M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1907 Press / ~~Mis.~~

31-32

Dated 2 - 10 - 1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 2nd October 1861.

No. 31. Read the following letter from W. HUDLESTON, Esq., Secretary to the Board of Revenue, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Chepauk, 4th June 1861, No. 2,891 :—

SIR,

1. I am desired by the Board of Revenue to submit the report called for by Government in their Proceedings, dated 27th February 1861, No. 456, Revenue Department, regarding the liability of "Letters of Cover" for Insurance purposes to the stamp duty.

In Cons. 28th February 1861, No. 1,279.

2. The position of the question at present is as follows.

3. It was assumed in the letter from the Bengal Board of Revenue to that Government, dated 26th September 1860, that Letters of Cover are available as competent instruments of Insurance in case a regular Policy should not be underwritten, and they were, therefore, held to be included in Art. 44, Schedule A of Act XXXVI of 1860, and liable to stamp duty accordingly ; but to relieve the Merchant from the levy of a double duty in cases where a regular Policy of Insurance was subsequently executed it was proposed, as being in accordance with the Law and practice of England under Section 6-54, Geo. III, Cap. 144, that whenever within one month after last subscription, the Letter of Cover is delivered up to be cancelled and a regular stamped Policy produced in its stead, underwritten by the same persons, to the same amount, on the same interest, and for the same voyage or risk, allowance should be made for the stamps on the Letter of Cover, either in other stamps, or by a refund in money, and the Supreme Government sanctioned the adoption of the course proposed.

Vide Proceedings of Madras Government, 29th October 1860, No. 1,983, Revenue Department.

4. Subsequently in the letter addressed by Mr. Secretary Grey to Messrs. Jardine Skinner & Co. on 2nd March 1861, it was declared that if in the Letters of Cover a clause should be inserted, making the letters null and void if a regular Policy were not effected before the sailing of the vessel, in such case Government would not enforce payment of the stamp duty on the Letters of Cover, but could not guard the holders from risk of loss by the omission to stamp documents which by Law are required to be stamped.

Vide Proceedings of Government, 15th March 1861, No. 613, Revenue Department.

n Cons. 16th March 1861, No. 1,679.

5. The objections which have been urged against the arrangement proposed by the Supreme Government in the orders above cited, are

(1.) The delay involved in double stamping.

(2.) The difficulty in defining the amount of risk, and, therefore, the necessary value of stamp at the time the Letters of Cover are executed, when the shipment is incomplete and it is still uncertain what goods may be included in the cargo.

(3.) That the time allowed for the production of the Policy, viz., one month is insufficient and that three months would be not more than necessary.

(4.) That in the case of shipments from the minor Ports of this Presidency, it would generally be impossible to take out a Policy of Insurance before the vessel sails, while even at Madras itself it is not always practicable to complete the Insurance prior to the vessels departure, and that therefore fifteen days from date of sailing is the shortest period that should be allowed for the production of a Policy of Insurance in lieu of the Letters of Cover, should Government insist on this arrangement, and on the stamping of the latter document.

6. It is argued, and the Board believe with perfect accuracy, that be the Law of England as it may, the practice is and has for years been very different from that described in the letter from the Bengal Board of Revenue, that at Lloyd's all Insurances are first put on, what is technically called, a "slip" or Letter of Cover, which is kept open for a limited period to allow of adjustment on the completion of the shipment, but that no premium is ever paid until the Insurance is put on a stamped Policy, which is in fact stipulated for in the expressed terms of the

Letter of Cover, that these "slips" are never required to be stamped; and that the greatest inconvenience would result from their abolition; that the Government are in no danger of losing their stamp duty by allowing the Letter of Cover to pass free of stamp, as the charge is borne by the Merchant, not by the underwriter, while the stamp is necessary to render the Policy of Insurance complete, and that no underwriter would pay a demand based on an unstamped, and, therefore, illegal document; that the Policy of Insurance being one of the most important papers connected with shipments sold to arrive, or hypothecated as security for advances, and always lodged on such occasions, together with the Bill of Lading, with the party making the advance, it is in the highest degree unlikely that an imperfect document would be accepted as its equivalent, and thus unstamped Letters of Cover supersede stamped Policies of Insurance, and that Letters of Cover being thus of the nature of "initiatory documents" they should be placed in the same category as shipping orders, which Government have declared do not need a stamp.

7. The Board of Revenue are of opinion that it is not necessary or expedient to require that Letters of Cover should be stamped, so long as they retain their present form,* in which they are not "available as a competent instrument of Insurance in case a Policy of Insurance should not be underwritten," but are incomplete and valueless documents on which the Merchant could base no transaction, and from which he could derive no security or benefit, the Insurance being in no sense complete until it has been put on a stamped Policy.

* See copy annexed.

8. They consider that Government will run no risk of sacrificing its just dues by the adoption of this course, which will at the same time relieve trade from an inconvenience of weight.

FORM OF LETTER OF COVER.

MADRAS, 186 .

O. C. No.

EASTERN MARINE INSURANCE COMPANY.

Messrs. A. B. C. & Co.

DEAR SIRS,

We hereby consider you Insured under an open Policy to the extent of Rupees 2,500.
On Indigo
Per "Curnubia"
hence to London
Premium at 1½ per cent. to be paid in cash subject to stamp duty
Free of War risks
Average, payable on each chest as if separately insured.

Yours faithfully,

Agents.

Shipments to be made in boats sufficiently dunnaged, and Policy to be applied for, previous to vessel's leaving.

(Signed) W. HUDLESTON, *Secretary.*

Ordered that the following letter be despatched.

No. 32. From J. D. SIM, Esq., Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, Home Department (Separate Revenue), dated 2nd October 1861, No. 1,907.

SIR,

1. I am directed to submit the following reply to your letter of 11th February last, No. 301, asking whether in the opinion of this Government and the Board of Revenue, any change is required in the rule regarding the liability to stamp duty of "Letters of Cover," as laid down in Under Secretary Lord H. U. Browne's letter of 6th October 1860, No. 1,933.

Proceedings of the Madras Government, Revenue Department, 2nd October 1861.

2. The rule in question declared that "these instruments should be treated as they are "in England under the provisions of Section 6-54, Geo. III, Chapter 144, which provides "that whenever the contract is delivered up to the Commissioners to be cancelled within "one month after the last subscription, and a regular stamped policy be issued in lieu "underwritten by the same persons, to the same amount, on the same interest, and for the same "voyage or risk, the duty shall be allowed in other stamps for contracts on Policies," with this difference, that the allowance should be made either in stamps or as a refund of money at the option of the applicant.

3. The Madras Board of Revenue have in their letter of the 4th June, No. 2,891, (copy of which is subjoined) stated, (1) the present position of the question; (2) the objections urged against the present rule; (3) the actual practice in England, and (4), the opinion at which they have arrived, viz., that it is not necessary or expedient to require that letters of cover should be stamped.

4. This conclusion is based principally upon the consideration that a letter of cover is *not* (as stated in paragraph 2 of the letter from the Bengal Board of Revenue, dated 26th September 1860, No. 1,063) "available as a competent instrument of insurance in case "a regular Policy is not underwritten," and that, therefore, there is no reason for holding it to be included in Article 44, Schedule A of Act XXXVI of 1860. The practice in England is cited in support of both these assertions; no premium being ever paid there until the Insurance is put on a stamped Policy, and the "slips" as they are called, never requiring stamps.

5. But this Government, I am to remark, do not acquiesce in the reasoning of the Board of Revenue. They think, on the contrary, that by the adoption of the course proposed by them, there *will be* a risk of losing the duty. It will be observed that in his letter of 3rd December 1860, the Chairman of the Madras Chamber of Commerce supposes the case of a vessel lost immediately after the issue of letter of cover and before a Policy could be written. The practice in such cases, he says, is "to issue the Policy after the loss has taken place, and a suit "at law will compel the party, so granting a letter of cover, to complete his contract by the "delivery of a stamped Policy," *i. e.*, the letter of cover is as good as a Policy in all such cases; and if in such, which are few, it seemingly may be so also in the majority of instances, where the vessel reaches her destination in safety?

6. This view of the case is strengthened by the significant proposal made by Messrs. Jardine, Skinner & Co., to the Government of India, as noticed in Mr. Secretary Grey's letter to that Firm, dated 2nd March last, No. 413. Allusion is there made to the insertion of a clause in the letter of cover rendering it null and void if a Policy is not taken out before the vessel sails. If the letter be a mere Memorandum of no legal validity *per se* such a stipulation would be unnecessary.

7. The inference to be drawn from this is plain. Wherever a ship reaches her destination in safety, a letter of cover is as good practically as a Policy. A merchant can await the result of the voyage, and then take out a stamped Policy or remain content with an unstamped letter of cover, according to circumstances. Both the contracting parties being agreed, there is no reason why they should not remain quiet, instead of coming forward with a Policy, and having to pay stamp duty on it.

8. The object in view being merely to secure the payment of the stamp duty upon the amount covered by the Policy of Insurance, will be most easily attained in the opinion of this Government by affixing the stamp to that document which will afford Government the fullest guarantee against any attempt to evade such payment. This, it appears to them, is the "Letter of Cover." The Policy doubtless should also be stamped, but if any changes are made in the interim, it can be settled that in any case the amount of stamped duty ultimately paid should depend altogether upon the amount named in the Policy, whatever may have been the entry in the "Letter of Cover."

9. The objections urged against the present system are noted by the Madras Board of Revenue in the accompanying Proceedings. They are founded chiefly on the letter from the Madras Chamber of Commerce already alluded to, and do not seem of much consequence.

10. As to the first, stamped papers being always procurable, there is no reason for any delay. The second objection falls to the ground if the modification in the rule already alluded to is carried out, viz., that an adjustment should be made when the Policy is completed. The third and fourth relate to matters of detail, and if correct, merely show that more time should be allowed, not that "Letters of Cover" should not be stamped.

11. With proper facilities for obtaining stamps, and a reasonable time allowed after a ship clears out for the preparation of a Policy, there can be no hardship in requiring "Letters of Cover" to be stamped, and the value of the stamps adjusted afterwards. If the interest in the Policy is less than that in the letter, the difference may be refunded in money or stamps, at the option of the recipient; in the reverse case, he would have to pay the difference.

Note.

In Marine assurance it is customary previous the preparation of a regular Policy of assurance to give the insurer a Memo: of the Contract, called a "Letter of Cover", a form of which is submitted by the Bd.

These letters of Cover are liable to an ad Valorem Stamp under Art 44 Sched A of Act 36 of 1860.

But they are only preliminary & the Policy is itself liable to a similar duty.

So that Marine assurances in which there be liable to both duty - This seems to

not declared or com-
pleted & the fraud
is struck up the Pro-
duce shall be
stamped - the letter
of Credit or the Policy -
The Chancellor of
Commerce and the
Bd would have the
Policy only stamped.
The Objections raised to
stamping the letter
of Credit are as follows.
1. The delay in doing the
stamping - that is
this means is not
very apparent - the
stamped papers &
all values are or ought to be
readily
Manufactured - the Merchants
know for what amount
he will take out a letter
of Credit and there is
a stamp vendor at
the Sea Customs &c

to also with the Policy
the amount to be in-
sured is known &
a stamp taken for it
is or should be im-
mediately procurable.
2. The difficulty in
defining the amounts
of risk & therefore
the necessary value
of stamps where the
letter of Credit is exe-
cuted & the Shipp-
ment is incomplete.
Here too there is some
misapprehension - the
letter of Credit is for
a stated sum - the
stamp is for that
sum only - subsequently
when the Policy is
executed, the correct
amount is known
& stated in it &
the proper stamp is
affixed to the Policy.

the difference, if any being adjusted by a refund to, or a further payment by the customer.

3. The time allowed for the production of a Policy viz one month is ~~x~~ considered sufficient & ~~that~~ 3 months are deemed ~~hardly~~ not to be more than is necessary. This argument is some what beside the mark - it only proves if correct that more than one month should be allowed - but that letters of Credit should not be stamped. However while in one place 3 months at least are said to be necessary, in another 15 days from the date of the vessel's sailing are

5

said to be sufficient - This objection would therefore be met by allowing 3 weeks or a month -

The Bd. for one of State that letters of Credit subject to follow up by Policies are really not the less & therefore that prop. in case of risk of losing their stamp duty if they allow them to be executed on plain paper. In this State. & the arguments brought in favour of the Bd. seem to me to be conclusive & the Bd. does look to very important points -

1. The Chairman of the Chamber of Commerce in favour of this letter & then by 3 Directors says "It is in fact

the practice in such cases & issue the policy after the loss has taken places: & a Court of Law will compel the party, to granting a letter of Cover, & complete his contract by the delivery of a stamped Policy. If this be the case - the letter of Cover is as good as a Policy in all those cases - the Assurance Company or underwriters would be ruined - Where a Ship reaches its destination in safety - If therefore letters of Cover are not to be stamped there is nothing, so far as the Bd. of Inland Revenue & present the Merchants waiting the result of the voyage, & then taking out a stamped policy or remaining content with his unstamped letter of Cover, according to circumstances.

2. The Bd. overlook the very significant proposal to the first of London of Messrs Jardine Skinner & Co & insert a clause in the letter of Cover rendering it null & void if a Policy is not taken out before the vessel sails - If the letter be a mere memo of the legal liability here, why insert this stipulation - taking this condition - emanating from a banking firm, in connection with

the assertion as the
Justice of the Masters
Character I think there
can be but one in-
ference - If that in
all these cases where
a ship reaches her de-
stination safely, a
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cover the stamped
Alterwards adjusting
the value of stamps
of the interest in the

8/ policy is less known
that in the letter,
the difference will
be refunded in money
or stamps at the
option of the recipient -
if it be more, the
difference will be
paid by him -

Orders Respectfully,

S.B.S.

The letter of cover ought in my opinion to be
stamped - It is not only the primary docu-
-ment, but one of sufficient authority for insp-
-ection thereon the operations to be founded
on it -

&c &c

7 Sept/61

I think with the Board - that
it is desirable to have the
Policy stamped - the objection
appears to this course to be just
now

are in my opinion fully met by the last part of para 4 of the letter from the Head Office of your

2 Queries — The loss of the vessel must be proved to — if the loss of the vessel happens before the sails — no interim bond note dated subsequent to the date of the Policy — the Bonds have been stamped if Necessary It would be of no use there being a letter which could not be read & the delay in obtaining for a Stamped Policy to be sent home after the loss of the vessel would not be

submitted to

Well

as far as I see the two parties concerned may abstain from taking out a Policy to escape the Stamp duty. — The letter of the Chamber of Commerce shows that a Legal sails on the letter of Cover which contains so valid an act of Insurance that the Courts of Law note compel payment in case of a dispute — fulfilment of the Contract & respecting Policy by the parties. It further appears that — the Policy is given at certain times & sometimes even after the loss the Vessel — When therefore a Ship sails on a letter of Cover reaches safely its destination before the Policy is issued, & both the contracting parties are in accord I do not see why they should not remain quiet, instead of coming forward with a Policy & pay the Stamp duty on it — by time is not pressing & parties differ perhaps

Revenue Dept

No 1907

From Secretary to the Govt
of India
Home Dept. (Separate Rev.)

Sir,

1. I am directed to submit
the following reply to your letter
of 11th February last No. 301
asking whether in the opini-
on of this Govt and the Board
of Revenue any change is
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"Letters of Cover" as laid down
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Browne's letter of 6th October 18
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2. The rule in question de-
clared that "these instruments
"should be treated as they are
"in England under the provi-
"sions of Section 6: 54 Geo III
"chapter 184, which provided
"that whenever the contract is de-
"livered up to be cancelled
"ers to be cancelled within
"one month after the last
"subscription and a regular
"Stamped

1 Copii
Dis. F. & Pr. Dr.
Lo.

(2)

Liability of Letters of Cover
for insurance purposes to
the Stamp duty. —

The Papers I am to look to
the President

Elle

The Duty of the Govt to secure the payment of the Stamp duty upon the amount covered by the Policy of Insurance, it would seem to be advisable that the Stamp should be affixed to that Document which will afford to the Govt the fullest protection against any attempt to evade such payment. This, it appears to me is the "Letter of Cover" according to the present practice of this Insurance Offices. — It may be necessary that the Policy should also be stamped, in order to meet any change of system on the part of the Offices - but there would seem, even in that case, to be no difficulty in arranging that the amount of Stamp duty should depend altogether upon the amount named in the Policy whatever may have been the Stamp duty paid on the Letter of Cover

JM

Yr Hyndt

Wr Hender

7th Sept R 10:

"Stamped Policy be issued in
"lieu underwritten by the same
"persons, to the same amount,
"on the same interest, and for
"the same voyage or risk, the
"duty shall be allowed in other
"Stamps for contracts on Policies"
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of the 4th June No 2891, (Copy
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They think, on the contra-
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there will be a risk of losing the duty. It will be observed that in his letter of 3d December 1860, the Chairman of the Madras Chamber of Commerce supposes the case of a vessel lost immediately after the issue of letter of cover and before a Policy could be written. The practice he says in such cases, is "to issue "the Policy after the loss "has taken place; and a "suit at law will compel "the party, so granting a "letter of Cover, to complete "his contract by the delivery "of a stamped Policy." If the letter of cover is as good as a policy in all such cases: and if in such, which are few, it seemingly may be so also. why not? in the majority of instances, where the vessel reaches her destination

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8 The object in view being merely to secure the payment of the stamp duty upon the amount covered by the Policy of Insurance, will be most easily attained, in the opinion of this Govt ~~one of opinion~~, by affixing the stamp to that document which will afford Govt the fullest guarantee against any attempt to evade such payment. This it appears to them is the "Letter of Cover". The Policy doubtless should also be stamped, but if any changes are made in the interim, it can be settled that in any case the amount of stamped duty ultimately paid should depend altogether upon the amount named in the Policy whatever may have been the entry in the "Letter of Cover"

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have to pay the difference.

Fort St George
2nd October 1856

C.G.C.

I.D.S

458-9
29-12-60

396-7
27-2-61

292-3
16-3-61

Liability of Letters of Cover for conveyance over Railways to the Stamp duty

Revenue 1861 Departt.
Pro: of Govt for October

No 1904

To
The Secretary to the
Govt of India
Home Department

Dy 2d October 1861.

Communicating to the Government of India views of this Government regarding the liability to stamp duty of "letters of Cover."

No 31 & 32.