MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1702	Press ~~Mis.~~
128-129	
Dated 12 - 8 - 1862.	

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 12th August 1862.

No, 128. Read again Proceedings of the Madras Government, dated 19th July 1862, No. 1,556 :—

Read also the following letter from W. HUDLESTON, Esq., Secretary to the Board of Revenue, to A. J. ARBUTHNOT, Esq., Acting Chief Secretary to Government, dated Madras, 29th July 1862, No. 4,903.

SIR,

In Cons. 21st July 1862, No. 4,528.

1. I am directed by the Board of Revenue to acknowledge the receipt of the Proceedings of Government, dated 19th July 1862, No. 1,556, and with reference to the remarks contained in paragraphs 6 to 8, on the subject of the Board's Proceedings in the matter of Stamps on Policies of Fire Insurance prior to the enactment of Act X of 1862, to submit for the consideration of Government the accompanying papers, which the Board trust will serve to exonerate them from any blame in the matter.

Board's Proceedings, No. 833, dated 6th February 1862.
" " 1,559, " 8th March 1862.
" " 1,643, " 12th " 1862.

2. On 3rd February last Messrs. Oakes & Co., as Agents to an Insurance Company, sought orders from the Board for the stamping of a Fire Policy, which had been returned to them unstamped by the Superintendent of Stamps.

3. The Board replied that they saw no way of bringing such documents within the operation of the Stamp Act then in force, viz., Act XXXVI of 1860, Fire Policies not being specified in Schedule A attached to that Act, and Section 2 of the Act declaring that Stamp duty was payable only on such kinds of documents as were therein specified.

4. On 4th March last a similar application was received from Messrs. Binny & Co., to which the Board on 8th idem again replied that no legal obligation for stamping such documents appeared to exist, pending the enactment of the amended Stamp law, in the published draft of which the omission had been supplied.

5. On 10th March the attention of the Board was drawn by both the Superintendent of Stamps and Messrs. Binny to an Order of the Supreme Government, dated 19th February 1861, declaring under Section 18, Act XXXVI of 1860, what rate of duty was leviable on Fire Insurance Policies.

6. This Order had not been under the consideration of the Board when their above Proceedings were passed, and on referring to Section 18 of the Act, it was found to authorize the Governor General in Council only to *lower* the rates of duty on any documents *specified* in the Schedules attached to the Act.

7. It has been already pointed out that Fire Policies were not so included, and the fact that they *are* specified in the amended Act X of 1862, is proof that they were not held to be constructively liable under the former law.

8. The Board with all respect submit that Section 18, Act XXXVI of 1860, did not confer on the Government authority to require that documents not specified in the Schedules attached to the Act should be stamped ; and whatever weight the Board might have been bound to attach to a ruling of the Supreme Government, had it been brought to their notice prior to the issue of their own Proceedings on the point, they do not consider that they would have been justified in cancelling those Proceedings, and requiring that such unspecified documents should be stamped, contrary to their own recorded decision on the matter, the correctness of which they do not think admits of doubt.

9. Messrs. Binny & Co. having claimed a refund on two specified grounds, the second of which was in part founded on the previous orders passed by the Board on their case, the Board felt called on to notice those grounds at some length, and while unable to afford Messrs. Binny & Co. the redress they sought, the Board could not but admit under the opinion entertained and previously expressed by them, that Messrs. Binny & Co. were entitled to consideration.

Your having been decided by higher authority

Proceedings of the Madras Government, Revenue Department,
12th August 1862.

10. The Board beg leave to disclaim any intention of questioning the authority by which the order was issued, and they trust that under the foregoing explanation, the Government will see fit to withdraw their censure.

No. 129. ORDER THEREON, 12th August 1862, No. 1,702.

1. In the above letter the Secretary to the Board of Revenue submits, for the consideration of Government, papers relating to the question of the liability of Fire Assurance Policies to be stampt under the late Stamp Act XXXVI of 1860 as supplemented by an Order of the Supreme Government dated 19th February 1861.

2. The question to which the letter of the Secretary to the Board of Revenue has reference, was decided by the Order of Government dated 19th July 1862, No. 1,556, and the Government see no reason for any modification of that Order.

3. The Government are however desirous of correcting a misapprehension of paragraph 8 of this Order, which they observe has been construed by the Board of Revenue into a censure of their Proceedings.

4. It was not the intention of the Government to censure the Board of Revenue, but to convey to them the instructions of Government, upon a matter in which the Government considered the Board of Revenue were in error.

(Signed) T. PYCROFT,
Chief Secretary.

No. 4,903.

From W. HUDLESTON, Esq., Secretary to the Board of Revenue,
To A. J. ARBUTHNOT, Esq., Acting Chief Secretary to Government.

SIR,

In Cons. 21st July 1862, No. 4,528.

1. I am directed by the Board of Revenue to acknowledge the receipt of the Proceedings of Government, dated 19th July 1862, No. 1,556, and with reference to the remarks contained in paragraphs 6 to 8, on the subject of the Board's Proceedings in the matter of Stamps on Policies of Fire Insurance prior to the enactment of Act X of 1862, to submit for the consideration of Government the accompanying papers, which the Board trust will serve to exonerate them from any blame in the matter.

Board's Proceedings, No. 833, dated 6th February 1862.
" " 1,559, " 8th March 1862.
" " 1,643, " 12th " 1862.

2. On 3rd February last Messrs. Oakes and Co., as Agents to an Insurance Company sought orders from the Board for the stamping of a Fire Policy, which had been returned to them unstamped by the Superintendent of Stamps.

3. The Board replied that they saw no way of bringing such documents within the operation of the Stamp Act then in force, viz., Act XXXVI of 1860, Fire Policies not being specified in Schedule A attached to that Act, and Section 2 of the Act declaring that Stamp duty was payable only on such kinds of documents as were therein specified.

4. On 4th March last a similar application was received from Messrs. Binny and Co., to which the Board on 8th idem again replied that no legal obligation for stamping such documents appeared to exist, pending the enactment of the amended Stamp law, in the published draft of which the omission had been supplied.

5. On 10th March the attention of the Board was drawn by both the Superintendent of Stamps and Messrs. Binny to an Order of the Supreme Government dated 19th February 1861, declaring under Section 18, Act XXXVI of 1860, what rate of duty was leviable on Fire Insurance Policies.

6. This Order had not been under the consideration of the Board when their above Proceedings were passed, and on referring to Section 18 of the Act, it was found to authorize the Governor General in Council only to *lower* the rates of duty on any documents *specified* in the Schedules attached to the Act.

7. It has been already pointed out that Fire Policies were not so included, and the fact that they *are* specified in the amended Act X of 1862, is proof that they were not held to be constructively liable under the former law.

8. The Board with all respect submit that Section 18, Act XXXVI of 1860, did not confer on the Government authority to require that documents not specified in the Schedules attached to the Act should be stamped; and whatever weight the Board might have been bound to attach to a ruling of the Supreme Government, had it been brought to their notice prior to the issue of their own Proceedings on the point, they do not consider that they would have been justified in cancelling those Proceedings, and requiring that such unspecified documents should be stamped, contrary to their own recorded decision on the matter, the correctness of which they do not think admits of doubt.

9. Messrs. Binny and Co. having claimed a refund on two specified grounds, the second of which was in part founded on the previous orders passed by the Board on their case, the Board felt called on to notice those grounds at some length, and while unable to afford Messrs. Binny and Co. the redress they sought, the Board could not but admit under the opinion entertained and previously expressed by them, that Messrs. Binny and Co. were entitled to consideration.

Why should not the Board have said on receiving the order of the Supreme Govt that the matter was no longer in their hands, the point at issue having been decided by higher authority?

10. The Board beg leave to disclaim any intention of questioning the authority by which the order was issued, and they trust that under the foregoing explanation, the Government will see fit to withdraw their censure.

I have the honor to be,
Sir,
Your most obedient servant,

E. Hudleston

Secretary.

REVENUE BOARD OFFICE,
Madras,
29th July 1862.

Exd. J. Wright.

No. 833.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 6th February 1862.

Read the following letter from Messrs. OAKES AND CO., Agents to the Royal Insurance Company, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madras, 3rd February 1862 :—

1. On the 31st January we had the honor to forward, to the Superintendent of Stamps, the enclosed Fire Policy 195305 in the "Royal Assurance Company" to be stamped, and the sum of Rupees 25 for Stamp duty; the Policy and money have been returned with the enclosed Official Memorandum from the Superintendent of Stamps.

2. We beg to enclose for the perusal of the Honorable Board a copy of our letter which accompanied the Policy and money, and will feel obliged by the Honorable Board's orders thereon with as little delay as possible.

3. We respectfully request that in future the Superintendent of Stamps may be directed to make a reference direct; your Honorable Board will easily perceive the inconvenience and delay the present system entails on regular business.

ENCLOSURES Nos. 1 and 2.—Letter and Policy.

1. The Board do not find that any special provision is made in Schedule A of the Stamp Act to meet the case of a Fire Insurance, Article 43 of the Schedule including only Policies of Life Insurance, and of Insurance against Sea Risks, and the only mode in which the present case could, so far as the Board see, be brought within the operation of the Act, would be under Articles 18, 1 and 12, which provide that contracts not otherwise specially provided for, shall be stamped as Agreements; that Agreements relating to matters capable of valuation and with the value stated, shall be stamped as Bonds; and that Bonds when the amount is limited to a certain sum, shall be stamped as a Bond for the payment of such limited sum.

2. Thus calculated the value of Stamp needed to cover the maximum of Rupees 50,000 claimable under the Policy would be Rupees 125, which is the full amount of the premium paid on the Policy for the short period of three months. It certainly cannot have been the intention of the Legislature to impose any such tax on transactions of this class, and under these circumstances the Board cannot take on themselves to order the Policy to be stamped.

3. The Board, however, are not legally competent to give an authoritative interpretation of the Law, and it rests with Messrs. Oakes and Co. to take any legal opinion on the spot, and to have such a stamp impressed on the Policy as they may be led to consider necessary to make it a valid instrument.

4. The omission from the Schedule of Fire Insurance Policies, and the question raised by Messrs. Oakes and Co. as to a reduction of duty for short periods of Insurance, will be brought to the notice of Government in the report about to be submitted on the Schedules appended to the Stamp Act.

5. Referring to the last paragraph of Messrs. Oakes and Co.'s letter, the Board resolve to point out to them that the Superintendent of Stamps is a purely executive Officer, and that opinions on doubtful points connected with the Stamp Act should not be sought from him, as he is not legally competent to pass an authoritative decision.

(A true Copy and Extract.)
(Signed) W. HUDLESTON,
Secretary,

To Messrs. Oakes and Co., with a Policy returned.

Copy to W. Balmain, Esq., Superintendent of Stamps.

Exd. J. Wright.

as supplemented by an

Rec'd 29th July 1862 Department.
Revenue Board
No. 2,180.

From The Secretary to the Board of Revenue,
To The Acting Chief Secretary to Government.

Dated 29th July 1862.
Despatched.
Received.

No. 903.

Replying to the remarks in paragraphs 6 to 8 of the Proceedings of Government dated 19th July 1862 on the subject of the Board's Proceedings in the matter of Stamps on Policies of Fire Insurance

1862 Department.

No.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 6th *February* 1862.

Despatched

Received

No. 833.

Passing certain remarks upon a letter from Messrs. Oakes and Co., requesting order for impressing a proper Stamp on certain Fire Policy.

No. 1,559.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 8th March 1862.

Read the following letter from Messrs. BINNY and Co., to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated 4th March 1862:—

1. We have the honor to submit for your consideration, the annexed correspondence with the Superintendent of Stamps regarding an endorsement erroneously made by us on a Fire Insurance Policy, for which we paid Rupees 50 Stamp duty, instead of taking out a new Policy.

2. From the correspondence in question, it will, we trust, be clearly evident to the Board, that the error was purely accidental, and we are therefore hopeful that on our cancelling the endorsement, and obliterating the Stamp thereto, to the satisfaction of the Superintendent of Stamps, the Board may deem this a case in which an exception might be permitted to the ruling published in the Madras Gazette, page 119, referred to by the Superintendent of Stamps, and that, in consequence, the Board may be pleased to sanction the issuing of a new Stamp, of the same value, free of charge.

P. S.—That the Board may the better understand the matter under reference, we have the honor to enclose the Policy bearing the invalid endorsement.

—

From Messrs. BINNY and Co., to W. BALMAIN, Esq., Superintendent of Stamps, dated Madras, 1st March 1862.

We have the honor to annex extract of a letter from the Actuary and Secretary Alliance Fire Assurance Company, from which you will perceive that instead of the endorsement made by us on the enclosed Policy, a new one should have been issued for the additional risk thereby insured. We have, therefore, to request you will be good enough to cancel the value of the Stamp Rupees 50 on the endorsement, and impress the accompanying new Policy to that value in lieu, to enable us to issue the fresh Policy.

—

Extract of a letter from the Actuary and Secretary of the Alliance Assurance Company, dated London, 24th January 1862.

"I beg to acknowledge the receipt of your favor of the 17th ultimo, annexing copy of an "endorsement which you have made on Policy No. 4,643, by which the amount under that As- "surance has been increased to Rupees 3,00,000.

"With respect to this addition, I have to remark that it is altogether opposed to the practice "of the Department to make any alteration by endorsement on the sum assured by a Policy, the "method adopted to meet a required change being to issue a new Policy, allowing the unexpired "premium on the previous Assurance in mitigation of the charges upon the new transaction."

—

From W. BALMAIN, Esq., Superintendent of Stamps, to Messrs. BINNY and Co., dated Fort Saint George, 3rd March 1862, No. 961 of Fasli 1271.

I have the honor to acknowledge your letter of 1st instant, and to state that I regret that I cannot issue a Stamp in lieu; the endorsement to which the Stamp appertains having been fully executed. I beg to refer you to a ruling on this point published in the Madras Gazette, page 119; I beg further to state that Stamps to be cancelled have to be given up and kept as voucher in my Office, and in the present case the original document being of value, I do not know how this is to be effected.

—

The Board observe that no provision is made in the Schedules appended to Act XXXVI of 1860 for the Stamping of Policies of Fire Insurance, and although the omission is proposed to be supplied in the Draft Bill now before the Legislative Council in Calcutta, it does not appear that pending its enactment any legal obligation rests on Messrs. Binny and Co. to issue these Policies under a Stamp.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To Messrs. Binny and Co., with a Policy returned.

Copy to R. S. Ellis, Esq., C. B., Officiating Superintendent of Stamps.

Exd. J. Wright.

No. 1,643.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 12th March 1862.

Read again Board's Proceedings, dated 6th February 1862, No. 833, and 8th March 1862, No. 1,559.

Read also the following letters:—

From R. S. ELLIS, Esq., C. B., Officiating Superintendent of Stamps, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated Fort Saint George, 10th March 1862, No. 977 of Fasli 1271.

1. With reference to the Board's Proceedings, No. 1,559, dated 8th March 1862, I have the honor to point out that by an Order in the Home Department, No. 338, dated 19th February 1861, the Governor General directs the amount of Stamp duty to be levied on Policies of Assurance or Insurance against fire. This Order was published in the "Fort Saint George Gazette" of March 8th 1861.

2. Under these circumstances, Messrs. Binny and Co. must, I presume, be held legally obliged to issue the Policy, referred to in their letter dated 1st March, under a Stamp.

From Messrs. BINNY and Co., to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated 10th March 1862.

In acknowledging receipt of the Extract of Proceedings of the Board of Revenue, dated 8th instant, No. 1,559, regarding our letter of the 4th idem, and returning a Policy of Insurance against Fire, we have the honor to direct the attention of the Board to page 308 of the "Fort Saint George Gazette" 8th March 1861, wherein special reference is made to the levying of Stamp duty upon Policies of Assurance or Insurance against Fire.

---

1. When passing their Proceedings above read, the Board had not under their consideration the extract from the Calcutta Gazette to which attention has been drawn in the above letters, but they see no reason to alter their former opinion that as Policies of Fire Insurance are not specified in the Schedules attached to Act XXXVI of 1860, no legal obligation rests on the parties to such documents to execute them on Stamped paper, and the Board are confirmed in this opinion by the fact that the omission has been supplied in the Draft Bill for the amendment of the Stamp Act, which is now before the Legislative Council of the Governor General.

2. Section 18 of Act XXXVI of 1860, which is quoted in the extract from the Calcutta Gazette as the authority for determining the amount of Stamp duty to be levied on Policies of Fire Insurance, merely provides that the Governor General may by an order in Council *reduce* the rate of duty prescribed in the Schedules of the Act for any of the classes of documents specified in those Schedules, but as Policies of Fire Insurance are not therein specified, it is evident that the Section does not apply.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To R. S. Ellis, Esq., C. B., Officiating Superintendent of Stamps.
„ Messrs. Binny and Co.

Copy to Messrs. Oakes and Co.

Exd. J. Wright.

as supplemented by an

1862 Department.

No.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 8th March 1862.
Despatched
Received

No. 1,559.

Observing that no provision is made in the Schedules of the Stamp Act for the stamping of Policies of Fire Insurance, and that although the omission is proposed to be supplied in the Draft Bill, yet it does not seem that pending its enactment any legal obligation rests on Messrs. Binny and Co. to issue the Policies under Stamp.

Revenue Dept.
Pt. 1702.
Proceedings of the Madras
Govt. 12th Augt. 1862.

Letter from the Secy to
Read Pro: of the Board
of Revenue. dated 29th
July. 1862.-
Read again Pro: of the
Madras Govt. Revt. dept.
dated 19 July. 1862.-
In the above letter the Secretary
to the Board of Revenue
submits for the consideration
of Govt papers relating
to the question of the liability
of Fire assurance Policies
to be stampt under the
late Stamp Act XXXVI 1860
as supplemented by an

Read 3rd inst. Pro: of the Board of Revenue & copy of the Chief Secy's letter to Govt. dated 29th ult. No. 1693

1862 Department.

No. 2150/62.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 12th *March* 1863.

Despatched

Received

No. 1,043.

Observing that the Board see no reason to alter their former opinion that as Policies of Fire Insurance are not specified in the Schedules of the Stamp Act no legal obligation rests on parties to such documents to execute them on stamped paper.

Revenue
ermment.

phs 6 to
ted 19th
's Pro-
Rules of

order of the Supreme Govt
d/19 February. 1861.

The question has been
decided to which the
letter of the Secretary to
the Board of Revenue
has reference, was
decided by the order
of Government d/19th
June 1862. No 1,556.
and in that the Govt
see no reason for
~~questioning the correctness~~
~~of that~~ any modification
of that order.
The Government are
however desirous of
correcting the misap-
-prehension of para 8
of their order, which they
observe has been construed
by the Board of Revenue
into a censure of their
Proceedings.
It was not the intention
of the Government to censure
the Board of Revenue, but
to convey to them the
instructions of Government,
upon a matter in which
in the opinion the Govt
considered the Board
of Revenue were in
error. -

14 Copies To the Bd of Rev Desp No 13th

Revenue 1862 Despt
Pro: of Govt for August

No 1702.

Pro: of the Madras Govt.
Dy 12 August 1862.

Nos 128 & 129.

Passing orders on Board's letter requesting Government to withdraw their censure on the Bd in connection with the question of the liability of Fire Assurance Policies to be stampt under the late Stamp act ~~XXXVI~~ of 1860.