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*Proceedings of the Madras Government, Judicial Department,
4th July 1867.*

Read the following papers:—

No. 44. From the Secretary to the Government of India, to the Secretary to Government, Fort Saint George; dated Fort William, 19th March 1867, No. 2766.

Home Department.

I am directed to transmit the accompanying copy of a Despatch from Her Majesty's Secretary of State to the Government of India, No. 56, dated the 24th November 1866, suggesting the adoption of a reasonable uniformity of practice in the working of the Registration Act in the different Presidencies.

2. In connection with the Secretary of State's Despatch, the Governor General in Council has had under consideration the Reports furnished by the Governments of Fort Saint George, Bombay, Bengal, and the North-Western Provinces, on the working of the Registration Act during the year 1865, and the scale of fees charged under each of those Governments.

3. The following table shows the scale of Fees (except for Bombay) for registering instruments relating to the sale and purchase of immovable property:—

Governments.	Below Rs. 100.			Below Rs. 500.			Below Rs. 1,000.			Below Rs. 4,000.			Below Rs. 5,000.			Between Rs. 5,000 and Rs. 50,000.		
	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.			
Bengal.	0	8	0	1	0	0	1	8	0	2	0	0	3	0	0	From Rs. 3 up to Rs. 14.		
North-Western Pro- vinces	2	0	0	2	0	0	4	0	0	4	0	0	4	0	0	Rs. 6 uniformly.		
Madras.	1	0	0	2	0	0	2	0	0	3	0	0	3	0	0	From Rupees 3-8 up to Rupees 25-8.		
Bombay.	2	8	0	This is a minimum charge, and the charge beyond this is at the rate of 6 Annas for 72 words ; therefore Rupees 2-8 covers 480 words, whatever the value of the property.														

4. The number of compulsory and voluntary registrations during the year 1865 under each Government is shown in the following Statement, except that the figures in the Bengal column are for the first six months of the year only, and those the first six months of the working of the Registration Act:—

	Madras.	Bombay.	Bengal.	North-Western Provinces.
Compulsory....	54,035	45,435	16,435	41,346
Voluntary.	34,717	16,714	16,639	22,914

5. It would thus appear that Bombay and the North-Western Provinces, where the highest rate is charged for transactions of small value, have the smallest number of voluntary registrations; while Bengal, where the scale at the beginning is very low—indeed it goes down to four Annas for instruments relating to property under Rupees 25—has a larger number of voluntary than of compulsory registrations. These figures would seem to show that probably the voluntary registration of instruments affecting property of small value is influenced considerably by the

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scale of fees; and, with reference to these facts, I am directed to solicit an expression of the opinion of the Government of Madras whether the voluntary registration of instruments relating to small transactions is not somewhat impeded by the charges at the lower end of the scale of fees in the Table.

Despatch from the Right Honorable the Secretary of State for India, to His Excellency the Right Honorable the Governor General of India in Council; dated India Office, London, 24th November 1866, No. 56.

I have received from the Government of Bombay copy of a Report by the Registrar General of Assurances in that Presidency on the working of the Registration Act in Bombay, as compared with the working of the Act in Madras and the North-Western Provinces.

2. I am not of opinion that it would be desirable, especially while the law is of recent enactment, to insist upon any exact uniformity of practice in the different Presidencies; but there is apparent *so wide a divergency in the system in operation* in Bombay from that in operation in Madras and in the North-Western Provinces as to suggest, among other considerations, either that there must be some injustice to the public on the one side, or some unnecessary sacrifice of revenue on the other.

2. Under these circumstances, I desire that Your Excellency in Council will take the Reports on the working of the Act in the different Presidencies into careful consideration, and issue such general instructions for the guidance of Officers responsible for the just operation of the law as may seem to you advisable. I have no wish that these instructions should be of a minute character, but that such broad lines for observance should be indicated as will secure a substantial agreement of practice as to such parts of the measure as involve anything of principle.

Referred to the Registrar General of Assurances for his remarks.

FORT SAINT GEORGE,
5th April 1867.

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

No. 45. From the Registrar General of Assurances, Madras, to the Chief Secretary to Government, Fort Saint George; dated Madras, 12th June 1867, No. 80.

I have the honor to submit the following remarks on the accompanying letter, No. 2766, of the 19th March, from the Secretary to the Government of India, which was referred to me for report on the 19th April.

2. The Government are aware that three different tables of fees have been in operation in this Presidency. The first, which was in force from the 1st January 1865 to the 31st July, was found totally inadequate to provide a reasonable amount of remuneration for the Registering Officers, or to meet the expenses incurred by Government. Under the second table of fees, which was in force until the 30th April 1866, the collections greatly increased, and registration did not decrease, but the receipts were still insufficient to cover the expenditure. On the 1st May 1866, Act XX of 1866 came into operation, and the returns of the official year which has just closed show, for the first time, a small balance in favor of Government. In all three tables, the principle advocated by Government in their Order, No. 1608, of the 7th November 1864, of making no distinction between the rates for compulsory and

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voluntary registration has been adhered to. The following statement shows the main differences between the three tables of fees:

Tables.	Not exceeding Rupees 100.			Not exceeding Rupees 500.			Not exceeding Rupees 1000.			Not exceeding Rupees 2500.			Not exceeding Rupees 5000.			Every additional Rupees 1,000.		
	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.
First	0	4	0	0	8	0	1	0	0	2	0	0	3	0	0	0	8	0
Second.....	0	8	0	1	0	0	2	0	0	3	0	0	3	0	0	0	8	0
Third... ..	1	0	0	2	0	0	2	0	0	3	0	0	3	0	0	0	8	0

The fees have, it will be observed, been quadrupled in the case of instruments not exceeding Rupees 500 in value, doubled when the value does not exceed Rupees 1000, and increased by 50 per cent. when the value does not exceed Rupees 2500, while above that amount no change whatever has been made.

3. The following extracts from my Administration Report for 1866-67 will show that there has been some falling off in the comparative number of voluntary registrations this year, but that the falling off is on the whole trifling.

"viii. Of the 1,28,833 instruments registered in 1865-66, 73,530 were instruments of which the registration was compulsory, and 55,303 of which the registration was optional. For the purposes of comparison it will be necessary to deduct from the latter number the 17,892 instruments registered under Section 17 of Act XVI of 1864. The numbers will then be 73,530 and 37,411. This year the number of instruments of which the registration was compulsory was 69,497, and those of which it was optional 30,928. The proportion of instruments voluntarily registered is, therefore, somewhat less than it was. This is sufficiently accounted for by the decrease in the number of bonds, contracts, and miscellaneous deeds adverted to in paragraph 3."

"The decline in the registration of bonds, contracts, and miscellaneous instruments is mainly due to the operation of two causes. The first is that the provisions of the law are better known than they were. When Act XVI of 1864 first came into operation, many persons supposed that deeds of all kinds must be registered, but it is now beginning to be understood that registration is not compulsory with regard to these miscellaneous instruments. Another reason is that registration has become more expensive than it was, especially in the case of instruments of small value. In some districts, the registration of this class of instruments is stated to have been checked to some extent by the prevalence of famine. In the Godavery, in which more instruments of this kind used to be registered than in any other district, the Registrar considers that the falling off is in some measure due to the establishment of a Branch Bank at Cocanada, which now advances money on bills in cases in which loans on registered bonds would otherwise have to be obtained from the Native money lenders."

4. It will be seen from the statement given in paragraph 4 of Mr. Secretary Bayley's letter that, after doubling the figures for Bengal, the absolute number both of compulsory and voluntary registrations in 1865 was larger in this Presidency than under any other Government, and that, except as compared with Bengal, the relative proportion of optional to compulsory registration was also larger. It can hardly be said, therefore, that there is any serious check on the registration of instruments of

small value in Madras. I have no doubt, however, that if the fees were lowered again, registrations of this class would increase, but the question to be considered is whether, in a financial point of view, such a measure is desirable.

5. It is obvious that the registration fee should be sufficient to remunerate the Registering Officer, and to meet the expenses entailed on Government. In the case of any instrument which has to be entered in the Register of immoveable property, whether the registration be voluntary or compulsory, the Sub-Registrar has to read and scrutinize the instrument; to examine certain parties; to write out an endorsement and certificate; and to pay a writer for copying out the instrument in extenso, and for preparing six sets of indexes to it. Eight Annas does not seem an excessive remuneration for all this work. Government have to provide a register and forms for six sets of indexes; to bear the ultimate cost of the transmission of four of these indexes to the Head Quarters of the District and the Presidency town; and to keep up two establishments for the examination, filing, and custody of these indexes. Eight Annas does not seem to me too much to meet these charges. The present fee of one Rupee appears, therefore, but fair for the registration of instruments affecting immoveable property of less than Rupees 100 in value. I am not certain whether some reduction might not be made on the registration of ordinary bonds, contracts, and other documents of the classes which should be entered in the Miscellaneous Register. They are generally shorter and simpler than the others. Only one index of a very simple kind has to be prepared, and no copies of it are forwarded to any other Office. These registrations entail much less labor and expense than the others. If the deficit with which the working of the Department was attended during the first sixteen months is found to be made good by the surplus of the past and current year, some reduction might, I think, be made hereafter in the fees for registrations of this class; but, at present, I am not prepared to recommend any change.

No. 46. To the Secretary to the Government of India, Home Department, Simla, dated Fort Saint George, 4th July 1867, No. 1059.

Adverting to your letter, dated the 19th March last, No. 2766, transmitting copy of a Despatch from Her Majesty's Secretary of State for India, suggesting the adoption of a reasonable uniformity of practice in the working of the Registration Act in the different Presidencies, I am directed to forward, for the consideration of His Excellency the Governor General in Council, the annexed copy of a letter from the Registrar General of Assurances, affording information of the working of the Act in this Presidency.

2. Three tables of fees have been in force since the 1st January 1865, and the following statement specifies the principal differences between them:—

Tables.	Not exceeding Rupees 100.	Not exceeding Rupees 500.	Not exceeding Rupees 1000.	Not exceeding Rupees 2500.	Not exceeding Rupees 5000.	Every additional Rupees 1000.
	RS. A.	RS. A.	RS.	RS.	RS.	AS.
1st.....	0 4	0 8	1	2	3	8
2nd.....	0 8	1 0	2	3	3	8
3rd.....	1 0	2 0	2	3	3	8

3. The receipts from the 1st January to the 31st July 1865, when the first table of fees was in operation, were wholly insufficient either to remunerate the Registering Officers, or to meet the expenses incurred by Government. The receipts from the 1st August 1865 to the 30th April 1866, when the second table of fees was in force, though larger than in the period ending the 31st July 1865, were still below the expenditure incurred. Since the introduction of the third table of fees on the 1st January 1866, there has been, for the first time, a balance in favor of Government.

4. The number of instruments registered in two years was as follows:—

	Compulsory.	Voluntary.	Total.
1865-66	73,530	37,411	1,10,941.
1866-67	69,497	30,928	1,00,425.

It will be seen that the number of voluntary registrations has been less in 1866-67 than in the year preceding. This decrease is ascribed to a diminished number of bonds, contracts, and miscellaneous deeds being registered, the law on the subject being better understood, and to the circumstance of registration in respect of instruments of small value having become more expensive. The Registrar General is of opinion that any present reduction of the fees on this class of instruments would be financially a hazardous experiment. In regard to fees for the registration of ordinary instruments, Major Macdonald, for reasons stated, thinks that a reduction may hereafter be made, but he is not prepared to recommend any change until it shall be ascertained whether the profits in the past and current years will cover the deficit which occurred during the first sixteen months of the working of the Department.

1st January 1865 to the 30th April 1866.

5. The Governor in Council agrees with the Registrar General of Assurances in considering that no change should be introduced at present in the table of fees in force in this Presidency, until it has been ascertained whether a reduction of the fees on instruments affecting property of small value, of which the registration is voluntary, can be made without entailing a loss upon Government.

(Signed) R. S. ELLIS,
Acting Chief Secretary.

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Judicial Department.
No. 1059-

To

The Secretary to the Government
of India,
Home Department.
Simla

Sir,

Adverting to your
letter dated the 19th March
last. N^o 2766, transmitting
copy of a Despatch from
Her Majesty's Secretary of
State for India, suggesting
the adoption of a reasonable
uniformity of practice in
the working of the Regis-
tration Act in the different
Presidencies, I am directed
to forward for the consider-
ation of H.E. the Governor
in Council, the annexed
copy of a letter from the
Registrar General of Assam
affording information of
the working of the Act
in this Presidency.

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2 Three tables of fees have been in force since the 1st January 1865, and the following statement specifies the principal differences between them.

Tables	Not exceeding Rs. 100	Not exceeding Rs. 500	Not exceeding Rs. 1000	Not exceeding Rs. 2,500	Not exceeding Rs. 5000	Exceeding Rs. 10000	
1 st	Rs. 4	Rs. 8	Rs. 1	Rs. 2	Rs. 3	Rs. 8	
2 ^d	" 8	1	2	3	3	8	
3 ^d	1	2	2	3	3	8	

3 The Receipts from the 1st January to the 31st July 1865, when the 1st table of fees was in operation, were wholly insufficient either to remunerate the Registering Officers, or to meet the expenses incurred by Govt. The Receipts from the 1st August 1865 to the 30th April 1866, when the 2^d table of fees was in force, the larger than in the period ending the 31st July 1865, were still

still below the expenditure incurred. Since the introduction of the 3^d table of fees on the 1st January 1866 there has been, for the first time, a balance in favor of Govt. The number of instruments registered in two years was as follows.

	Compulsory	Voluntary	Total
1865/66	73,538	37,411	1,10,949
1866/67	69,497	30,928	1,00,425

It will be seen that the number of voluntary registrations has been less in 1866/67 than in the year preceding. This decrease is ascribed to a diminished number of bonds, Contracts and Miscellaneous deeds being registered, the law on the subject being better understood, and to the circumstance of Registration, in respect of instruments of small value having become more expensive. The Registrar Genl. is of opinion that any present reduction of the fees on this class of instruments would be financially a hazardous experiment.

or prominent. In regard to fees for the registration of ordinary instruments. Major McDonald for reasons stated, thinks that a reduction may hereafter be made, but he is not prepared to recommend any change until it shall be ascertained, whether the profits in the past and current years will cover the deficit which occurred during the first sixteen months of the working of the Department.

5 The Governor in Council agrees with the Registrar General of Assurances in considering that no change should be introduced, at present in the table of fees in force in this Presidency until it has been ascertained whether a reduction of the fees on instruments affecting property of small value, of which the registration

is

1st January/65 to the 30th April/66

Fort St. George
4 July 1867

is voluntary, can be made without entailing a loss upon Government.

M.L.

Not to be a convenience of the people
but in the interest of the Government in a
somewhat larger handwriting - a semi
official note would effect what is
desired.

N.

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Industrial 1857-1894
24/1059
to the 1857 to the 1894
of India
1874/63
1874-1894
1874-1894
1874-1894

24 June
12 July