M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2023 — Press / Mis.

264-265

Dated 22 — 10 1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 22nd October 1861.

No. 264. Read the following letter from Messrs. PARRY & Co., to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 26th August 1861:—

SIR,

1. We have the honor ro request the decision of Government on the order of the Board of Revenue, dated 14th August 1861, on our application for a new Stamp to replace one used on a Policy of Insurance which was rendered of no avail, and not brought into use on account of an error which had been made in filling up the document. We do not trouble you with the correspondence which has taken place, but beg to state the circumstances of our application before quoting the order of the Board against which we now appeal to Government.

2. As Agents of the Church of England Life Assurance Institution we executed a Policy of Insurance on the life of one individual, in favor of another party named to us by the first. On our forwarding the Policy to the party entitled to hold it, we were informed by him that the document contained the name of a person who was dead (his own father), and he returned the Policy for the purpose of having his own name entered. We made the necessary enquiries and having verified the statements made to us, we applied to the Superintendent of Stamps for a new Stamp to replace the one first issued, forwarding at the same time the spoiled document with the new one fully drawn out, and giving a statement of the circumstances in corroboration of which we offered to produce the evidence we were in possession of, for his satisfaction.

3. On reference to the Board of Revenue, our application has been refused on the grounds of the document having been signed by us previous to the discovery of the error in the drawing up; and the Board base their decision on the first clauses of Section 32 of the India Stamp Act, though we claim a new Stamp on the subsequent clauses of the same Section, "or in the case of "Promissory Notes, Bills of Exchange or the like if by non-delivery to the payee or from other "cause the same are never brought to use."

4. The following is the order of the Board of Revenue:—

1. "As the Board understand the matter, the name of a party who was already dead was from want of care inserted in the Policy instead of the name of a living party who was intended to be named.

2. "If this be the case, they must still adhere to their former decision, as they believe that the intention of the Legislature was to condone acts of carelessness by which Stamps were spoiled, only when the want of care had occurred in the drawing, and not when it had extended through the execution of the document.

3. "It is to be presumed that if any error has been committed in the drawing up of a document it will be discovered before execution if proper care be exercised, and if not, the parties executing the document which proves to be valueless must bear the penalty of their own act or omission."

5. The error in the drawing up of the Policy is correctly stated by the Board, but their decision and the principles set forth respecting the intentions of Government and the consequences of error in filling up documents, as regards the Stamp duty, are so important and are applicable to so many cases which are of frequent occurrence in the transaction of mercantile business even with the exercise of usual care and attention, that we feel it necessary to appeal to Government against the Board of Revenue's order. We have to remark that the provisions of the English Stamp Act permit the issue of new Stamps in cases of error in the filling up of Policies of Insurance discovered after they are underwritten, and we doubt not that the intentions of the Indian Legislature are equally considerate. Though the Section 32 of the Act does not specify Policies of Assurance as coming within its provisions, we have no doubt they are included under its general terms, and that the enactments of Government are for the purpose of protecting the Revenue from fraud, and not of increasing its collections by the consequences of unintentional errors which are satisfactorily explained and where no fraud is attempted.

Proceedings of the Madras Government, Revenue Department,
22nd October 1861.

No. 265. ORDER THEREON, 22nd October 1861, No. 2,023.

Under all the circumstances of the case, the Government authorize the Board to furnish Messrs. Parry & Co. with fresh Stamps in return for those spoiled.

(Signed) J. D. SIM,
Secretary to Government.

of increasing its collections by the consequences of intentional errors which are satisfactorily explained and where no fraud is attempted.

We have the honor to be
Sir
Your most Obedient Servants
Parry & Co

Note. Messrs Parry & Co "executed" a Policy of Insurance which on delivery & the Parties entitled to hold was found to have been erroneously drawn up and consequently useless. They thereupon claimed to have Stamped Paper of equal value furnished to them in exchange for the said spoiled paper, under Sect 32 of the Stamp Act No. XXVII of 1860.

The Bd have disallowed the claim on the ground that the error was not discovered before the deed was finally Signed & executed as required by the Law.

Messrs Parry & Co remark in Note that they do not claim under this

particular provision of the Section
but under and the 23 that which
provides for renewal of spoiled stamps
"in the case of Promissory Notes, Bills
of Exchange or the like, if by non-delivery
to the payee" they "are never brought into use".
They maintain, in fact, that a Policy of
Insurance is of the nature of a Promissory
note or Bill of Exchange and is included
in the terms "or the like". There appears to
have been no authoritative ruling on
this point and as it is a question of
law it would be well to refer it
to the Advocate Genl for his opinion.
or to ~~Calcutta~~ the Sub. Govt.

J. H. S

(1)

Rec 18th Dept
Pro: of Govt for October
No 2066

From Parry & Co

Dated 26th Aug 61
Received 28th " "

No-2023
Mr Anderdale
Communicate to
the case the pro
ceedings of the Bd
& furnish them
Parry & Co with such
Stamps in returns for
Rs stated. I & S

Frost St George
22d Oct 61

Appealing against the Decision of the Bd of Revenue refusing to grant a refund of Stamps to Shepherd and Co a public Officer of Port George which was not brought into use on account of an error

For Orders

No 2023. 22d Oct

No 264 & 265

C 18th October 1861

14 Copies. Boards of Revenue Circ 22
1 " Messrs Parry & Co