

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1364

Press

~~Mis.~~

K-12

Dated

1-8-1864.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
1st August 1864.*

No. 11. Read the following Proceedings of the Board of Revenue, dated 26th April 1864, No. 2,512.

Read the following Proceedings of the Madras Government, dated 12th April 1864, No. 618, Revenue Department :—

ABSTRACT.—Reviewing the Board's Proceedings on the subject of certain correspondence between them and the Collector of Nellore in the case of illegal sale of Stamps of Saidapuram.

1. With reference to paragraph 4 of the above Government Order, the Board beg leave to state that they still have grave doubts as to the competency of a Collector of Stamp Revenue to try, as Magistrate, a case in which he is prosecuting, under Section 52, Act X of 1862, in his capacity as the Collector of Stamp Revenue, and in accordance with the Orders passed by Government in Government Order dated 6th November 1863, No. 1,995, Revenue Department.

2. It appears to the Board that in the case of a Statutory offence against a Fiscal Law, where the Collector prosecutes under a special provision of that law, the two duties of Prosecutor and Judge cannot with propriety be conducted by one and the same person, and that in point of fact the Collector has condemned the accused in his own mind before the trial by the Magistrate commences.

3. With regard to the Government remark that the Board's conclusion would place every breach of the Stamp laws beyond the jurisdiction of the Chief Magistrate of the District, the Board do not think it by any means clear that the framers of the Act contemplated that the Collector of Stamp Revenue in each District would be the Chief Magistrate within the same limits.

4. On paragraph 5 of the Government Order, the Board beg leave to point out that the case which Mr. Dykes referred to Government came under the Board's consideration in connection with a serious complaint brought by Mr. Dykes against the Deputy Magistrate, and that in order to explain their decision on that complaint it was necessary for the Board to express an opinion on the merits of the charge preferred against the seller of the Stamp. It did not appear to them so clear that the seller of the Stamp had really committed a breach of the Stamp Law as to justify them in holding with Mr. Dykes that the Deputy Collector had been guilty of gross misconduct in having failed to report the case for the Collector's information. They also expressed their disapproval of the course adopted by Mr. Dykes in acting both as Prosecutor and Judge in any prosecution which he was required to conduct under Section 52 of the Stamp Act, but with regard to the case in which Mr. Dykes prosecuted and convicted, they did not intend or propose to interfere "with the trial itself" or "with the conviction" or "with the punishment."

5. The Board regret that their Proceedings have not met with the approval of Government, and that the style of their correspondence with Mr. Dykes is considered open to condemnation, especially as on a careful re-perusal of their several orders in the case they are unable to perceive what it is which the Government consider objectionable on this point; while they consider the very reprehensible tone adopted by Mr. Dykes in the correspondence in question would have warranted them in the use of stronger language, in the way of reproof, than the Board any where adopted.

From Mr. Dykes, dated 27th November 1863, No. 408.
Board's Proceedings, dated 30th December 1863, No. 8,178.
From Mr. Dykes, dated 11th January 1864, No. 9.
Board's Proceedings, dated 18th January 1864, No. 843.
From Mr. Dykes, dated 27th January 1864, No. 18.
Board's Proceedings, dated 5th February 1864, No. 804.
From Mr. Dykes, dated 26th February 1864, No. 52.
Board's Proceedings, dated 10th March 1864, No. 1,509A.

6. As the Government may not have the whole of the correspondence before them, the Board resolve to submit the papers noted in the margin, and to request attention to the whole of letter No. 9, to paragraph 3 of letter No. 18, and to paragraphs 6, 7, 11 and 12 of No. 52, as illustrating their objections to the style and tone resorted to by Mr. Dykes.

7. They regret to say that for some time past Mr. Dykes has habitually adopted a tone of insubordination and scarcely veiled impertinence in his correspondence with the Board, and thus

*Proceedings of the Madras Government, Revenue Department,
1st August 1864.*

has compelled the Board to reprove him to an extent to which they have seldom been called on to proceed in the case of any Officer under their control.

No. 12. ORDER THEREON, 1st August 1864, No. 1,364.

Separate Revenue, No. 66.

Stamps.

G. O. 19th July 1864, No. 1,258.

1. Recorded.

2. The last three paragraphs have been already disposed of.
(True Extract.)

(Signed) C. G. MASTER,

Deputy Secretary to Government.

To the Board of Revenue.

Exd. S. T. Augustin.

No. 8,178.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 30th December 1863.

Read the following letter from J. W. B. DYKES, Esq., Collector of Nellore, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 27th November 1863, No. 408:—

1. I have the honor to submit for the Board's consideration the conduct of the Deputy Magistrate, in the Stamp case referred to in my letter of yesterday.

2. On the 29th ultimo, the Superintendent of Police brought to my notice, that some Stamps had been found at Saidapur under suspicious circumstances, and might be connected with the Madras frauds, but he did not know what further had been done in the matter; on which information, I at once wrote* to Shama Ravu, the Deputy Magistrate, before whom the case was

* No. 229, October 29th.

pending, requesting to be informed, by bearer, what had been done, and to be furnished with any depositions, &c., that might have been taken.

3. The letter was sent out express to Saidapur, which is some 30 miles off, and in his reply of the following day, the 30th,† Shama Ravu informed me that he had dismissed the case that morning, an hour before my letter arrived; a marginal note further informing me, his decision had been written the day before.

† With the rest of the records all translated.
Enclosure A.

4. The Deputy Magistrate's decision, a translation of which I enclose,‡ sets forth that the case had been taken up under Section 262 of the Indian Penal Code; and as there was nothing to show the Defendants had used a Government Stamp known to have been used before, they had been discharged.

5. And the decision further sets forth that the Stamps did not appear to have been purchased purposely for sale. A perusal of the records, however, led me to an exactly opposite conclusion, on this latter point, to that to which the Deputy Magistrate had arrived at. There was in the records a letter produced by the man who had sold the Stamps, and addressed to him telling him what commission to charge on them; and as, saving this passing allusion in the decision, no further proceedings had been had in the matter by the Deputy Magistrate under Section 43 of the Stamp Act, under this Section, I determined it was competent to me to proceed as the Magistrate of the District, and, issuing process in due course, on the 20th instant, I closed the case, so far as the parties then before me were concerned, and finding Vanjivakam Ramasawmi guilty, not being a licensed Vendor, of having sold a Stamp that had not been obtained "in an authorized manner for use and not for sale" fined him Rupees 100, which was paid the next morning.

§ Enclosure B.
|| Occurrence Report of 22nd October.
¶ 30th October, No. 23.
4th November, No. 23.
Enclosure D.

6. From the evidence recorded by me,§ the Police reports,|| and the Deputy Magistrate's explanations,¶ it will be seen that the following are the facts of the case.

7. On the 22nd ultimo, in the afternoon, three Stamp papers, each of 8 Annas value were presented by certain parties in a case disposed of in their favour by the Deputy Magistrate, for a copy of his decision; and one of these papers being rejected as already written on, the applicants requested one Petluru Subbaya to get them another.

8. The Deputy Magistrate was then holding his Kacheri at Saidapur, where there is no Stamp Vendor. The applicants and Petluru Subbaya where strangers, who had come in for the case;

and on being told to get another Stamp, and, the 5th witness,* Duvvuru Govindu Reddy says, told in the Kacheri they could get a Stamp in the bazar, Petluru Subbaya went to the bazar, was directed to a merchant's house, and from this merchant, the man I fined, bought what he wanted, viz., another 8 Anna Stamp.

* In Case No. 74 of 1863 before the Magistrate.

9. He took the Stamp straight to the Kacheri, and on putting it down, was at once questioned where he had got it, as there was no Vendor.

10. The Deputy Magistrate took up the case with praiseworthy promptitude. The explanation offered was unsatisfactory. Sooner than lose time in writing a warrant, he sent off the Police straight to the house that Petluru Subbaya might point out as where he had bought the Stamp. Other Stamps were found; the man on being questioned by the Deputy Magistrate, stating he had got the Stamps from Madras with a letter, the letter was forthwith forthcoming, and Vanjivakam Poli Chetti being given up as another merchant who had dealings with Madras and also sold stamps, Vanjivakam Poli Chetti was brought to the front, all on the evening of the 22nd October; and then the activity of the Deputy Magistrate suddenly ceased. From the 22nd to the 26th there is a blank.

This explanation is given in his letter of the 4th instant, No. 23, one day was his father's ceremony, &c.

11. On the 26th October the Deputy Magistrate took depositions from Petluru Subbaya and the two men who had applied for a copy of his decision as to how they had come to file an old Stamp, and from Vanjivakam Ramasawmi as to how he had come to sell it. He likewise examined two witnesses as to the sale; and then again, making a reference to a Tahsildar, there is a pause till the 29th when, an hour before my letter arrived, or about 7 in the morning, the Deputy Magistrate pronounced the decision of which I have already given the purport, the Defendants were discharged, because, "it does not appear from the records to be proved that the Defendants used Stamps knowing they had been used before and thereby intending to cause loss to Government."

12. The letter which the Deputy Magistrate possessed himself of on the 22nd had been written from Madras by the brother of the man who had sold the Stamps, and who, after giving a variety of information on mercantile matters had told him, it was absolutely necessary to have all their transactions on Stamp paper in future, and, in advising him of the despatch of a large quantity of Stamps of different kinds, had further told him to "charge an Anna additional on all he sold, and on no account to let them go without, as it was not as if they had been sold before." And with this letter before him, the Deputy Magistrate records in his decision, "It appears from a letter submitted by him (Vanjivakam Ramasawmi) that Stamps of this description were sent for his own use and not for sale."

13. Having deliberately mis-stated the manner in which the Stamps had been sent, and therefore obtained, the Deputy Magistrate returned the letter to the Defendant and dismissed the case.

14. The Deputy Magistrate, it will be further observed, took no evidence as to how Petluru Subbaya, a Ryot of Karlapudi came to find out, that Vajivakam Ramasawmi sold Stamps in Saidapur, Shama Ravu had been holding Kacheri there for some time. He knew the nearest Stamp Vendor's station was at Guduru 7 miles off. He knew the Government has long suspected mal-practices in the sale of Stamps; and yet, on the afternoon of the 22nd October, he sees an applicant for a copy of a decision of his, on being required to get another Stamp paper, quietly send a friend to buy what he wants, and never asks them how they (Ryots of Karlapudi) came to know Stamps could be bought in Saidapur. Strangers to the place they could only have ascertained this fact, as proved before me, by its being matter of common notoriety; and yet on a point of such vital importance to the Stamp revenue, Shama Ravu, an old Revenue Officer, does not put one single question.

15. He knew the importance that any information regarding the Stamp Revenue bears now; and yet finding Stamps sent from Madras for sale, he does not convey to me the slightest hint on the matter. On the contrary, he returns to the guilty man the letter that gave the clue to the whole transaction; and had it not been for Lieutenant Balmer's careful discharge of his duties, I should in all probability never have heard a word of the real state of the case, and have reported to the Board, that there was a fall in the Stamp Revenue of nearly fifty per cent, but so far as I was aware, all was going on correctly, we were an agricultural District, &c.

16. Shama Ravu has, in my opinion, grossly failed in his duty, and I can find no honest explanation of his conduct.

17. On the 29th, in the afternoon, the Superintendent of Police came over to me here at Kacheri, and the letter to Shama Ravu was sent off about half past 5 P. M. On the second, I received a demi-official from the Superintendent of Stamps, copy of which I enclose, stating that one Pullaya had presented an application to him on the 30th, "that the Collector of Nellore was making objectionable inquiries regarding certain Stamp papers, he, (Pullaya) had bought," and to cover the sale of which, he therefore required to be furnished with a certificate.

18. Pullaya was the man who had written the letter, that Shama Ravu got hold of, on the 22nd. His name is Vanjivakam Pullaya, the brother of Vajivakam Ramasawmi, whom I have now punished; and whether his application had reference to inquiries instituted by Shama Ravu, that do not appear on the record, or to my own proceedings the previous evening, I cannot say. In the latter case, being 107 miles from Madras, news of what I was doing after 3 P. M.

From Magistrate to Mr. Blisset, Director of Telegraph
Southern India.
From Mr. Blisset to Magistrate of Nellore.
Enclosure E.

could only have been conveyed by Telegraph; and that from the telegraph correspondence noted marginally, would not appear to have been the case; unless the silent watches of the night are some times put to other uses than the convey-

ance of registered Messages at double the day charge.

19. But, however, and whenever conveyed, on the information received, Vajivakam Pullaya having applied for a certificate, and having failed to obtain it on his application, thereon attempted to obtain what he wanted by bribing officials in the Stamp Department, on which charge, I since see he has been committed for trial at the next Sessions: and Mr. Norfor, the Superintendent, in informing me of what had taken place, further informed me, that the dates for which the certificates had been applied for, tally with the Madras frauds.

Enclosure F.

20. On the receipt of Mr. Norfor's demi-

Official I at once addressed the following telegram to Mr. Norfor:

TELEGRAPH MESSAGE.

From Nellore	To Madras.
„ Magistrate	„ Superintendent of Stamps.
„ Mr. Dykes	„ Mr. Norfor.

"Tell what has passed to Colonel Wilson to whom I telegraphed on the 31st to arrest Pullaya. I have a letter from Pullaya dated 31st August 1861, advising despatch of Stamps that had not been sold. Two Stamps are endorsed as sold by Krishna Pillai, Stamp Vendor, Madras, to Poluru Chetti 1st June 1861, and Pol Chetti 15th January 1862. The others have no Vendor's signature, and one of them being presented to Shama Ravu, Deputy Magistrate at Saidapuram, for a copy of a decision, led to their seizure. Shama Ravu dismissed the case.

"The Superintendent of Police reported to me on the 29th, and we sent an express and recovered the Stamps and the letter through the Deputy Magistrate on the 30th."

21. And in applying for a certificate to cover the purchase of Stamps in August 1861, the Board will see Vanjivakam Pullaya had good reason to wish to get it by fair means or foul; and in sending on translation of his letter to his brother of the 31st August 1861, I have the honor to state, that the original letter will be at once forwarded if required. At present, I keep it to be ready. On the appearance of Pullaya, for whom, as stated in the telegram, a warrant was issued as soon as I got the letter, which I may add, the Deputy Magistrate states he recovered on the receipt of my letter of the 29th, requiring him immediately to forward by bearer all records connected with this case.

22. I regret it should be my duty to submit this report on a servant of Government of Shama Ravu's standing. I regret there is nothing so far as I can see to extenuate his con-

duct. The offence committed under his own eyes of selling without license was clear and distinct, and this offence that he wholly suppressed from my knowledge, there is good reason to believe is connected with darker transactions still; and on this point I beg to call the attention of the Board to a remark in the Deputy Magistrate's letter of the 4th that Vajivakam Ramasawmi, the prisoner, had explained to him, Shama Ravu the Deputy Magistrate, that "such Stamps are generally obtained in Madras," to a similar remark in the Deputy Magistrate's letter of the 30th ultimo, that he was informed "that at Madras plain papers were being taken to the Mint and there printed and given to parties;" and to a copy of a deposition given before Colonel Wilson Commissioner of Police, by Pullaya, as follows:—

Enclosure G.

Which explains his letter "that it was not as if they had been sold before." Paragraph 12.

"I gave paper and got it stamped." One Ramasawmi Nayudu "employed at that Office used to receive paper from me, get it stamped, and afterwards bring it to my house" at Perya Mettu. This was "about three years ago."

ENCLOSURE A.

ABSTRACT.—Translation of Deputy Magistrate B. Shama Ravu's decision and the rest of the records in Case No. 80 of 1863, of his file.

ENCLOSURE B.

ABSTRACT.—Evidence recorded by the Magistrate of Nellore in Case No. 74 of 1863, on his file.

ENCLOSURE C.

ABSTRACT.—Police Occurrence Report of 22nd October 1863.

ENCLOSURE D.

ABSTRACT.—Magistrate's letter (two) and Deputy Magistrate's explanations in reply.

ABSTRACT.—Telegraphic correspondence with Mr. Blisset, Director of Telegraphs Southern India, referred to in paragraph 19 of the Collector's letter.

ENCLOSURE F.

ABSTRACT.—Demi-official letter from the Superintendent of Stamps, dated 30th October 1863.

ENCLOSURE G.

ABSTRACT.—Copy of a Deposition given by Vanjivakam Pullaya Chetty before Colonel Wilson, Commissioner of Police, Madras, with Colonel Wilson's letter forwarding the same.

1. The Board have carefully considered the facts stated in the above letter and its enclosures, and have communicated with the Superintendent of Stamps on the subject, and they are not satisfied that the view taken by the Collector is the correct one.

2. From inspection of the Stamp papers produced by the party who was fined for selling Stamps without a license, and which were received from Mr. Dykes, the Board find no reason to ground any suspicion upon them. Some have evidently been stamped as private materials at the Stamp Office, having on them the $\frac{4}{50}$, which at one time was the only indication needed at the Stamp Office of the intended purpose for which the Stamp was required.

3. Others have evidently passed through a Vendor's hands. One or two bear neither mark, but as it is certain that on the first introduction of the new Stamp Law, perfectly blank private materials were for a short time impressed on application at the Stamp Office, and were issued without any other distinguishing mark, it is impossible to ground any charge on such an isolated

circumstance, especially as the Stamps appear to have been sent from Madras in 1861, when the

9. Avani of Durmati.

Act was recent, and as the conduct of the holder of the Stamps is such as to afford no good ground for suspicion. The holder of the

Stamps produced the papers, and the letter consigning them to him without any hesitation, and appears to have re-produced them a second time after they had been returned to him, and ample opportunity had been afforded him of making away with them. The Stamps themselves are undoubtedly genuine.

4. The Board see no reason whatever from the letter produced, to think that the Stamps were sent from Madras otherwise than *bona fide* for use and not for sale, and the phrase on which Mr. Dykes grounds his suspicions of intended traffic in Stamps without a license appears to the Board to lead to a directly opposite conclusion.

5. They would infer from it that the Stamps had been obtained by the consignor on payment of the full Stamp duty for use in the business transactions of the Firm; and in providing for the very possible contingency of his correspondent disposing of one to a third party, he directs him to require payment of one Anna in addition to the value of the Stamp in such a case, and "not to sell the Stamp for nothing" as it is worded in the translation; or in other words, not to part with it without getting the one Anna profit on the purchase money which had been invested in it.

6. Section 48, Act X of 1862 distinctly provides for the unlicensed sale of Stamps obtained for use and not for sale, and the circumstances of the case lead the Board to the conclusion that the Stamps were *bona fide* obtained and intended for use; although the possibility of parting with one or more on payment was also contemplated.

7. This expectation was shown by the events to be reasonable and excusable, for the non-provision of a licensed dealer in the locality, for which omission the Collector is to blame, removes all reason for the condemnation of such traffic. It is not to be expected that those who require licensed Vendors, when they can obtain them on the spot with little risk; and the difficulty of obtaining security from licensed Vendors is not a sufficient excuse for the omission to make convenient provision for the easy working of the Law, and to meet the reasonable requirements of the public.

8. When such difficulty exists, the Collector should bring it to the notice of the Board in view to a remedy being devised.

9. The Collector will gather from the foregoing that the Board do not condemn the seller of the Stamp or the Deputy Magistrate who absolved him from blame, and that they do not approve of the Collector's proceedings in the matter. They especially condemn the course he adopted in trying and disposing of a case as a Magistrate in which he himself as Collector was prosecutor.

10. They are further of opinion that there is no ground for a charge or prosecution under the Stamp Act against the Madras correspondent of the Nellore Merchant who sold the Stamp, and although they are not legally empowered to interfere with the Collector's proceedings in this respect under Act X of 1862, and still less to question his acts as a Magistrate, they trust that Mr. Dykes will re-consider the matter before renewing his application to the Madras Commissioner of Police to execute his warrant for the apprehension of Pullaya Chetty on this charge.

11. The Stamp papers received from Mr. Dykes will be returned to him by the Secretary.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To J. W. B. Dykes, Esq., Collector of Nellore.

Copy to R. W. Norfor, Esq., Superintendent of Stamps.

Ed. J. Wright.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 26th April 1864.

Read the following Proceedings of the Madras Government, dated 12th April 1864, No. 618,
Revenue Department:—

ABSTRACT.—Reviewing the Board's Proceedings on the subject of certain correspondence between them and the Collector of Nellore in the case of illegal sale of Stamps of Saidapuram.

1. With reference to paragraph 4 of the above Government Order, the Board beg leave to state that they still have grave doubts as to the competency of a Collector of Stamp Revenue to try, as Magistrate, a case in which he is prosecuting, under Section 52, Act X of 1832, in his capacity as the Collector of Stamp Revenue, and in accordance with the orders passed by Government in Government Order dated 6th November 1863, No. 1,995, Revenue Department.

2. It appears to the Board that in the case of a Statutory offence against a Fiscal law, where the Collector prosecutes under a special provision of that law, the two duties of Prosecutor and Judge cannot with propriety be conducted by one and the same person, and that in point of fact the Collector has condemned the accused in his own mind before the trial by the Magistrate commences.

3. With regard to the Government remark that the Board's conclusion would place every breach of the Stamp laws beyond the jurisdiction of the Chief Magistrate of the District, the Board do not think it by any means clear that the framers of the Act contemplated that the Collector of Stamp Revenue in each District would be the Chief Magistrate within the same limits.

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5. The Board regret that their Proceedings have not met with the approval of Government, and that the style of their correspondence with Mr. Dykes is considered open to condemnation, especially as on a careful re-perusal of their several orders in the case they are unable to perceive what it is which the Government consider objectionable on this point; while they consider the very reprehensible tone adopted by Mr. Dykes in the correspondence in question would have warranted them in the use of stronger language, in the way of reproof, than the Board any where adopted.

6. As the Government may not have the whole of the correspondence before them, the Board resolve to submit the papers noted in the margin, and to request attention to the whole of letter No. 9, to paragraph 3 of letter No. 18, and to paragraphs 6, 7, 11 and 12 of No. 52, as illustrating their objections to the style and tone resorted to by Mr. Dykes.

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(A true Extract.)

J. D. Sim
Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.,
with copies of correspondence alluded to in paragraph 6.

Exd. J. Wright.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 30th December 1863.

Despatched

Received

No. 8,178.

Making certain observations on the Collector's letter regarding the conduct of the Deputy Magistrate, Shama Row, in a certain Stamp case.

1863.

Department.

No.

Dec 7/11/8/64.

*Answer in the case of the
Collector of Nellore, as the case is
sent to the Board 26 April
1864, No. 2512.*

No 6 Nov 6/63 n: 67
 12 April 64 n: 206-208
 19 July " " 283-285

OB 1864 Department
 No. 11184
 No. 9 G. G. G. G. G.

PROCEEDINGS OF THE BOARD OF REVENUE,
 No. 11184

Dated 26th April 1864.
 By J. G. G. G. G.
 Secy. G. G. G. G.

No. 2512.

Submitting Board's explanation on the sub-
 ject of certain correspondence between them
 and the Collector of Nellore in the case of ille-
 gal sale of Stamps at Saidpuram.

J. G. G. G. G.
 1864-1865
 H. G. G. G. G.

1864-1865

1. Recorded
 1864-1865

2. The East India Company
 have been advised
 1864-1865

J. G. G. G. G.

3rd. Mr. G. G. G.
 1st. Aug. 1864
 14. G. G. G. G. G.

J. G. G. G. G.

220th of 1864

No. 11184