

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	2275	Press ~~Mis.~~
	440 441	
Dated	21-9-	1868-

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
21st September 1865.*

No. 440. Read the following Proceedings of the Board of Revenue, dated 6th September 1865, No. 5,490.

Read again letter from the Collector of Cuddapah, dated 25th July 1865, No. 91, recorded in the Board's Proceedings, under date 3rd August 1865, No. 4,620.

Read also the following letters :—

From E. G. R. FANE, Esq., Collector of Madras, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated Sydapet, 11th August 1865, No. 244.

SIR,

1. In their Miscellaneous Circular of the 27th March last, No. XX., the Board ruled that there was nothing in the new Abkarry Act requiring that existing pecuniary engagements between the renters and their subordinates should be executed afresh, but if executed afresh, would be liable to Stamp duty. Again, in their Circular of the 2nd April 1865, No. XXVI., the Board stated, that in the case of farms let previous to January 1865, the engagements are already in force, and will be binding during the currency of the lease.

2. The Abkarry farm in this District having been rented out for five years from Fusly 1272, there are two more years for the lease yet to run; such being the case, stamp paper was furnished to the renter gratis by me for the Muchilkah, as required by the Board's Miscellaneous Circular of the 2nd February 1865, No. VII.

3. The pecuniary engagements between the renter and his subordinates, however, are not for five years in all cases. They are generally for one year, at the end of which it would appear they are renewed.

4. He now applies to me for instructions as to whether those engagements are required to be on stamp paper. Reading the several Circulars above referred to, I answered his question in the affirmative; but he has again asked me to make a reference to the Board on the subject, and obtain their decision. He says, that if the engagements in question are to be executed on stamp papers, it will cost him between 20,000 and 25,000 Rupees.

5. He also states that he entered into these annual engagements with his subordinates when Clause 2nd, Section 9, Regulation I. of 1820 was in force, which exempted such instruments from Stamp duty, and that the repeal of the above Regulation in the interval ought not to affect his interests. As the Renter's case seems to me rather hard, I beg to refer it to the Board for their opinion.

From J. R. COCKERELL, Esq., Acting Collector of Cuddapah, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated 12th August 1865, No. 111.

SIR,

1. In his letter to the Board, dated 25th July 1865, No. 91, the Collector referred not to sub-renters, whose engagements were running, but to those whose engagements *expired* at the end of June last, the close of the Fusly. He wished to be informed whether such Sub-Renters would be liable to provide their own stamps under Section 8 of the new Abkarry Act if they entered into *fresh* engagements, or whether he was to provide the stamps gratis.

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2. It seems to me that the parties should provide their own stamps. As their agreements have expired, they are merely "independent individuals, voluntarily entering into a contract," and as such are bound to observe the laws in existence.

1. Resolved that the foregoing letters be submitted for the consideration and orders of Government.

2. It will be observed that the Abkarry Renters of the Madras and Cuddapah Districts have raised the question, whether the pecuniary agreements entered into between themselves and their Sub-Renters are liable to Stamp duty; and if so, whether the necessary stamps should be furnished by Government.

3. The Government are aware, that under the new Abkarry Act, all Renters, Sub-Renters, Shop-keepers, and Still-keepers, are required to execute certain engagements, in duplicate, providing that they shall manufacture and sell liquor on certain terms. In cases in which the Abkarry contracts had been purchased previous to the passing of the new Act, the Board authorized the Collectors to provide the necessary stamps for these documents gratis, on the principle that the purchasers could not have foreseen, when they made the purchase, that the expense of providing these stamps would fall on them.

4. The private engagements, however, between the Renters and Sub-Renters, or those between the latter persons and the Shop-keepers, regarding the amount of rents payable, were not taken into consideration, as it was presumed that those engagements were for the full period of the lease, and as there was nothing in the Act which required them to be re-executed. It now appears that these contracts have not in all cases been entered into for the full period of the Renter's lease, and that consequently when the Renter enters into a fresh agreement, he finds it necessary for him to do so on stamped paper, as the new Act contains no provision exempting such documents from Stamp duty.

5. As observed by the Board in their Proceedings noted in the margin,
24th April 1865, No. 2,081. (recorded in Order of Government,
under date 10th June 1865, No. 1,274,)

it was the duty of any Renter who considered his interests would be injuriously affected by any of the provisions of the new law, to have addressed the Legislative Council on the subject during the long period the Bill was under consideration. The Renters who are circumstanced as described above, are not, therefore, *legally* entitled to consideration; but, at the same time, if the Board had been aware when the Proceedings just referred to were passed, that many of the Sub-Renters were for short periods, and that consequently the Renters would have to bear a very heavy charge for Stamp duty when renewing them, they would not have made the statement which appears in the second paragraph of their Proceedings, to the effect that the interests of the holders of the existing Abkarry Farms had not been materially affected by the provisions of the new Act.

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6. Under these circumstances, the Board would request the permission of Government to authorize Collectors, as an act of grace, and in such cases as the

* The date on which the new Abkarry Act became law.

concession may seem to be proper, to grant Abkarry Renters who purchased their farms previous to the 1st January last,* a remission of rent equal to the

value of the stamped paper used by them for drawing up pecuniary agreements between themselves and their Sub-Renters, or between their Sub-Renters and Shop or Still-keepers, and should the Government be pleased to grant this concession, the Board will take measures to prevent its being in any way abused.

No. 441. ORDER THEREON, 21st September 1865, No. 2,275.

Separate Revenue, No. 26.
Abkarry.

1. It appears to the Government that the most simple arrangement will be to authorize the Collectors to refund the cost of Stamp papers purchased subsequently to the introduction of the new Abkarry Law, and used for the pecuniary agreements executed by Abkarry farmers and their Sub-tenants under Abkarry leases from Government, which were in existence prior to the abolition of the old Abkarry Law, which exempted engagements between Renters and Sub-Renters from Stamp duty.

2. It is obviously only fair to make this allowance to the Renters, as their profits must be materially affected by the tax now charged for Stamps on these engagements.

(True Extract.)

(Signed) W. HUDLESTON,

Acting Secretary to Government.

To the Board of Revenue.

Exd: S. T. Augustin.

3
No. 4,620.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 3rd August 1865.

Read the following letter from H. G. SMITH, Esq., Collector of Cuddapah, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated 25th July 1865, No. 91:—

I have the honor to state that the five years, rent of Abkarry Farms of this District will expire by the end of the current Fasli 1275, but that as the leases of certain sub-renters will have to be renewed this year, as per conditions specified in their former engagements, it is doubtful whether or not their renewed engagements for this year will have to be executed on stamp paper of the value of one Rupee as prescribed in paragraph 2 of the Board's Miscellaneous Circular of the 17th June 1865, No. LXVII, Board No. 3,302, and I request, therefore, Board's instructions on this point.

The Board do not understand to what the Collector refers. The leases to sub-renters are documents with which Government have nothing to do. They are of course liable to stamp duty like any other document executed between private parties. It is presumed that the engagements executed to Government by these sub-renters, have been duly filed on stamp paper, and that corresponding licenses have been granted to them by the Collector. The stamps for these documents should be supplied gratis, as the contract was sold previous to the enactment of the Abkarry Act.

(A true Copy and Extract.)

(Signed) R. A. DALYELL,
Acting Secretary.

To H. G. Smith, Esq., Collector of Cuddapah,

Exd. J. Wright,

88-2275-

It appears to the Govt. that
 the most simple arrangement
 will be to continue as the old
 & remove the cost of stamp papers
 incurred subsequently to the introduction
 of the new Abkary law. & used for the
 preliminary agreements executed by
 Abkary farmers & their subtenants
 under Abkary leases from Govt. &
 in existence prior to the abolition
 of the old Abkary law & exempted
 engagements between natives
 but not from Stamp duty
 It is obviously only
 fair to make this allowance to the
 Rintars, as their profits must be
 naturally affected by the tax now
 charged for stamps on these
 engagements
 L.H.
 21st Decr. /65.

W.D.
 W.D.
 J.P.
 Secy to the Board of Revenue

Encl. - The Govt. of Madras
 Revenue & Abkary Dept. 15th Decr.
 21st Decr. 1865. No. 2275.

1865. Department.

Rev-2321/65.

No.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 3rd August 1865.

No 4,620.

Passing orders on letter from the Collector
 of Cuddapah requesting instructions in regard
 to the stamping of documents required to be
 executed anew by Abkary Sub-tenants.

11th Decr. 1865. No. 2275.

*Pto: 10th June 1850 at 22/232
- 9th Sept 1850 at 11/149*

*Rev: 1863. Department:
Secy of Govt for Egypt*

*No. 7521-
PROCEEDINGS OF THE BOARD OF REVENUE,
Pto: Board of Revenue, 1865
6th October 1865 at 2845*

*Dated 6th September 1865.
Des: 28-1
Secy: 91-
21-1*

No. 5,490.

Requesting permission to authorize Collec-
tors to grant Abkarry Renters who purchased
their farms before 1st January 1865 a remis-
sion of rent equal to the value of the stamped
paper used for the engagements drawn up be-
tween themselves and their Sub-Renters, or
between the latter and the shop-keepers under
the provisions of the new Abkarry Act.

*No. 2275-21. Pto
With Order*

N. 440 441

c 15 Sept 1865

11th June 1865 at 440 441

executed in view of a copy of the original