Case
for periods less th
without fine or premu
shall be the aggregate
amount of rent payab
for the whole term of les
The value in the case o
other Leases for a term o
years, without fine or
premium, shall be cale
lated at 5 years rent
When a fine is payable
with or without a rent
stipulated, the value shall
be the aggregate of the
fine, and of the present
(if any) Calculated as
the foregoing rule.
The value in the case,

clear doubt
matter we is to be punis
for registering memoran
of the decree and order
Court, this is wrong.
1864.

I dont know what sort
grant, gift or conveyance
are here alluded to
I am not aware of any
such - The Stamp Act

many documents may
be presented for regis
Stamped under the
regulations in force
upon the recent Stamp
acts. By expunging the
underlined words of this
rule, all cases will be
provided for.

I see no necessity
alteration, if such
I think it would
if the Rules and
rule at the end
should be omitted

Page 1
amount declared. 18
Value in the Case of Le
When no Value is
essed, shall be calcu-
ted from the stamp
by the document
~~according to the Scale~~
~~stamp duty for Convey-~~
~~ces provided in the~~
~~Stamp Act~~
In all Cases not provided
for by special rule, and
which no value is
pressed, the fee on
registration shall be
Rs 5 for each documen

2 sets of rules also

Judicial Department.

Rec.d 13th Dec.r 1814

Secy: to the Govt. of India

Jud. 620/66.

16th Decr/814.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Committee appointed to prepare a table of fees to be charged under the new Act for the Registration of Assurances.

(Here enter 8th December/64)

Order thereon 16th December/64 Jud. 1814.9

Ordered that the following letter be dispatched and that the thanks of Government be conveyed to the Committee for the careful manner in which they have considered the subject referred to them.

To the Secretary to the Govt of India
Home Department

(Here enter 16th December/64 Jud. 1815)

To C Dalo Esqre.
" W Hudleston Esqre.
" Major R. M. Macdonald

desp'd 22/12

1864. 9 1855.

Judicial Department

No. 1864.

To

The Secretary to the Govt. of India
Home Department

Sir,

With reference to my letters of the 7th. ultimo and 7th inst., Nos 609 & 767, and adverting to the provisions of section 53, Act XVI of 1864, I am directed to submit, for the approval of the Governor General in Council, the annexed table of fees payable for the registration of instruments; for searching the Registers; and for making or granting Copies of entries, abstracts or instruments, either on registration or search; which provision is made in the said table, & special additional fees payable for every registration by the Registrar General

Judicial 1864 Department
No. 1864.
Forwarding Fee Table.
dated 10th December 64.
from the Registrar General
Received 20th Dec. 64.

dest[illegible] 17/12 by dak
dest[illegible] 19/12 by the "Erymanthus"

88.@ 155. 1854

Judicial 1864 Department
No. 1844.84.
Forwarding Govt. R.
dated 16. Decr/64.
Answ. the Govt. of Bengal
9/2/65 letter dated 31st ult.
F. 26/65.

despd 17/12 by dak
despd 19/12 by the "Feymanthe"

Judicial Department

No. 1845

To

The Secretary to the Govt. of India

Home Department

Sir,

With reference to my letter of the 7th ultimo and 7th inst. Nos. 1609 & 1767, and adverting to the provisions of Section 53, Act XVI of 1864; I am directed to submit for the approval of the Governor General in Council, the annexed table of fees payable for the registration of instruments; for searching the Registers; and for making or granting Copies & Entries, Abstracts or Instruments, either on registration or search; Provision is made in the table, for special additional fees payable for every registration by the Registrar General

Section 26. The Governor in Council proposes to adopt both this cable experimentally for the period of 12 months.

2. In reference to the report of the Committee appointed in the Proceedings of Govt. under date the 5th ultimo, to examine the various suggestions which have been made by the local officers regarding the fees to be demanded for registration, and to prepare a table of fees for the approval of Govt.; it will be seen that the majority of the Committee are in favor of fixing the rate of fee with reference solely to the length of the document registered, except in special cases, and have recommended a uniform rate of 4 Annas for every hundred words. The reason

which have induced the majority of the Committee to recommend the adoption of this principle are fully stated in their report. The Governor in Council, however, prefers the ad valorem system which, he understands, has been adopted in some parts of India, and is likely to be extended to others. He thinks it very questionable whether the system proposed by the Committee, unless the rate of fee were fixed higher than it could be with propriety in the case of instruments relating to property of small value, would yield a return sufficient to cover the Expenses of the Department; and in principle he considers that it is only fair that the rate of fee should be determined, in some

measure, by the amount of security which the person registering, obtains.

3. The Governor in Council proposes to publish the tables now submitted on the instant, subject to the approval of the Governor General in Council; and I am to request that if the tables are approved in their present form, an intimation to that effect may be made by telegraph. —

By R.

Fort St George
6 Dec 1864.

I am directed to state that the numbers first: no necessity for requiring the payment of fees to the Registering officer for performing the functions pointed out in sections XLIV & XLV of the Act, & paragraphs the entry in the registers of the memorials provided for in those sections and to enter fees twice over, & the Registering officer from performing the general duties of the Registering officer for which in the opinion of H. E. in Council no Remuneration is made by fees.

Table of fees payable in the Presidency of Fort Saint George under Act XVI of 1864 for the registration of Instruments; for searching the Registers and for making or granting Copies of entries, abstracts or instruments, either on registration or search.—

I. The Fees payable in the office of every District and Deputy Registrar shall be as follows:—

Fees payable in the office of every District and Deputy Registrar.

For registering every instrument the value of which does not exceed Rupees 100 — Four Annas

For registering every instrument the value of which is above Rupees 100 and not exceeding Rupees 500 — Eight Annas

For registering every instrument the value of which is above Rupees 500 and not exceeding Rupees — 1000 — One Rupee

Do — Do Rupees 1000 & not exceeding Rs — 2500 — Two Rupees

Do — Do Rupees 2500 — do — do — " — 5000 Three Rupees

For each additional thousand Rupees or part thereof — Eight Annas

For every search — Eight Annas

For every Extract or Copy of any Extract abstract or instrument — Four Annas for every hundred words or for any fraction of one hundred words.

For the registration and safe custody of any sealed envelope purporting to contain a Will Codicil or Authority to adopt — Five Rupees

II. The value in the case of Leases for periods less than 5 years, without fine or premium, shall be the aggregate amount of rent payable for the whole term of lease.-

III. The value in the case of other Leases for a term of years, without fine or premium, shall be calculated at 5 years rental.-

IV. When a fine is payable with or without a rent stipulated, the value shall be the aggregate of the fine, and of the rent value (if any) calculated as in the foregoing rule.-

V. The value in the case of Conveyances, when no value is expressed, shall be the maximum amount for which the stamp borne by the document shall suffice to cover.-

VI. In all cases not provided for by special rule, and in which no value is expressed, the fee on registration shall be Rupees 5 for each document.-

Fees payable in the office of the Registrar General.-

VII. The fee payable to the Registrar General for every registration, search, extract, or copy of any entry abstract or instrument made in his office, shall be double the amount above prescribed for the corresponding

registration, search, Extract or Copy, made in the office of any District or Deputy Registrar: except that no higher fee than 5 Rupees shall be payable to the Registrar General for registering any instrument coming within the class or description mentioned in Rule VI.