

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	652	Press ~~Mis.~~
192-93 Dated	12-3-	18 68.

Not to be folded or roughly handled

1A

Proceedings of the Madras Government, Revenue Department,
12th March 1868.

No. 192. Read the following Proceedings of the Madras Government in the
Judicial Department:—

Forwarding copy of letter to Government of
India transmitting Register of the Stamp
duties levied under Schedule B., Section 6, Act
XXVI of 1867, and the opinions recorded by
the Judicial Officers on the operation of the
Schedule in this Presidency. (Here enter 27th February 1868, No. 331.)

No. 193. ORDER THEREON, 12th March 1868, No. 652.

Separate Revenue, No. 5.

Stamps.

Ordered to be recorded.

(True Extract.)

(Signed) F. BRANDT,
Under Secretary to Government.

Erd. S. T. Augustin.

No. 334.

FROM

THE HONORABLE R. S. ELLIS, C. B.,
Chief Secretary to the Government of Fort Saint George,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
 HOME DEPARTMENT.

SIR,

I am directed by His Excellency the Governor in Council to transmit the Register of the Stamp duties levied under Schedule B, Section 6 Act XXVI of 1867, and the opinions recorded by the judicial officers who have been consulted on the operation of the Schedule in this Presidency.

2. The Judges of the High Court of Judicature have not expressed any opinion on this subject, although more than once requested to do so.

3. As was to be expected, there is a considerable diversity of opinion among the officers consulted, as regards the effect of the increased rates of Stamps. A considerable number of the Civil and Session Court Judges state that they consider that the enhanced rate of Stamps has had a tendency to reduce vexatious litigation, while it has not prevented *bona fide* suitors seeking justice in the Courts. Other judicial officers consider that the Schedule requires amendment; that it prevents the poorer class from obtaining redress, and that it does not deter the wealthier classes from vexatious litigation.

4. The opinions of the Judges of the Small Cause Courts are generally favorable to the present Stamp Act, but one very competent officer remarks that there has been a very large increase of applications to sue in *forma pauperis* since the introduction of the new Schedule, and that it has deterred parties from freely taking copies of decrees.

5. Of the Magistrates consulted, the majority give opinions favorable to the operation of the Act, while others consider that the expense involved in presenting a complaint may have the effect of deterring the poorer classes from endeavoring to obtain justice.

6. Very few suggestions have been made for the amendment of the Act.

The fixing of eight years' annual revenue, in cases of temporarily settled lands, as the market value of such lands, is considered an excessive standard, and it is recommended that 5½ years purchase be adopted as a more equitable estimate.

It is also considered that Note A to Schedule B unnecessarily curtails the jurisdiction of Moonsiffs in respect of suits relating to land, and it is advised that the jurisdiction should be extended.

The duty on petitions is stated to operate harshly as regards suitors; and the duty on original plaints is considered excessive. One Judge records his opinion that the law in its application to certificates of succession is evaded.

7. Although the opinions recorded are forwarded for the information of the Government of India, I am desired to bring prominently to notice that the judicial officers consulted are agreed in considering that the new Stamp Law has been too short a time in operation to enable them either to pronounce a decided opinion as to its effects, or to furnish suggestions for its amendment.

8. The Advocate General, whose great experience and unquestioned ability lend great weight to his opinion, has, in a letter dated the 19th December last, which was communicated to the Government

Copy enclosed.

of India on the 7th January (Mr. Secretary Hudleston's letter, No. 37), recorded the serious objections which he entertains to Schedule B of the Stamp Law.

9. Mr. Norton, after discussing the principles involved in making law taxes a source of revenue, and combating the theory which has been advanced that they will usefully serve to repress litigation, proceeds to point out the inconsistency of omitting to levy duty in suits instituted before the High Courts of the several Presidencies on the Original Side, or on appeals from decisions in such suits to the High Courts, although these are fitted with by far the most complex and expensive machinery of any Courts in the country, and although the principle advanced in support of levying the tax is not by percentage, but in reference to the machinery the suit would bring into operation.

10. Mr. Norton states, as the result of his own personal experience, that many suitors who had come up to the High Court for the purpose of presenting appeals from the decrees of the Courts in the provinces, have given up their intention on learning the amount of Stamp which they are now called upon to pay, and that in many cases the additional burden thus imposed has been practically a denial of justice to these suitors.

11. The Advocate General further specifies the results of Schedule B in cases within his own cognizance, and the enormous expenses to which suitors in appeal cases are subjected.

12. Mr. Norton, on these grounds, urges that there should, as under the old law, be a limit to the duty, and considers the former limit of 2000 Rupees sufficient to repress dishonest litigation. Although there has not been sufficient time to test the operation of Schedule B in original suits, Mr. Norton gives some sufficiently striking instances of the injurious effects of the new Stamp Law on this class of suits.

13. I am desired to state that this Government concur generally in the remarks contained in the Advocate General's letter, which deals specially with the effect of the new Law on civil suitors; but the Government also entertain very serious doubts as to the policy of levying Stamp duties on complaints when originally preferred to the Criminal Courts, unless means be afforded for an immediate repayment of the Stamp amount, on its appearing to the Court that such payment is required. The effect of this alteration in the Stamp Law, as it now stands, will, it is feared, be to withdraw, in many instances, from the poorest classes in this country the easy means of redress which have hitherto been afforded to them.

14. In conclusion, I am desired to state that, although the period during which the new Stamp Law has been in operation is too limited to enable certain conclusions to be drawn as to the effects produced, this Government desire to avail themselves of the opportunity afforded them to record their decided opinion that, to require suitors for justice, civil or criminal, to contribute largely to the maintenance of the Courts, is erroneous in policy, and that the cost of the administration of justice is quite as legitimate a charge on the taxation of the general community as the cost of the Police or the Army.

I have the honor to be,

Sir,

Your most obedient Servant,

FORT SAINT GEORGE,
27th February 1868.

Ed. J. H. Barnes.

Ed. J. H. Barnes
Chief Secretary.

Ed. J. H. Barnes
Under Secretary

Home 1868 Dept.

From Government of
Fort St. George.

To
The Government of India.

No. 334.

Enclosures
spare copies.

Dated 27th February.

R. 11)

D. No.

Progs. { D.
No.

L. No.

SUBJECT.

Transmitting Register of Stamp duties levied under Schedule B, Section 6, Act XXVI of 1867, and the opinions recorded by certain Judicial Officers on the operation of the Schedule in this Presidency.

82-652-111
RECORDED.

122-222/111

of India on the 7th January (Mr. Secretary Huddleston's letter, No. 10) the serious objections which he entertains to Schedule B of the Stamp Act.

9. Mr. Norton, after discussing the principles involved in making a new source of revenue, and combating the theory which has been advanced that it will usefully serve to repress litigation, proceeds to point out the inappropriateness of omitting to levy duty in suits instituted before the High Courts in the Presidencies on the Original Side, or on appeals from decisions in suits

Revenue 1868. Vol. 4
Proc of Govt for Revenue
No. 778.

From

Indt. Dept.

Port St. George

Dated

Received 10 March 1868

W.

For Copy of Letter
transmitting Report
of the Select Committee
on the Revenue
Schedule B
Act of 1864
and the opinions received
by the Judicial Officers on
the operation of the
Schedule in this
Presidency

No. 192-193

RECORDED. 12 March 1868

Ed. J. H. Burns.

Signed J. H. Burns
Chief Secy
For Collyer
Under

The Revenue Department