M.R.O. 14—13,000—27-8-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1690 Press ~~Mis.~~

220. 221

Dated 13 - 9 - 1864.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 13th September 1864.

No. 220. Read the following letter from W. HUDLESTON, Esq., Secretary to the Board of Revenue, to J. D. SIM, Esq., Secretary to Government, Revenue Department, dated Madras, 1st September 1864, No. 5,669 :—

SIR,

1. It has been brought to the notice of the Board by the Superintendent of Stamps, that while Section 17, Act X of 1862, is proposed to be repealed by the Draft Code of Civil Procedure now under the consideration of the Imperial Legislature, the Section 193 of the Code which is apparently intended to be substituted for it, limits the penalty for neglect to execute any document filed in evidence on the proper Stamp, to *double* the amount of Stamp Duty leviable, notwithstanding that under Section 15 of the Stamp Act the penalty runs up as high as twenty times the amount of Stamp duty according to the age of the document, which extent of penalty was also to be enforced by the Courts under Section 17 of the Act which it is now proposed to repeal.

2. The Board consider that this change is ill-advised and likely to have a most injurious effect upon the Stamp revenues of the country. In the case of documents voluntarily presented to the Collector after execution, to be impressed with the requisite Stamp, the penalty of double Stamp duty is sufficient only in the case of Deeds, &c., presented within six weeks after execution. At any later period a higher penalty is imposed.

3. The legal defect of an insufficiently stamped document is not much felt until the holder is under the necessity of using it in Court to establish his rights; but hitherto there has been no such temptation as is now proposed to be held out to parties not originally intending to evade the Stamp duty, to defer the step necessary to make their document valid until they are forced into Court. In fact, under the proposed law, a heavy *additional* penalty will be levied on all who honestly desire to correct at once an unintentional omission, beyond what is imposed in the case of the fradulent evader of the law who may some years afterwards find it for his advantage to have his document stamped when filed in Court. The Board are disposed to doubt whether the change involved in this Section of the Draft Code really is intended by the framers of the Draft; but if so, and if it be eventuallty adopted, the Board are of opinion that it will be imperatively necessary to make further modifications of the Act, so as to reduce the penalties in the cases which may come before the Collector on voluntary application.

4. They request that the necessary steps may be taken to bring the point under the consideration of the Legislative Council of the Governor General.

No. 221. ORDER THEREON, 13th September 1864, No. 1,690.

Separate Revenue, No. 109.
Stamps.

1. The Governor in Council observes that Section 130 of the Civil Procedure Code (Act VIII of 1859) enables the Courts to receive insufficiently stamped deeds, if satisfied that there was no intention of evading the Stamp Laws, on payment of the deficiency of duty and a penalty of ten times the deficiency. The Stamp Act X of 1862, enables the Courts to receive deeds either on unstamped paper or on insufficiently stamped paper, if similarly satisfied as to the cause of the irregularity, on payment of the proper duty or the deficient duty and penalties ranging from twice to twenty times the duty or deficiency of duty, these being the terms on which such deeds may be stamped by Collectors of Stamp Revenue. Section 193 of the Draft Code of Civil Procedure, if enacted, will enable the Courts to receive unstamped and insufficiently stamped deeds, if no intention of fraud be apparent, on payment of a penalty in all cases of double duty or deficiency of duty.

If produced within six weeks from execution twice.
If do. after six weeks, but within four months of do. thrice.
If do. after four months of do. twenty times.

2. Under these circumstances, as the Board remark, unstamped or insufficiently stamped deeds will be subject to varying rates of penalty according as they are produced before Collectors or Courts, and the revenue will suffer in whatever degree the lightness of the penalty may induce parties not to stamp deeds on execution.

Proceedings of the Madras Government, Revenue Department,
13th September 1864.

3. The rate of penalty which should be attached to infractions of the Stamp Law should clearly form a part of that law, and the inclusion of such matter in a law regulating the procedure of the Courts seems to the Government to be altogher out of place. The Procedure Code need and should do no more than enable the Courts to receive such documents, if satisfied that no fraud on the Stamp Revenue was intended, on payment of such penalty as the Stamp Law for the time being may prescribe.

4. The Government resolve accordingly to transfer the Board's Proceedings to the Legislative Department, in order that the Supreme Government may be moved to modify Section 193 of the Draft Code as above proposed and to leave Section 17 of Act X of 1862 unrepealed.

(True Extract.)

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

To the Legislative Department.
,, the Board of Revenue.

Exd. S. T. Augustin.

No. 5,669.

From W. HUDLESTON, Esq., Secretary to the Board of Revenue,
To J. D. SIM, Esq., Secretary to Government, R. D.

SIR,

It has been brought to the notice of the Board by the Superintendent of Stamps, that while Section 17, Act X of 1862, is proposed to be repealed by the Draft Code of Civil Procedure now under the consideration of the Imperial Legislature, the Section 193 of the Code which is apparently intended to be substituted for it, limits the penalty for neglect to execute any document filed in evidence on the proper Stamp, to *double* the amount of Stamp duty leviable, notwithstanding that under Section 15 of the Stamp Act the penalty runs up as high as twenty times the amount of Stamp duty according to the age of the document, which extent of penalty was also to be enforced by the Courts under Section 17 of the Act, which it is now proposed to repeal.

2. The Board consider that this change is ill-advised and likely to have a most injurious effect upon the Stamp revenues of the country. In the case of documents voluntarily presented to the Collector after execution to be impressed with the requisite Stamp, the penalty of double Stamp duty is sufficient only in the case of Deeds, &c, presented within six weeks after execution. At any later period a higher penalty is imposed.

3. The legal defect of an insufficiently stamped document is not much felt until the holder is under the necessity of using it in Court to establish his rights; but hitherto there has been no such temptation as is now proposed to be held out to parties not originally intending to evade the Stamp duty, to defer the step necessary to make their document valid until they are forced into Court. In fact, under the proposed law, a heavy *additional* penalty will be levied on all who honestly desire to correct at once an unintentional omission, beyond what is imposed in the case of the fraudulent evader of the law who may some years afterwards find it for his advantage to have his document stamped when filed in Court. The Board are disposed to doubt whether the change involved in this Section of the Draft Code really is intended by the framers of the Draft; but if so, and if it be eventually adopted, the Board are of opinion that it will be imperatively necessary to make further modifications of the Act, so as to reduce the penalties in the cases which may come before the Collector on voluntary application.

4. They request that the necessary steps may be taken to bring the point under the consideration of the Legislative Council of the Governor General.

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

REVENUE BOARD OFFICE,
Madras,
1st September 1864.

Secretary.

Copy to Lieutenant-Colonel J. Temple, Superintendent of Stamps.

Exd. J. Wright.

Revenue Department

R.P. 1690.

Co-enclosing for the Government
under date the 13th September 1864:-

Read the following
-ing letter from the depy.
the Board of Revenue

Requesting that
steps be taken to bring
under the consideration
of the Legislative Council
of the Governor General that
the repealing of Section 17
the operation of Section 17
Act X of 1862, is ill advised
and likely to have a most
injurious effect upon the
Stamps Revenue of the Country:-

(Above Letter 1st Sept. 1864, No. 5,669)-

The Governor
in Council observes that
Section 17 of the Act X of
1862 enables the Board
to receive sufficiently
stamped deeds - if satisfied
that there was no intention
of evading the stamp laws -
on payment of the deficiency
of duty found & penalty of
five

Revenue 1864. Department

Rec. of Govt. for Sept.

No. 2362-

From the Secretary to the Board of Revenue
To the Secretary to Government, R. D.

Dated 1st September 1864.

Desp 32 encs
Rec 3d

S. Govt. 1690. 13 Sept.

No. 5,669.

Requesting that steps be taken to bring under the consideration of the Legislative Council of the Governor General that the repealing of Section 17 Act X of 1862, is ill advised and likely to have a most injurious effect upon the Stamp revenues of the country.

No. 220.

The Govt. concur in the Bd's views & will recommend to the Govr. Genl. to alter the Sections of the Draft Code in such a manner as to leave the penalty to be determined by the Stamp Laws.

L. D.S.

The enactment in Sect. in present Code (130) makes the penalty 10 times for insufficient Stamp. only

ten times the deficiency.
The Stamp Act X of 1862 enables the Courts to receive deeds either on unstamped paper or, on insufficiently stamped paper if similarly satisfied as to the cause of the irregularity on payment of the proper duty or the deficient duty and penalties ranging from twice to twenty times the duty or deficiency of duty these being the terms on which such deeds may be stamped by Collectors of Stamp Revenue. Section 193 of the Draft Code of Civil Procedure, if enacted, will enable the Courts to receive unstamped and insufficiently stamped deeds if no intention of fraud be apparent on payment of a penalty in all cases of double duty or dificiency of duty.

If produced within six weeks from execution. ——— twice.
If do after 6 weeks but within 4 months of do. ——— thrice.
If do after 4 months of do. ——— twenty times.

Under these circumstances, at the Board remark, remark, unstamped or insufficiently stamped deeds will be subject to varying rates of penalty according as they are produced before Collectors or Courts and the Revenue will suffer in greater or lesser degree the lightness of the penalty may induce parties not to stamp deeds on execution.

The rate of penalty which should be attached to infractions of the stamp law should clearly form a part of that law, and the decision of such matter in a law regulating the procedure of the Courts seems to the Govt to be altogether out of place. The Procedure Code need and should do no more than enable the Courts to receive such documents if satisfied that no fraud on

on the Stamp Revenue was included on payment of such penalty as the Stamp Law for the time being may prescribe.

The Govt resolved accordingly to transfer the Board's proceedings to the Legislative Department, in order that the Supreme Govt may be moved to modify section 193 of the Draft Code as above proposed and to leave section XVII of Act X of 1862 unrepealed.

L. D. S.

5 Opies To the Legislative Dept. & Dept. of Revd

Revenue 1864. Dept.
Pro: of Govt for Sept.

No. 1690.

Pro: of the Madras Govt.
Dt 13th Sept. 64.

Pro. of the Madras Govt
Legislative Dept. Dt 22nd
Sept. 64 & No 2532

Pro Board of Revenue Dt
2 June 65 & No. 153 &

Transferring to the
Legislative Dept.
the Board's Proceed-
ings relative to the
proposed repeal
of Sec: 17 of Act X of
1862, (Stamp Law).

221.