BRL. G. 1—32,000—16-10-21.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1352 Press Mis.

442-63
Dated 30-8-1920 19

Not to be folded or roughly handled

No. 442. Read the following Proceedings of the Board of Revenue, dated 2nd May 1870 :—

Read the following letter from the Superintendent of Stamps, Madras, to the Secretary to the Board of Revenue, dated 15th April 1870.

I SOLICIT the consideration of the Board to points connected with the subject of the stamps to be issued for the use of the Small Cause Court, upon which further orders appear to be required.

2. Under Sections 3, 25, and 26, of the Court Fees' Act, 1870, and the Notification by the Governor-General in Council, dated 15th March 1870, No. 1,865, the same descriptions of stamps have to be used for the Madras Small Cause Court as for other Courts, viz., impressed bicolour stamps and adhesive stamps, the latter having the words "Court Fees" printed across them.

3. The question arises whether it is necessary to adhere to the plan, formerly intended, of restricting the Small Cause Court to the use of adhesive stamps, specially enfaced for that Court such words as Small Cause Court, Madras, being printed on them.

4. I have seen nothing to indicate that the Government of India contemplate any distinction in the stamps for the Small Cause Courts of the Presidency Towns, and I imagine that the new stamps, which that Government intend to order from England for all the Presidencies, are to be used for the Small Cause Courts as well as for other Courts.

5. If the plan, before intended by the Madras Government, of having distinct stamps for the Small Cause Court is abandoned, bicolour impressed stamps will be used for it, as has, in fact, been done since 1st instant, adhesive stamps being used generally only to supplement the others ; the Foreign Bill Stamps in my possession need not then be reserved for this Court. I shall have all the Foreign Bill Stamps, excepting such as are likely to be required for Foreign Bills, printed with the words "Court Fees," as I have already commenced to do. There will not be double printing (one of the words "Court Fees" and another of the words "Small Cause Court, Madras"). There will be a saving of time and work not only to this and other offices, but to the public, and there will, in all likelihood, be a sufficiency of adhesive stamps for all the Courts, including the Small Cause Court, until the new stamps from England are received. If there should not, however, be enough of Foreign Bill Stamps, the Postage Stamps can be resorted to.

6. There are, as far as I am aware, only two drawbacks to the proposed abandonment of the plan of having an exclusive description of stamps for the Small Cause Court.

7. The first is, that as tenders were invited and a stamp vendor for the Small Cause Court appointed, on the condition of his having an absolute monopoly, a new arrangement will have to be made with him. It was expressly provided by the Board that, if any change in the law took place with regard to Small Cause Courts, either of the parties to the engagement might give three months' notice to the other, and on the termination of that period, the engagement should cease. The stamp vendor has not yet entered upon his duties. Under the present law, suitors will not be obliged to purchase their stamps from him, even if he enters upon his duties. It is inevitable, therefore, that there must be either an altera-

tion of the law, or a new arrangement with the vendor. Under the circumstances, the Collector of Madras, by whom the stamp vendor was appointed, might arrange fresh terms with him, with a liberal consideration for the change that has taken place. The probable loss to the stamp vendor may in reality be little or nothing; for he will have the means of ascertaining what stamps are required, as he will be on the spot, and suitors will find it for their interest to resort to him.

8. The second drawback is, that as the Small Cause Court Stamp Vendor will not have legally an absolute monopoly, and stamps may be purchased elsewhere than from him, he can hardly be expected to refund costs in withdrawn and compromised cases. Suitors of the Small Cause Court will probably have, like suitors of the High Court, to obtain refunds from the Collector of Madras; but if this is considered too great a hardship, the Deputy-Collector of Madras on the Mount Road might be entrusted with the duty of making the refunds on the certificates of the Small Cause Court.

9. The adhesive stamps already prepared for the Small Cause Court will be printed with the words "Court Fees" and the Deputy-Collector on the Mount Road will be requested to sell them only to the Small Cause Court Stamp Vendor.

SUBMITTED for the orders of Government.

2. The Superintendent of Stamps points out that the Court Fees' Act provides for no distinction between the stamps used in the Presidency Small Cause Courts and those used elsewhere, and states that he has seen nothing to indicate that the Government of India contemplate any such distinction, or intend to order a peculiar description of stamps for use in the Small Cause Courts alone. He shows that if no distinction is made, his Office will be saved trouble and the necessity of using Postage Stamps will be avoided.

3. Since the letter was written, however, the Governor-General in Council has directed in a Notification, dated the 22nd April 1870, No. 106, that the fees referred to in Section 3 of the Court Fees' Act (which include those paid in Presidency Small Cause Courts) may be denoted by adhesive stamps of the same kind as have been hitherto in use there. Although this order does not altogether apply to the Madras Small Cause Court, because no stamps had been used there before the date of the Notification, and because it was contemplated to use impressed as well as adhesive stamps, it shows that the Government of India recognize the fact that the Small Cause Court Stamps may be different from those used elsewhere.

4. In a Notification, dated the 26th April 1870, the local Government have prescribed rules for the sale of stamps at the Small Cause Court, which involve the condition that the vendor shall have a monopoly of the sale of the stamps.

5. It seems to be very desirable that refunds should be made in the precincts of the Court, and this can only be done if the stamp vendor has a monopoly of the sale of stamps. If none of the stamps which the Government of India have indented for are specially marked for use in the Small Cause Court, the words "Small Cause Court" can be printed across them as at present.

6. The Board are not prepared, therefore, to recommend any change in the rules promulgated in the Notification published at page 496 of the *Fort Saint George Gazette* for the 26th ultimo.

Proceedings of the Madras Government, Revenue Department,
30th August 1870.

No. 443. ORDER THEREON, 30th August 1870, No. 1,352.

Separate Revenue, No. 31.
Stamps.

THE foregoing correspondence relates to the subject of the stamps to be issued for use in the Madras Court of Small Causes in payment of the commission and fees chargeable in that Court under "The Court Fees' Act, 1870"; and the question submitted for determination is, whether these stamps shall or shall not have the words "Small Cause Court, Madras," printed on them, in addition to the words "Court Fees" which, under the orders of the Government of India, are inscribed on all stamps used in the several Courts under the Act above referred to.

2. The Board of Revenue are of opinion that the additional words "Small Cause Court, Madras," should be inscribed; and their reasons for arriving at this opinion are—

1*stly*,—That the Government of India, by a Notification in the Financial Department, dated 22nd April last, No. 106, ruled that stamps of the same kind as had up to that time been in use in the Presidency Small Cause Courts might continue to be used in those Courts, and that, therefore, the Government of India recognize the fact that stamps to be used in such Courts may be different from those used in other Courts;

2*ndly*,—That the rules prescribed by this Government under Section 27 of "The Court Fees' Act," for regulating the use and sale of stamps in the Madras Small Cause Court involve the condition that the stamp vendor of that Court shall have a monopoly of the sale of the stamps; and,

3*rdly*,—That it is very desirable that refunds of costs in withdrawn and compromised cases should be made within the precincts of the Court, and that this can only be done if the stamp vendor has a monopoly of the sale of stamps.

3. With reference to the first of the reasons adduced by the Board, the Government observe that the Notification of the Government of India to which they allude does not apply to the Madras Small Cause Court, because, as the Board themselves remark, no stamps had been used in that Court before the date of that Notification. Moreover, the object of the Government of India in issuing the Notification was to meet a temporary difficulty, viz., the want of a supply of the stamps prescribed in pursuance of the Court Fees' Act, whereas in the present case, the question is as to the expediency of making an altogether new description of stamps.

4. As to the Board's second reason, no monopoly of the sale of stamps could be secured to the Court Stamp Vendor, unless the rules in question prescribed a distinctive stamp for the Small Cause Court, and expressly prohibited the supply of such stamps to any other stamp vendor.

5. With regard to the third and last reason, the Government do not see why the refund of costs in withdrawn and compromised cases should, as is alleged, necessarily depend on the circumstance of the stamp vendor having a monopoly of the sale of the stamps; nor do they see why suitors in the Madras Small Cause Court should have a privilege which neither suitors in the High Court (which is held in the same building as that occupied by the Small Cause Court), nor suitors in the Mofussil Courts enjoy. Under the arrangement recently ordered, under

which the Town of Madras has been constituted a separate Collectorate, the office of the Collector of Madras, by whom refunds are made to suitors of the High Court, is in the immediate vicinity of the Court-house; and, consequently, litigants in the Small Cause Court will not be subjected to any inconvenience if they are required to obtain refunds from the Collector's Office.

6. The Government concur with the Acting Superintendent of Stamps that it is not desirable to have stamps of a distinctive character for the Madras Small Cause Court. Such an arrangement would entail not only additional labour and expense, but also the necessity of keeping a large supply of stamps specially for the use of one Court, (which stamps cannot be used in any other Court). There seems, also, no reason why the Madras Small Cause Court should be placed on a different footing from that of every other Court, in respect of the stamps to be used in it under the Court Fees' Act; nor is there any apparent advantage in such exceptional treatment to counterbalance the disadvantages arising therefrom.

7. For these reasons, the Government resolve to direct the abandonment of the plan of having an exclusive description of stamps for the Madras Small Cause Court. They approve of the suggestion made by the Acting Superintendent of Stamps in paragraph 5 of his letter, recorded in the foregoing Proceedings, as to the supply of the impressed and adhesive stamps for the use of that Court, and direct its adoption.

8. The Government are also of opinion that it would be consistent with the convenience of suitors in the Small Cause Court that they should be able to purchase stamps elsewhere than in the stamp-stall attached to that Court; that refunds of costs in suits instituted in the Court, which have been compromised, or in which costs have been remitted, should be made by the Collector of Madras; and that Rules to this effect should be prescribed in modification of Rules IV., V., and VI. of the Rules published in the Notification of the Judicial Department, dated 26th April last.

9. The Board of Revenue will accordingly be requested to submit to Government a Draft of Rules, embodying the requisite modifications. They will also take such steps as may be necessary under these orders with regard to the arrangements to be made with the stamp vendor appointed for the Madras Small Cause Court, reporting their proceedings in this matter for the information of Government.

(True Extract.)

(Signed) H. E. STOKES,
Under-Secretary to Government.

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

Exd. F. R. Bantleman.

Copy of 1870 Madras.

REVENUE.

To

THE BOARD OF REVENUE.

No. 442, dt.

Dated August 30th.

Recd. Ins.

G. O., 30th August 1870, No. 1,352.

AUGUST.

Nos. 442-443.

Stamps for Madras Small Cause Court.—Plan of having an exclusive description of stamps ordered to be abandoned. Suggestion of the Acting Superintendent to supply impressed and adhesive stamps for the use of the Court approved and ordered to be adopted.

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3. The question arises whether it is necessary to adhere to the plan, formerly intended, of restricting the Small Cause Court to the use of adhesive stamps, specially enfaced for that Court such words as Small Cause Court, Madras, being printed on them.

4. I have seen nothing to indicate that the Government of India contemplate any distinction in the stamps for the Small Cause Courts of the Presidency Towns, and I imagine that the new stamps, which that Government intend to order from England for all the Presidencies, are to be used for the Small Cause Courts as well as for other Courts.

5. If the plan, before intended by the Madras Government, of having distinct stamps for the Small Cause Court is abandoned, bicolour impressed stamps will be used for it, as has, in fact, been done since 1st instant, adhesive stamps being used generally only to supplement the others; the Foreign Bill Stamps in my possession need not then be reserved for this Court. I shall have all the Foreign Bill Stamps, excepting such as are likely to be required for Foreign Bills, printed with the words "Court Fees," as I have already commenced to do. There will not be double printing (one of the words "Court Fees" and another of the words "Small Cause Court, Madras"). There will be a saving of time and work not only to this and other offices, but to the public, and there will, in all likelihood, be a sufficiency of adhesive stamps for all the Courts, including the Small Cause Court, until the new stamps from England are received. If there should not, however, be enough of Foreign Bill Stamps, the Postage Stamps can be resorted to.

6. There are, as far as I am aware, only two drawbacks to the proposed abandonment of the plan of having an exclusive description of stamps for the Small Cause Court.

7. The first is, that as tenders were invited and a stamp vendor for the Small Cause Court appointed, on the condition of his having an absolute monopoly, a new arrangement will have to be made with him. It was expressly provided by the Board that, if any change in the law took place with regard to Small Cause Courts, either of the parties to the engagement might give three months' notice to the other, and on the termination of that period, the engagement should cease. The stamp vendor has not yet entered upon his duties. Under the present law, suitors will not be obliged to purchase their stamps from him, even if he enters upon his duties. It is inevitable, therefore, that there must be either an altera-

Cess Entries

tion of the law, or a new arrangement with the vendor. Under the circumstances, the Collector of Madras, by whom the stamp vendor was appointed, might arrange fresh terms with him, with a liberal consideration for the change that has taken place. The probable loss to the stamp vendor may in reality be little or nothing; for he will have the means of ascertaining what stamps are required, as he will be on the spot, and suitors will find it for their interest to resort to him.

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9. The adhesive stamps already prepared for the Small Cause Court will be printed with the words "Court Fees" and the Deputy-Collector on the Mount Road will be requested to sell them only to the Small Cause Court Stamp Vendor.

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4. In a Notification, dated the 26th April 1870, the local Government have prescribed rules for the sale of stamps at the Small Cause Court, which involve the condition that the vendor shall have a monopoly of the sale of the stamps.

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2*ndly*,—That the rules prescribed by this Government under Section 27 of "The Court Fees' Act," for regulating the use and sale of stamps in the Madras Small Cause Court involve the condition that the stamp vendor of that Court shall have a monopoly of the sale of the stamps; and,

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3. With reference to the first of the reasons adduced by the Board, the Government observe that the Notification of the Government of India to which they allude does not apply to the Madras Small Cause Court, because, as the Board themselves remark, no stamps had been used in that Court before the date of that Notification. Moreover, the object of the Government of India in issuing the Notification was to meet a temporary difficulty, viz., the want of a supply of the stamps prescribed in pursuance of the Court Fees' Act, whereas in the present case, the question is as to the expediency of making an altogether new description of stamps.

4. As to the Board's second reason, no monopoly of the sale of stamps could be secured to the Court Stamp Vendor, unless the rules in question prescribed a distinctive stamp for the Small Cause Court, and expressly prohibited the supply of such stamps to any other stamp vendor.

5. With regard to the third and last reason, the Government do not see why the refund of costs in withdrawn and compromised cases should, as is alleged, necessarily depend on the circumstance of the stamp vendor having a monopoly of the sale of the stamps; nor do they see why suitors in the Madras Small Cause Court should have a privilege which neither suitors in the High Court (which is held in the same building as that occupied by the Small Cause Court), nor suitors in the Mofussil Courts enjoy. Under the arrangement recently ordered, under

which the Town of Madras has been constituted a separate Collectorate, the office of the Collector of Madras, by whom refunds are made to suitors of the High Court, is in the immediate vicinity of the Court-house; and, consequently, litigants in the Small Cause Court will not be subjected to any inconvenience if they are required to obtain refunds from the Collector's Office. ~~But, as already observed, the Government did not contemplate a monopoly of the stamps to the vendor, and therefore the Board's argument has no force.~~

6. The Government concur with the Acting Superintendent of Stamps that it is not desirable to have stamps of a distinctive character for the Madras Small Cause Court. Such an arrangement would entail not only additional labour and expense, but also the necessity of keeping a large supply of stamps specially for the use of one Court, (which stamps cannot be used in any other Court). There seems, also, no reason why the Madras Small Cause Court should be placed on a different footing from that of every other Court, in respect of the stamps to be used in it under the Court Fees' Act; nor is there any apparent advantage in such exceptional treatment to counterbalance the disadvantages arising therefrom.

7. For these reasons, the Government resolve to direct the abandonment of the plan of having an exclusive description of stamps for the Madras Small Cause Court. They approve of the suggestion made by the Acting Superintendent of Stamps in paragraph 5 of his letter, recorded in the foregoing Proceedings, as to the supply of the impressed and adhesive stamps for the use of that Court, and direct its adoption.

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9. The Board of Revenue will accordingly be requested to submit to Government a Draft of Rules, embodying the requisite modifications. They will also take such steps as may be necessary under these orders with regard to the arrangements to be made with the stamp vendor appointed for the Madras Small Cause Court, reporting their proceedings in this matter for the information of Government.

(True Extract.)

(Signed) H. E. STOKES,
Under-Secretary to Government.

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

Ind. F. R. Pantleman,

To be reprinted with the omission of the Conclusive Sentence of para 5 & Copies to be sent out in substitution of these Proceedings. — D.H.C.

4/70

Con Contents ad.

Govt. of Madras.

REVENUE.

To

THE BOARD OF REVENUE

&c., &c., &c.

Dated August 30th

Read. Post.

G. O., 30th August 1870, No. 1,352.

AUGUST.

Nos. 442-443.

Stamps for Madras Small Cause Court. Plan of having an exclusive description of stamps ordered to be abandoned. Suggestion of the Acting Superintendent to supply impressed and adhesive stamps for the use of the Court approved and ordered to be adopted.

-ditional labor &
Expence - because
it entails the ne-
cessity of keeping
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stamps specially
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Court - which stamps
cannot be used in
any other Court - be-
cause I see no reason
why the Madras Court
should be placed
on a different footing
from ~~any~~ every other Court in
the Presidency &be-
cause I see no ad-
vantage resulting
from such exceptional treat-
ment to counter balance
its disadvantages -

The Bd. of Recl. would
have the words inserted
These reasons - which
do not touch the merits
of the Question - are
1. That the Sup: Govt
in a notification dy
22 April 1870 No. 106
ruled that stamps of
the same kind as
have hitherto been in
use may continue to
be used - therefore the
Sup: Govt. recognise the
fact that Small Cause
Court stamps may
be different from those
used elsewhere - Un-
fortunately for their
argument, the order
does not apply to
the Madras Court - be-
cause (as they are obliged

to admit / no stamps
at all have hitherto
been in use there!
The argument sought
to be drawn from the
order is also north-
less because the Sub:
Govt. were meeting a
temporary difficulty
viz the want of news
stamps — here we
are making a news
description of stamp
altogether —
2. That the rules
published by this Govt.
at p. 527. of the Gazette
of 3d May 70 — & dated
26 April 70 — Ind.
Dept. involve a mo-
nopoly of the sale of

these stamps to the
Vendor — There is nothing
in these rules — that I
can see to this effect —
the Chief Secy / in whose
Dept. the rules were
framed / has stated
that Govt. contemplated
no such concession —
& the monopoly / if such
there be / cannot be
ensured, as I read
the law — to the vendor
unless Govt., with the
sanction of the Sub:
Govt., pass a rule de-
claring that these
stamps shall be
supplied to this
particular Vendor
& to no one else —

3. That it is very desirable that refunds should be made at the Court & the Vendor cannot do this, unless he has a monopoly of the sale. I do not see why one depends so necessarily on the other — nor do I see why suitors in this Court should have a privilege which neither suitors in the Sig. Court (held in the same building) nor suitors in any other Court in the Country enjoy. Under the new arrangement the Collr. office is close at hand — though I cannot see why these

suitors & these alone should not get their money from the Deptg. Collr. Treasury. But as the rules involve no monopoly, the Bds. argument is not worth much.

For these reasons I would not have a distinctive stamp for the Madras Small Cause Court.

If Govt. decide otherwise it will I apprehend be necessary to apply to the Supreme Govt. for permission to print the words in question on these stamps — (v. Sect. 25. Act VII of 1870) and

an indent should be prepared at once for despatch to the Seaf of State for the requisite number of special stamps adhesive & impressed for the exclusive use of this Court.

In this event it would be well also to consider whether the Hig L Court - if not all other Courts - should not have a special vendor - with a monopoly & distinctive stamps - This seems to me the logical conclusion of the Board's recommendation.

L.A.S.

N.B. Sir Calcutta there is only one Small Cause Court Vendor. But he is paid by a fixed salary - & yet recoups itself by saving the discount. Here therefore the monopoly is for put it would be absurd to pay a man a fixed sum for selling stamps & give others a discount for selling them too -

The desiderata appear to me to be that adhesive stamps should be used & that those stamps should be promptly & easily procurable within the precincts of the Court of Small Causes. -

It seems indifferent whether such stamps bear the words Small Cause Court - or Court Fees or both. If the impression of the words "Small Cause Court" involved any trouble or expense I would not insist upon it but we him seems to be mistaken in supposing that this provision would necessitate procuring new stamps for the Secretary of State or any inconvenience a delay whatever. If

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+ H.S.

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I remember right part of Mr Jones' recommendations was that a large store of ~~an~~ unavailable stamps of other kinds in the Stamp office should be converted in Small Cause Court Stamps by a simple process of "enfacement" or "defacement" and the apparatus for converting them was furnished by Mr Jones. That however was merely a detail the same foreign stamps in the Stamp office might I suppose be impressed with the words "Court Fees". The substantial points as I said before are 1. The use of adhesive stamps. 2. The sale of such stamps within the Precincts of the Court by one Vendor sanctioned by Govt for that purpose. I don't see that he need have a monopoly etc. I think

Govt contemplated a monopoly originally. It might indeed be consistent with the convenience of the stamp purchasers, litigants in the Small Cause Court that they should be able to purchase elsewhere as well.

N

I agree with Mr Sim that it is not desirable to have a distinctive stamp for the Madras Small Cause Court. It is a troublesome expression and wasteful arrangement. Rules IV & V of our notification of the 26th April should be modified for as they stand they certainly imply that the Stamp Vendor of the Court is to have a monopoly, and this cannot be secured to him unless there be a distinctive stamp for the Court & unless there be a prohibition against supplying that

Stamps & any other Stamps vendor.

With reference to the part of H. E. minute which I have marked A I beg to explain that my meaning was that we should tell the Sec. of State who is getting adhesive stamps made in England to have a certain portion of them marked "Small Cause Court. Madras".

When Mr. Jones refuted the new Act was not out & these stamps were all available for the Small Cause Court. Now they are available & required for other Courts too.

J. A. S.

Ag. H.

Revenue Department

No.

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 187

Read the following Pro: of the Board of Revenue.

Tubing letter from the Sup. Dt. of Stamps suggesting abandonment of the plan of having an exclusive description of Stamps for the Madras Small Cause Court.

H.E. 2nd May 1870.

It appears almost unnecessary to reopen the question of the monopoly merely because Mr. [illegible] (unaware that such a monopoly is legally in existence) [illegible] it inconvenient to preserve the distinctive character of the stamps supplied to the Small Cause Court vendor

Ag. H.

The Board are requested to report on the terms of the engagement into which the Stamp vendor for the Small Cause Court has entered, and whether he is remunerated by discount or commission on the Stamps sold by him. The Govt are unable to understand the statement in

in para 7 of Mr Ferrand's letter that "under the "present law, suitors will "not be obliged to purchase "their Stamps from the "Stamp vendor." for No 4 of the rules prescribed by the Govt under Sec. 27 of the "Court Fees Act" for regulating the use of Stamps in connection with the Small Cause Court lays down that the Stamps in question shall be sold by the licensed vendor or his assistants and by no one else.

2. The Judges of the Small Cause Court will be requested through the Judicial Dept, to give their opinion on the suggestions

suggestions of the Ag Supdt of Stamps. Of course, unless the Stamps supplied to the vendor are printed with the words "Small Cause Court", it will be necessary either to abolish his monopoly or to preserve — " — " their distinctive character by some other means.

3. The following telegram will be despatched to the Govt. of Bengal.

"Does Bengal Govt "contemplate use of "Special Stamps under "Court Fees Act for "Calcutta Small Cause "Court? If so does a monopoly

"monopoly for their sale
"exist, and on what terms"

H.W.

on the Madras Small Cause Court, Mr. Thos. Jones recommended a fixed allowance of Rupees 50 per mensem for Stamp vendors to be appointed (as in Calcutta) by the Treasurer of the Court, on the responsibility of the latter. The Government, however, were of opinion that there was no objection to be incurred, in attaching vendors to the Establishment of the Court and placing them under the control of the Treasurer. They considered that the Vendors should be licensed under the provisions of the Stamp Act, receive the usual discount, and their remuneration, and should be amenable to the rules and penalties prescribed by the Act, as all other Stamp Vendors

Progs. Judl. Dept. 13th Decr 1869, No 1972.

and with this view, a copy of the Calcutta Rules was forwarded to the First Judge, and he was requested to offer suggestions as to the modifications required, to be made in those portions of the Calcutta Rules which related to Stamp Vendors.

Mr. Binstead promptly stated that the only suggestion which occurred to him to offer was, that the hardships which would arise if suitors were forced to go outside of the Court for a refund of half cents, should not be lost sight of.

Consequently, no Rules, above referred to, did not relate to refunds, it was followed to stand. But before the Rules were finally settled, & draft thereof received with reference to the First

Have these rules been sanctioned by the Govr. Genl.

Memo

The Rules issued in the Judicial Department for regulating the use of Stamps in the Madras Court of Small Causes are based upon the Rules laid down for that purpose for the Calcutta Small Cause Court.

Rule 5 which requires the Court Stamp Vendor to keep a Register of the number and denomination of Stamps received and the quantity sold by him daily, and the Deputy Collector to furnish to the Court a Monthly Return of the number and value of Stamps sold to the Vendor is identical with Rule 10 of the Calcutta Rules.

In para 6 of his Memo on

+ See p. XLVII of Appendix to Mr. [illegible] Memo. on the Madras Small Cause Court [illegible]

G. P. Judl. Dept. 10th June /69. No. 963.

C. 28th July /70

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Progs. Judl. Dept. 13th Decr. 1869, No. 1972.

Mr. Busteed in reply stated that the only suggestion which occurred to him to offer was, "that the hardship which would arise if suitors were forced to go outside of the Court for a refund of half costs, should not be lost sight of."

Consequently, as Rule 5, above referred to, did not relate to refunds, it was allowed to stand. But before the Rules were finally settled, a Draft thereof, revised with reference to the

First

First Judge's suggestion, and with reference to the suggestions of the Superintendent of Stamps, the recommendation of the Board of Revenue, and the Order of Government in the Revenue Department 6th August 1869, No 2283, was forwarded to the First Judge for his concurrence. —

Progs. Judl. Dept. 13th Decr 1869, No 9972.

Mr. Busteed approved of the revised draft, and did not even on this occasion make any remark as to Rule 5.

Progs. Judl. Dept. 3rd March 1870, No 72.

Further amendments were subsequently made in the Rules, with reference to the provisions of the Court Fees Act; and the Rules as finally settled were published in the Fort Saint George Gazette.

Progs. Judl. Dept. 26th April 1870, No 572.

The object of requiring the Stamp Vendor to keep a Register under Rule 5 is, no doubt, to enable the Court, the Government, or their officers to refer to it, whenever necessary, for information as to the revenue derived from the Court. —

With reference to the remark of the Acting Superintendent of Stamps to the effect that under the present law suitors in the Madras Small Cause Court will not be obliged to purchase these stamps from the Stamp Vendor of the Court; it is observed that section 27 of the Court Fees Act, which provides for the local Government making rules for regulating the use of stamps, provides also that such rules shall, on being published

published in the local Official Gazette, have the force of law. Under Rule IV of the Rules made for the Madras Court, stamps required for the purposes of that Court are to be "sold by the licensed Stamp Vendor of the Court, in a stall or office situate within the premises of the Court, and nowhere else." — i.e. by him —

It will thus be seen that under this Rule the Madras Small Cause Court suitors will be obliged to procure stamps from the Court Stamp Vendor. — Not at all —

There is nothing on record in the Proceedings of Government, as to the terms of the Stamp Vendor's license. Information on this point should be obtained either from the Collector of Madras or from the Revenue Board. It has been ascertained, however, that the vendor obtains his supply of stamps on cash payment, and that he is allowed a discount + of 2 per cent. — He has also given 1000 Rs. as security, & keeps ready money in hand for paying certificates of refunds. —

+ The discount usually allowed in the sale of adhesive stamps & the value of not less than 5 Rs. to all applicants including licensed stamp vendors is One Anna in the Rupee, or 6¼ per cent. The rate of discount allowed on impressed stamps purchased by licensed vendors is 3 per cent. —

Revue Septt

Proceedings of the Madras Govt under date the

Read the following Pro: of the Bd of Revue

Submitting letter from the Suptt of Stamps, suggesting abandonment of the plan of having an exclusive description of stamps for the Madras Small Cause Court. (W.E. 2d May 1870)

The Proceedings of the Board are approved. The Agt Superintendent of Stamps is requested to submit at once an estimate of the probable number of stamps which will be required for use in the Small Cause Court during one year, & until a supply of specially manufactured stamps can be obtained from England, all the stamps sold for use in the Small Cause Court

I do not see the advantage of this.

The object of having "Court Fees" printed across these stamps is solely to enable put to see what revenue is derived from the Courts. If put want to know what any particular Court realises, this information must be pro-

Court should be marked with the words "Small Cause Court" as well as "Court Fees". For this purpose the Acting Commissioner of Paper Currency is directed to supply Mr. Ferrand with one or more dies bearing the inscription "Small Cause Court".

[illegible]

I would not be inclined to alter the present arrangement respecting stamps in the Small Cause Court which was embraced in due deliberation [illegible] and in connection with Mr Jones' memo, at least without asking the opinion of the Judges of the Court. We might speak of it in Council.

[illegible]

cured from a register to be kept by some officer of the Court. Having a multiplicity of special stamps for special purposes only is very inconvenient & wasteful. Unless therefore the Supt. desire it for some of their mysterious objects, I would counter-mand the orders to have the words "Small Cause Court Madras" printed on these stamps. He might ask the Govt of India what their wishes are by telegraph.

In the rules of the Judl. Dept. 26 altd. I see no provision made for the Vendor making any returns to the ~~Court~~

Court of his sales. ~~He sends one to the~~ He keeps one - and the Deptg Colr. sends the Court one of his sales to the Vendor. Not unless the Deptg Colr. can get at the Vendor's register, he is in the dark & so is the Court.

I should like to know how he gets his stamps - i.e. whether he buys them for cash or gets credit & in fact I should like to know the terms of his Engagement in full detail.

Mr Ferrand speaks of a "monopoly" & the Board imply the same. But this the law does not enable us to give - & if he has been led to expect it the sooner the arrangement is altered, the better. His stock should be periodically examined unless he pays cash for his stamps.

[illegible]

Revenue Department

No. 1352

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 30th August 1870.

Read the following. Proceedings of the Board of Revenue.

Submg: letter from the Supdt. of Stamps suggesting abandonment of the plan of having an exclusive description of Stamps for the Madras S. C. Court. — H.E. 2nd May 1870.

Tel: from Offg: Under Secy. to Govt. of Bengal — 22d June 1870.

The foregoing correspondence relates to the subject of the stamps to be issued for use in the Madras Court of Small Causes in payment of the commission and fees chargeable in that Court, under "The Court Fees Act, 1870"; and the question submitted for determination is, whether these stamps shall or shall not have the words "Small Cause Court, Madras" printed

on

on them, in addition to the words "Court Fees" which, under the orders of the Govt. of India, are inscribed on all Stamps used in the several Courts under the Act above referred to.

2. The Board of Revenue are of opinion that the additional words "Small Cause Court, Madras" should be inscribed; and their reasons for arriving at this opinion are—

1st,—that the Govt. of India, by a Notification in the Financial Dept., dated 22nd April last No. 106, ruled that Stamps of the same kind as had up to that time been in use in the Presidency

Presidency Small Cause Courts might continue to be used in those Courts, and that, therefore, the Govt. of India recognize the fact that Stamps to be used in such Courts may be different from those used in other Courts;—

2nd,—that the Rules prescribed by this Govt., under Sec: 27 of 'the Court Fees Act,' for regulating the use and sale of Stamps in the Madras Small Cause Court involve the condition that the Stamp Vendor of that Court shall have a monopoly of the sale of the Stamps;—and

3rd,

3rdly, — that it is very desirable that refunds of costs in withdrawn and compromised cases should be made within the precincts of the Court, and that this can only be done if the Stamp Vendor has a monopoly of the sale of Stamps.

3. With reference to the first of the reasons adduced by the Board, the Government observe that the Notification of the Govt of India to which they allude does not apply to the Madras Small Cause Court, because, as the Board themselves remark, no stamps had been used in that Court before the date of that Notification. Moreover, the object of the Govt of India in issuing the Notifn was to meet a temporary difficulty — viz., the want of a supply of the stamps prescribed in pursuance of the Court Fees Act, whereas in the present case the question is as to the expediency of making an altogether new description of Stamps.

4. As to the Board's second reason, it has been ascertained from the Judicial Department of the Secretariat, in which Dept. the Rules to which they refer were framed, that the Govt did not contemplate any monopoly of the sale of stamps. Moreover, such a monopoly could not be secured to the Court Stamp Vendor, unless the

my impression was that they did. A.J.P.

the Rules in question prescribed a distinctive stamp for the S.C. Court, and expressly prohibited the supply of such stamp to any other Stamp Vendor. –

5. With regard to the third and last reason, the Govt. do not see why the refund of costs in withdrawn and compromised cases should, as is alleged, necessarily depend on the circumstance of the Stamp Vendor having a monopoly of the sale of the stamps; nor do they see why suitors in the Madras Small Cause Court should have a privilege which neither suitors in the High Court (which is held in the same building as that occupied by the Small Cause Court), nor suitors in the Mofussil Courts enjoy. Under the arrangement recently ordered,

ordered, under which the town of Madras has been constituted a separate Collectorate, the Office of the Collector of Madras, by whom refunds are made to Suitors of the High Court, is in the immediate vicinity of the Court-house; and, consequently, litigants in the Small Cause Court will not be subjected to any inconvenience if they are required to obtain refunds from the Collector's Office. – ~~But, as already observed, the Govt. did not contemplate a monopoly of the stamps to the Vendor, and therefore the Board's argument has no force.~~

6. The Govt. concur with the Ag. Supdt. of Stamps that it is not desirable to have stamps of a distinctive character for the Madras Small Cause Court. Such an arrangement will

would

entail

entail not only additional labor and expense, but also the necessity of keeping a large supply of stamps especially for the use of one Court, (which stamps cannot be used in any other Court). There seems, also, no reason why the Madras Small Cause Court should be placed on a different footing from that of every other Court, in respect of the stamps to be used in it under the Court-fees Act, nor is there any apparent advantage in such exceptional treatment to counterbalance the disadvantages arising therefrom.

7. For these reasons, the Govt resolve to direct the abandonment of the plan of having

having an exclusive description of stamps for the Madras Small Cause Court. They approve of the suggestion made by the Asst. Supdt. of Stamps in para 5 of his letter recorded in the foregoing Proceedings, as to the supply of the impressed and adhesive stamps for the use of that Court, and direct its adoption.

8. The Govt are also of opinion that it would be consistent with the convenience of Suitors in the Small Cause Court that they should be able to purchase stamps elsewhere than in the Stamp Stall attached to that Court; that refunds of costs in Suits instituted in the Court, which have

been

been compromised or in which costs have been remitted, should be made by the Collector of Madras; and that Rules to this effect should be prescribed in modification of Rules IV, V, and VI of the Rules published in the Notification of the Judl. Department dated 26th April last.

9. The Board of Revenue will accordingly be requested to submit to Govt. ~~in the Judl. Dept.~~ a draft of Rules embodying the requisite modifications. They will also take such steps as may be necessary under these orders with regard to the arrangements to be made with the

They had to the course to the Revd. Dept. to be transferred, after consideration in it

J. D. S.

A. J. A.

the Stamp Vendor appointed for the Madras Small Cause Court, reporting their proceedings in this matter for the information of Govt.

This vendor - from the fact of his stall being on the premises and of his being the sole vendor ~~recognised~~ in their the Court precincts will naturally be the person to whom the great majority of - in fact almost almost all - purchasers will resort but the public should not be tied down to a single vendor in a large place like Madras.

A. J. A.

To
14 The Board of Revenue Dept. 5 [illegible] Dept. 10
5 The Judicial Dept. — [illegible] Dept. 10

C. M. T.