M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 445 Press Mis.

203-205

Dated 27-3. ~~10~~ 1866

13/14

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
27th March 1866.

Read the following papers:—

No. 203. From the Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, Fort Saint George; dated Madras, 16th February 1866, No. 12.

As requested in your letter, dated 30th August last, No. 1214, I am directed by the Chief Justice and Judges to forward a Statement showing the number of Original suits disposed of in the up-country Courts, during the month of March last.

2. As to the class of suits which will best bear an increase of the Institution fee, I am directed to add the following observations in the order in which they were recorded:—Mr. Justice Innes suggests that, in suits for property above 4 and up to 1600 Rupees in value, the stamp duty may safely be increased by one-half. Suits within those limits, he remarks, appear to comprise the great bulk of the litigation of the country, and an increase in the amount of stamp to the extent suggested is not likely to be attended with hardship, or with any fall in the amount of the stamp Revenue, by causing a decrease in the number of suits; while the number of suits above 1600 in value is so small that it is not at present desirable to increase the cost of instituting them. In Mr. Justice Holloway's opinion, the mischievous love of litigation is so great that scarcely any Stamp duties would be felt as a grievance. Mr. Justice Bittleston considers, and the Chief Justice is of the same opinion, that the Statement sent shows no ground for increasing the duty on suits for small sums, but that in suits between 25,000 and 50,000 Rupees, it might be doubled or even trebled; in suits between 10,000 and 25,000, doubled; and in suits between 800 and 10,000, raised by one-fourth. Mr. Justice Collett thinks that the charges on suits up to 800 Rupees ought not to be increased; that on suits for Rupees 10,000 and upwards, they may be increased without hardship; and that, even on suits between Rupees 800 and Rupees 10,000, the increase suggested by Sir A. Bittleston would not affect the amount of litigation.

GENERAL STATEMENT shewing the number of Original Suits disposed of in the Courts under the Presidency of Fort Saint George, during the month of March 1865.

Valuation of Cases.	Number of Suits.	Total value.		Average value.		Amount of Stamp Duty levied on institution of Suits.		Total cost.		Average cost.		Percentage of costs to value.		Remarks.
		Rs.	A. P.	Rs.	A. P.	Rs.	A. P.	Rs.	A. P.	Rs.	A. P.	Rs.	A. P.	
Suits in which the claim did not exceed. Rs. 4	155	414	3 6	2	10 9	160	8 0	518	8 8	3	5 6	125	1 11	
Above Rupees 4 and not exceeding, 8	450	3,122	5 11	6	5 11	554	12 0	1,534	14 10	3	3 2	49	2 2	
„ 8 ... 12	722	7,167	14 1	9	14 10	766	0 0	2,426	9 4	3	5 9	33	13 7	
„ 12 ... 16	1,626	23,776	8 6	14	9 11	1,739	0 0	6,421	8 0	3	15 2	27	0 1	
„ 16 ... 32	3,183	81,512	10 0	26	15 8	6,479	8 0	17,708	6 0	5	10 5	20	15 3	
„ 32 ... 64	3,273	1,70,327	5 6	52	0 7	13,424	0 0	31,353	5 8	9	9 3	18	6 6	
„ 64 ... 150	2,190	2,54,037	3 6	115	10 11	14,912	0 0	39,189	1 2	17	13 5	15	6 9	
„ 150 ... 300	907	2,21,060	0 0	243	11 8	14,689	8 0	29,257	3 5	32	4 1	13	3 9	
„ 300 ... 800	468	2,60,518	13 5	556	10 8	14,983	8 0	32,347	5 3	69	1 11	12	6 8	
„ 800 ... 1,600	149	1,70,021	11 5	1,141	1 4	7,546	0 0	21,196	10 9	142	4 1	12	7 6	
„ 1,600 ... 3,000	25	60,935	8 3	2,437	6 8	2,500	8 0	8,465	10 7	338	10 0	13	14 3	
„ 3,000 ... 5,000	13	55 574	6 7	4,274	15 3	1,950	0 0	6,886	0 1	529	11 1	12	6 3	
„ 5,000 ... 10,000	7	53,847	8 3	7,692	8 6	1,762	0 0	6,517	14 4	931	2 0	12	1 8	
„ 10,000 ... 15,000	6	69,463	14 6	11,577	5 0	2,111	8 0	6,224	12 6	1,037	7 5	8	15 4	
„ 15,000 ... 25,000	4	78,574	2 1	19,643	8 6	2,002	0 0	7,089	12 1	1,772	7 0	9	0 4	
„ 25,000 ... 50,000	1	45,255	10 0	45,255	10 0	700	0 0	1,105	8 4	1,105	8 4	2	7 1	
„ 50,000 ... 1,00,000	...	...	...	...	...	...	...	...	...	...	...	...	...	
„ 1,00,000	...	...	...	...	...	...	...	...	...	...	...	...	...	
Total.....	13,174	15,58,669	13 6	118	4 11	89,250	12 0	2,18,240	3 0	16	9 1	14	0 0	

(Signed) P. P. HUTCHINS,
Registrar, Appellate Side.

HIGH COURT OF JUDICATURE, MADRAS,
16th February 1866.

No. 204. From C. COLLETT, Esq., Civil Judge of Vizagapatam, to the Chief Secretary to Government, Fort Saint George; dated Vizagapatam, 15th January 1866, No. 3.

I have the honor to bring to the notice of Government some defects in the working of the Stamp Act X of 1862, which probably affect considerably the Revenue from stamps.

2. Schedule B, Article 11, Note (*b*) gives the rule for fixing the plaint stamp in a suit for lands paying revenue; it is, in effect, on the amount of the landlord's net rent, plus the assessment payable to the Government. I would also refer to the rulings of the late Sudder Court, dated 25th February and 19th March 1860, on the corresponding provision in the former Act XXXVI of 1860.

3. Note (*d*) gives the rule in a suit for land exempt from Revenue, viz., on 18 times the annual rents payable by the tenants to the landlord or Inamdar. But since the enfranchisement of Inams, many Inams, before totally exempt from payment, have, I believe, been charged with a small payment, by way of a quit-rent. The effect of this is to bring such lands within Note (*b*) instead of Note (*d*). I would refer to the ruling of the late Sudder Court, dated the 22nd November 1860, on the corresponding provision in Act XXXI of 1860, that any, the least, sum payable to Government renders the land Malguzari, instead of Lakhiraj.

4. An example will show what I mean:—Suppose a land subject to the ordinary assessment, the annual aggregate produce of which, payable by tenants, is Rupees 1500, out of which, say, Rupees 1000 is the assessment payable to Government, and Rupees 500 the landlord's net rent, the plaint stamp in a suit for such land would be Rupees 50.

5. Suppose the same land is a pure Inam paying nothing to Government, the rents payable by the tenants to the Inamdar will still be Rupees 1500, and he will keep the whole. In a suit for such land the plaint stamp will be Rupees 700, being calculated on 18×1500. If, though the Commissioner, in enfranchising this Inam land, imposed on it an annual quit-rent of 5 or 50 Rupees payable to Government, then, in any future suit regarding the land, the plaint stamp will be Rupees 50, instead of Rupees 700. The same principle that justifies an increased valuation for the stamp, when there is a total exemption from ordinary revenue, would seem to justify a proportionately increased one, when there is only a very limited liability to revenue.

6. Another matter is that, by Schedule B. Article 3, of Act X of 1862, certificates under Act XXVII of 1860 have now to be on stamp paper; but the Court has no means whatever of testing the accuracy of the return required to be made by Article 3, and any amount of debts might be received by use of the certificate. Act XXVII of 1860, Section 8, requires that stock shares, &c., should be specified and set out in the certificate, so that the Stamp duty as to such property cannot be evaded. If the debts had, also, to be, in like manner, set out, and payment to a certificate holder were made invalid, unless noted on the certificate, evasion of duty would be difficult and dangerous. At present the only security is the laxity, or otherwise, of the conscience of the party who swears to the amount of the debts. I suspect that Stamp duty is often thus evaded.

7. Recent cases having attracted my attention to the above matters, I have thought it advisable to bring them to the notice of Government, as I apprehend that, on inquiry, the defects will be found of sufficient importance to justify some amendment of the law.

CIRCULAR.

Extract from the Proceedings of the Sudder Court, under date the 25th February 1860.

Constructions of Act VIII of 1859.

Q. The Act VIII of 1859 authorizes District Moonsiffs to forward directly Notices to be served on parties residing in other Districts, Warrants of Commission for the examination of witnesses, and the papers required for the execution of Decrees by Moonsiffs in other Zillahs. The Postal rules prohibit the franking by Moonsiffs of covers directed to other Districts. Are the Moonsiffs in such cases to send their covers to the Zillah Judge for his frank, or to forward them stamped, after collecting the postage from the parties? In the latter case is the postage for replies to be also collected at the same time?

A. All processes requiring to be executed within another jurisdiction, should be forwarded by post at the expense of the parties on whose motion they are issued. This course should be pursued, whether the Officer presiding over the Court issuing the process is or is not authorized by law to frank letters. No such process is to be issued until the party provides the requisite postage stamps, both for the transmission of the process and its return—(Vide Section 23).

Q. The provisions of Section 198 of the Act provide (Vide Circular Proceedings of Sudder Udalut, 17th January 1860), for the granting by Moonsiffs of certified copies of decrees on unstamped paper. The records of suits disposed of by Moonsiffs in each month are forwarded to the Zillah Court at the close of the month, and, therefore, applications for such copies, whether before or after the time for appeal, would lie to the Zillah Courts. Is the Civil Judge in such cases bound to grant certified copies on stamped or unstamped paper? If the former, what should be the value of the paper used, and if the latter, at what rate is the copyist's hire to be reckoned.

A. There is no law in force requiring the Decrees of the District Moonsiffs to be copied on stamps. Such copies must, therefore, be always made on plain paper, whether certified or not, and whether granted by the Civil Judge or the District Moonsiff. The copying charge, however, for a *certified* copy, will be the same as if it were made upon a stamp.

Q. Are copyists to be employed for preparing copies of decrees granted by Moonsiffs under column 5 of the Proceedings of the Sudder Udalut of the 17th January 1860, or how?

A. The Court authorize the employment of copyists by the District Moonsiffs, under the same rules as those prescribed for the superior local Courts, copies or translations of which rules should be furnished to the Moonsiffs for their guidance.

Q. Are the Courts to wait six weeks before striking off a suit for non-payment of process batta, under Section 23; or at what time should this be done?

A. It cannot be intended to allow the plaintiff to keep his suit on the file for an indefinite period, without taking any proceedings therein. The Court are, therefore, of opinion that, if on the day fixed for the appearance of the parties, the defendant shall not be in attendance, owing to the neglect of the plaintiff to pay into Court the batta requisite for the service of the summons, the suit may be dismissed for default of prosecution.

Q. Does the provision in Section 130 apply in all its bearings to deeds and instruments written on unstamped materials?

A. The Court are of opinion that the provision in question is not applicable to exhibits written on unstamped materials. Such exhibits should be dealt with according to the provisions of Section 3, Regulation II of 1825.

Q. In claims for land under Clause 4, Section 26, is the estimated value, or the annual produce of the land, to be considered as regulating the jurisdiction of the Courts?

A. The Act does not affect the present Stamp Regulation, No. XIII of 1816, under which the valuation of a suit for land is made according to the Rules laid down in Section 3, Regulation III of 1802.

Q. Is the application made by a person for his discharge from confinement, under Section 280, to be made to the Zillah Court, or to the Court which has cognizance of the Jail, or to that which passed the decree; and, if to the latter, is such application to pass through the Court, which has cognizance of the Jail, or to be made direct to the Court which passed the decree; and in the latter case how is it to be conveyed?

A. The application should be prepared to the address of the Court under whose orders the person may be in confinement, in execution of the decree, and should be received and forwarded to such Court, post free, by the judicial Officer in charge of the Jail.

Q. Does the mode prescribed under Chapter XI, for review of judgment, apply also to orders passed on miscellaneous petitions; and if not, how should applications for the review of such orders be dealt with?

A. No provision is made in the Act for review of an *order*. Written applications of this kind should therefore be refused. But it will be in the discretion of the Court, on the verbal motion of one of the parties, to amend any material error, in its order: provided that, if such amendment would prejudice any other party interested in the matter, a notice should first be issued to such party to appear and show cause why the order should not be amended.

CIRCULAR.

Extract from the Proceedings of the Sudder Court, under date the 19th March 1860.

Constructions of Act VIII of 1859.

Q. Section 28.—What persons may be deemed competent for the purpose of subscribing and verifying plaints, on behalf of plaintiffs who are unable to do so themselves?

A. Persons able to depose to the facts of the case, and having a knowledge of the ground of action which the plaintiff *cannot* possess, as shopmen employed in the sale of the goods of their employers, and the like—not Mookteears, or other such agents.

Q. Are such persons to perform those acts by permission of the Court previously obtained?

A. The plaint in such cases may be brought already subscribed and verified, but will be liable to rejection, if there should be no good cause for allowing any person other than the plaintiff to perform those acts, or if the person by whom they may have been performed should not be considered competent for the purpose.

Q. Sections 41 and 315.—Can written answers be permitted to be filed by defendants in original suits, and by respondents in appeal, as heretofore?

A. No *answer*, *i. e.*, written replication, can be received either from a defendant or a respondent. The only pleadings allowed are the plaint and Memorandum of regular or special appeal. Under Section 120, a defendant may, at the first hearing, put in a written statement of *his own case*, but, under Section 122, no such statement could be received from a respondent.

Q. Are the provisions of the Act, which authorize the Courts to call for written statements from parties, and to examine the parties,

A. Written statements of the parties' respective cases can, under Section 122, only be called for prior to the final judgment of the

or their Vakeels, in original suits, applicable in appeal suits?

Q. Sections 54 and 111.—By what means is a Court to satisfy itself that a defendant has refused to acknowledge the service of a summons, or that a summons has actually been served on him?

Q. Is the serving officer to be required to serve such process in the presence of any witnesses?

Q. Section 333 allows one month for regular appeals from appealable decrees, while Section 377 allows three months for applications for review of decrees. Is it by this intended that a party, having applied for review of a decree, but without success, cannot afterwards prefer a regular appeal from that decree?

Q. At the time of issuing summons to defendant under Section 41, by what means is the Court to determine "whether the summons shall be for the settlement of issues only, or for the final disposal of the suit," as directed in that Section?

Q. With reference to Sections 41 and 109 of the Act, can a defendant in an original suit, on his appearance in Court, either in person or by an authorized pleader, according to the summons issued to him, be furnished with a copy of the plaint, in order to his giving written answer to the same; or is he, immediately on his appearance, to be orally examined by the Court in answer to the plaint, and is such examination to be taken down in writing in the manner prescribed by Section 125?

Q. It is provided by Section 119 that "no appeal shall lie from a judgment passed *ex-parte* against a defendant who has not appeared." Can defendants in original suits pending at the time the Act came into operation, prefer regular appeals against judgments (in such suits) passed *ex-parte*, subsequently to the date on which the Act came into operation?

Court of original jurisdiction. Power to examine the parties, or their pleaders, is expressly given to the Appellate Court by Section 358.

A. By the examination of the serving Officer on solemn affirmation. The evidence of such Officer, if clear and positive, will generally be sufficient proof of service to justify the Court in proceeding to hear the suit *ex-parte*. But where it may leave a doubt on the mind of the Court whether the service was effected, the Court may direct a second summons to be issued under Section 112.

A. As a general rule, no attestation should be required; but it will be in the discretion of the Court in any particular case to require it, as, for example, where a second summons has to be issued in consequence of there being no satisfactory proof of the first having been duly served.

A. The party will not be deprived of his right of appeal, provided he present his Memorandum within the period allowed for appealing, in reckoning which the time embraced between the date of the application for review and that of the order thereon will be deducted.

A. By a consideration of the nature of the plaintiff's claim. Thus, in simple cases, the summons would be for the final disposal of the suit, while in complicated cases it might be, where deemed advisable, for the settlement of issues only.

A. The defendant will be entitled, under the general rules relating to the furnishing of copies, to obtain at any time a copy of the plaint; and, at the first hearing of the suit, to tender a written statement of *his own* case, but not an answer to the plaintiff's case. No further time can be allowed for putting in such written statement (Section 122); but the Court may call for one at any time before final judgment. The defendant may also be examined orally, or not, at the discretion of the Court; the substance of the examination, if any be taken, being reduced to writing.

A. Yes: their rights are clearly reserved to them under Section 357.

Q. Is the Officer deputed to attach property consisting of goods, chattels, or other moveable property, precluded by Section 233 from placing such property after attachment in the possession of a surety offered by either party, according to the practice hitherto observed; and, if it is intended by the provision of the said Section that such property should after attachment be invariably brought to Court, for the purpose of being kept in the custody of the Nazir or other Officer, what is to be done in cases where the property attached is situated at a great distance from the Court, and consists of cattle or other articles of such a description as renders their conveyance to Court difficult and expensive?

A. Moveable property found in the defendant's possession, and attached by actual seizure, cannot be left in the charge of a third party. But where such property may be of a description difficult to remove, the Nazir's Subordinate, deputed to attach it, may keep the same in his custody upon the spot; and, on the receipt of his report, the Court may at once proceed, under Sections 212 and 249, to order the sale of the property so attached. If the particular property to be attached be previously known, the Court may issue, simultaneously, processes of attachment and sale, under Section 250.

Q. When a claim to property under attachment is disallowed after investigation under Section 246, is the Court to keep the property in abeyance for the period of one year, in expectation of a regular suit being brought by the claimant; and if a suit be brought by him within that period, is the property to be continued under attachment till the final disposal of that suit in original appeal and special appeal; or may the Court sell the property immediately upon the claim being disallowed, if it see no other objections so to do?

A. The primary object of the concluding Clause of Section 246, is not to keep the attachment open for the claimant, but to *limit the period* within which he may *bring a suit* to establish his right to the property attached. The order disallowing the claim not being subject to appeal, the Court may in its discretion proceed to sell the property.

Q. Are the objections which a respondent may, under Section 348, take to the decision of the Lower Court upon the hearing of an appeal, to be filed by him on stamp paper, or are such objections to be taken down in writing by the Appellate Court in the form of an examination?

A. Objections in writing cannot be received. They must be taken *orally at the hearing*, and should be noted down by the Judge, and set forth in the judgment among the points for determination (Section 359).

Q. Is a Plaintiff whose claim is dismissed by a Court of original jurisdiction upon any preliminary point, without investigation of the merits of the case, precluded by Section 351 from preferring a summary appeal to the Appellate Court against such dismissal, on stamp paper prescribed for petitions?

A. An appeal of the nature referred to lies only where the plaint is rejected for some defect appearing on the face of it, &c. (Section 36). In all cases where the Original Court has had the parties before it, and given a decision, though only on some preliminary point, the only course for any party dissatisfied with such decision is to prefer a regular appeal against it.

Q. If it appear to the Appellate Court, on the hearing of an appeal, that a person or persons interested in the subject matter of the suit, have not been made parties to it by the Lower Court, and that the original decree has, in consequence, become so defective that a satisfactory judgment cannot be pronounced in appeal without such person or persons being

A. As the Appellate Court cannot dismiss a suit, but is required to give a conclusive judgment in every case, the proper course will be to direct that any person having an interest in the subject matter of the suit inseparable from that of either of the parties, be made a plaintiff or defendant, and to frame and refer an issue for trial by the Lower Court, under Section 354.

included in the suit, either as plaintiffs or defendants, what course is the Appellate Court to adopt to remedy the defect, it being precluded by Section 352 from remanding the suit to the Lower Court in such cases?

A. Yes. This is expressly laid down in Section 388.

Q. Is it imperative upon Courts to regulate their procedure in strict conformity with the provisions of Act VIII of 1859, with regard to suits which were pending before them at the time when the Act came into operation, if such procedure will not deprive the parties in those suits of their right in reference to the procedure of the suits, whether of appeal or otherwise?

A. Yes.

Q. Can the Mooftee Sudder Ameen and District Moonsiffs receive pauper suits with reference to Section 297?

A. The Circular Order is superseded by Chapter IV of the Act. The statement therefore will not in future be required.

Q. Are the District Moonsiffs to continue to forward the monthly statement of decrees *executed*, as laid down in Sudder Udalut Circular Order, 31st May 1854?

A. The latter is the correct method of calculation.

Q. The practice regarding the valuation of suits for land is not uniform in this District. The valuation is fixed either on the amount of assessment only, or on one year's produce, inclusive of the assessment, but exclusive of the expenses of cultivation. Which is correct?

Q. Can a District Moonsiff, under Section 149, require, without application to the Collector, the production of any public document by a Taluq servant, summoned by him as a witness?

A. Subordinates in public offices should not be summoned to produce official papers. Application should be made, under Section 138, to the *Head of the Department* to which such papers appertain, requesting him to send them for the Court's inspection. In the case referred to in the question, the Collector would be the proper person to apply to.

Extract from the Proceedings of the Sudder Court, under date the 22nd November 1860.

Read letter, dated the 7th instant, from the Civil Judge of Chicacole, requesting the opinion of the Judges as to the interpretation to be given to the word "Lakhiraj", as found in Act XXXVI of 1860.

The Judges are of opinion that the term "Lakhiraj" can only be applied to land paying no Revenue whatever to the State. If any revenue, however favorable, be payable, the land will fall under the designation of Malguzari.

(True Copies).

(Signed) T. WILKINS,
Dy. Registrar, Appellate Side.

1st *March* 1866.

To the Acting Under Secretary to Government, with reference to his Official Memorandum, dated the 22nd February 1866, *No.* 26.

No. 205. To the Secretary to the Government of India, Financial Department, dated Fort Saint George, 27th March 1866, No. 445.

I am directed by His Excellency the Governor in Council to acknowledge the receipt of the Circular from the Government of India, Financial Department, dated the 7th August last, No. 1656, calling for the opinion of the several Governments and Administrations on the expediency of increasing the Stamp Revenue on Judicial proceedings by somewhat raising the charges on the larger class of suits, and to submit, in reply, the accompanying copy of a letter from the Registrar of the High Court, furnishing a Statement of the number of original suits disposed of in the Courts under this Presidency, during the month of March last, and the amount of Stamp duty and costs levied on the several classes of suits, and giving the opinion of the Honorable the Judges on the question embraced in the Circular under reply. A copy of a letter from Mr. Collett, late Judge of Vizagapatam, and now officiating as a Judge of the High Court, is also enclosed.

16th February 1866, No. 12.

15th January 1866, No. 3.

2. It will be seen that the opinions of the Judges of the High Court are divided. According to Mr. Justice Holloway, the love of litigation in the country is so great, that scarcely any Stamp duties would be felt as a burden. Mr. Justice Innes suggests that, in suits for property above 4 and up to 1600 Rupees, which comprise the great bulk of the litigation of the country, the Stamp duty may be increased by one-half without hardship; but the Chief Justice and Mr. Justice Bittleston, on the other hand, see no ground for increasing the duty on suits for small sums, but consider that in suits between 25,000 and 50,000 Rupees, it might be doubled or even trebled; in those between 10,000 and 25,000 doubled; and in suits between 800 and 10,000, raised by one-fourth. Mr. Justice Collett is also for increasing the duty on the larger class of suits.

3. The Return furnished by the High Court shows that the average cost in the case of the smaller class of suits is already high, ranging from nearly 12½ to 50 per cent., putting out of consideration suits under 4 Rupees, in which the percentage of costs is no less than 125. The Governor in Council does not think it expedient to make any addition to the existing duties in the case of suits for sums below 10,000; but he is of opinion that suits for claims exceeding that amount can well bear an increase, though, from the paucity of suits of this latter class, the addition to the Revenue is not likely to be considerable. In the case of such suits, he would fix the Stamp duty at the rules noted in the margin.

			Rs.
From	10,000 to	15,000 ..	500
Do.	15,000 to	25,000 ...	750
Do.	25,000 to	50,000 ...	1,250
Do.	50,000 to	100,000 ...	2,500
Do.	100,000	..	5,000

4. I am also to request attention to the separate communication from Mr. Collett already referred to. He points out that Note (*d*) Article 11, of Schedule B, of the present Stamp Act, as it now stands, no longer applies to a large class of Inam lands, which—formerly, altogether free from the payment of any Revenue to the State—have, under the operations of the Inam Commission in this Presidency, been now subjected to the payment of a moderate quit-rent. The effect of this change in the position of the Inams is to take them out of the category of the lands

to which the increased valuation authorized in Note (*d*) applies, and to bring them under Note (*b*), and thus cause a diminution in the Stamp Revenue. In reference to this, Mr. Collett argues that the same principle which justifies an increased valuation for the stamp where there is a total exemption from ordinary revenue, would seem to justify a proportionately increased one where there is only a very limited liability to revenue. And the quit-rent imposed by the Inam Department varies from ⅛ to ½ of the full ordinary demand on land.

5. Another part of Schedule B to which Mr. Collett refers is Article 3, which relates to the Stamp duty to be levied on Certificates granted in the Mofussil Courts, under Act XXVII of 1860. He is of opinion that the amount of the debt, for the collection of which the Certificate is applied for, should be required to be specified in it, in the same manner as Securities and Bank shares, &c., are required by the 8th Section of the Act in question to be described, in order to guard against any evasion of the Stamp duty.

6. The Governor in Council concurs in the views of Mr. Collett on both these points, and I am directed to commend them to the consideration of the Government of India in connection with the contemplated revision of the Stamp law.

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

No. 12.

From

P. P. Hutchins, Esquire
Registrar of the
High Court of Judicature
at Madras.

To

The Honorable A. J. Arbuthnot
Chief Secretary to
Government.

Honorable Sir,

1. As requested in your letter dated 30th August last, No. 1214, I am directed by the Chief Justice and Judges to forward a statement showing the number of original suits disposed of in the up-country courts during the month of March last.—

Why has this Statement been called for?

2. As to the class of suits in which will best bear an increase of the institution fee, I am

directed to add the following observations in the order in which they were recorded. The Hon'ble Mr. Justice Innes suggests that in suits for property above 4 and up to 1,600 Rupees in value the stamp duty may safely be increased by one half. Suits within those limits he remarks appear to comprise the great bulk of the litigation of the country, and an increase in the amount of stamps to the extent suggested is not likely to be attended with hardship or with any fall in the amount of the stamp revenue by causing a decrease in the number of suits: while the number of suits above 1,600 in value is so small that it is not at present desirable to increase the cost of instituting them. The Hon'ble Mr. Justice Holloway's opinion that

despd 27/3/per P. & O. Steamer "Ausonia"

Judicial Department.

No. 445.

To

The Secretary to the Government of India,

Financial Department.

Sir,

I am directed by H.E. the Governor in Council to acknowledge the receipt of the Circular from the Government of India, Financial Department dated the 7th August last No. 1656, calling for the opinion of the several Governments and Administrations on the expediency of increasing the Stamp Revenue on Judicial Proceedings by somewhat raising the charges on the larger class of suits, and to submit in reply the

accompanying

accompanying copy of a letter from the Registrar of the High Court, furnishing a Statement of the number of original suits disposed of in the Courts under this Presidency during the months of March last, and the amount of Stamp Duty levied on the several classes of suits, and giving the opinion of the Honorable the Judges on the question embraced in the Circular under reply.

16. 7 Feby 1866 2.12

2. A copy of a letter from Mr Collett late Judge of Vizagapatam and now officiating as a Judge of the High Court, is also enclosed.

15 Feby 66 2.3

3. It will be seen that the opinions of the Judges of the High Court are divided. According to Mr Justice Holloway, the

the love of litigation in the country is so great, that scarcely any stamp duties would be felt as a burden. Mr Justice Innes suggests that, in suits for property above 5 and up to 1000 Rs. which comprise the great bulk of the litigation of the country, the Stamp duty may be increased by one-half without hardship; but the Chief Justice and Mr Justice Bittleston, on the other hand, see no ground for increasing the duty on suits for small sums, but consider that in suits between 25.000 and 50.000 Rs. it might be doubled or even trebled; in those between 10.000 and 25.000, doubled, and in suits between 800 and 10.000, raised by one-fourth.

Mr

Mr Justice Collett is also for increasing the duty on the larger class of Suits.

3. The Return furnished by the High Court shows that the average cost in the case of the smaller class of Suits is already high, ranging from nearly 12½ to 50 per cent, putting out of consideration Suits under 4 Rs, in which the percentage of costs is no less than 125. ~~And~~ ~~the Government~~ ~~think~~ ~~that it would not be~~ ~~expedient~~ to make any addition to the existing duties in the case of Suits for sums below 10000, but ~~for~~ that Suits for claims exceeding that amount can well bear an increase though, from the paucity of Suits of this latter class, the addition to the Revenue is not likely to be considerable.

4. I am also to request attention to the separate communication from Mr Collett already referred to. He points out that note (d) Article 11 of Schedule B of the present Stamp Act as it now stands, no longer applies to a large class of Inam Lands which, formerly, altogether free from the payment of any Revenue to the State, have, under the operations of the Inam Commission in this Presidency been now subjected to the payment of a moderate quit rent. The effect of this

~~In the case of such Suits he would fix the Stamps duty at the [illegible] rate~~ ~~from~~
from 10000 & 15000 - 500 the
from 15000 & 25000 - 750 margin
from 25000 & 50000 - 1250
from 50000 & 100000 - 2500
from 100000 — 5000

this change in the position of the Loans is to take them out of the category of lands to which the increased valuation authorized in note (d) applies, and to bring them under note (b), and thus cause a diminution in the Stamp Revenue. In reference to this, Mr Collett argues that the same principle which justifies an increased valuation for the stamp where there is a total exemption from ordinary Revenue, would seem to justify a proportionately increased one, where there is only a very limited liability to Revenue. And the Govt rent imposed by the Loans Department varies from ½ to ½

the full ordinary demand on land.

5. Another part of Schedule B to which Mr Collett refers is article 3, which relates to the Stamp duty to be levied on Certificates granted in the Mofussil Courts under Act XXVII of 1860. He is of opinion that the amount of the debt for the collection of which the Certificate is applied for should be required to be specified in it, in the same manner as Securities and Bank shares &c are required by the 8th section of the Act in question to be described, in order to guard against any evasion of the stamp duty.

6. The Governor in Council concurs in the views of Mr Collett on both these points

points, and I am directed to commend them to the consideration of the Govt. of India in connection with the contemplated revision of the Stamp Law.

Fort St. Geo.
27th March 66

Judicial Department.

No.

To

The Secretary to the Government of India,

Financial Department.

Sir,

I am directed by H.E. the Governor in Council to acknowledge the receipt of the Circular from the Government of India, Financial Department, dated the 9th August last, No 1656, calling for the opinion of the several Governments and Administrations on the expediency of increasing the Stamp Revenue on Judicial Proceedings by somewhat raising the charges on the lower class of Suits, and to submit in reply

the

the enclosed
the annexed copy of a
letter from the High
Court, submitting a
Statement of the number
of original suits disposed
of in the Courts under
this Presidency during the
month of March last,
and the amount of
Stamp duty levied on
the several classes of
suits, and giving the
opinion of the Honorable
the Judges on the question
embraced in the Circular
Orders reply. It will be
seen that their opinions
are divided. According to
Mr Justice Holloway,
"the love of litigation in the
country is so great, that
scarcely any Stamp
duties would be felt
as a burden". Mr Justice
Innes

suggests that in
suits for property above
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which comprise the
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tion of the country,
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be increased by one-half
without hardship; but
the Chief Justice and
Mr Justice Bittleston
on the other hand
see no
ground for increasing
the duty on suits for
small sums, but consider
that in suits between
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it might be doubled
or even trebled; in those
between 10,000 and 25,000
doubled, and in suits
between 800 and 10,000
raised by one-fourth.
Mr Justice Collett
is also for increasing
the

the duty on the larger class of Suits.

2. The Return furnished by the High Court shows that the average cost in the case of the smaller class of Suits is already high, ranging from nearly 12½ to 50 per cent, putting out of consideration Suits under 4 Rs in which the percentage of costs is no less than 125 and deems exceptional. The Governor in Council therefore thinks that it would not be expedient to make any addition to the existing duties in the case of Suits for sums not exceeding Rs 800 but that

[illegible] from 32 [illegible]

that the Suits for that sum and upwards can well bear an increase, though from the paucity of Suits of the latter class, the addition to the Revenue is not likely to be considerable.

12

Judicial 1866 Departt.

No. 1445.

To
The Secretary to the Govt.
of India

Dated 27th March 1866.

No. 268-1
30/8/65

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