M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1580 Press ~~Mis.~~

249-51 Dated 28-11-1870

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
18th November 1870.

Read the following:—

No. 249. Proceedings of the Board of Revenue, dated 6th October 1870, No. 6,011.

Read the following Proceedings of the Madras Government, dated 30th August 1870, No. 1,352, Revenue Department.

ABSTRACT.—*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.

THE Board resolve to submit a copy of the Rules published at page 496 of the *Fort Saint George Gazette* for 1870, modified in accordance with this Order.

2. When appointing the Licensed Vendor, power was taken to terminate his engagement after three months' notice, if any change in the law occurred. Notice was accordingly given to him on the 20th September.

3. The Vendor has since informed the Board that he is ready to give up his engagement at any time Government may direct, waiving all claim to compensation, provided that he is allowed to continue to occupy the stamp-stall on the Court premises on the same terms as other Stamp Vendors, and freed from the duty of making refunds.

4. There is accordingly no obstacle in the way of introducing the change ordered by Government at any moment, unless it exists in the opinions of the Judges and the wishes of the suitors.

5. Having thus done all that Government have required, the Board venture to point out that, in their Proceedings of the 2nd May 1870, No. 2,903, they were not stating the case for the monopoly, but replying to objections urged by the Superintendent of Stamps. They cannot see that the position taken by them has been refuted, but whether it has or not is immaterial. The present system was devised by Government in consultation with the Judges, and if they now wish it to be altered, the Board have only to give effect to their wishes.

6. It seems to be a pity, however, that the costly machinery of a Collector's Office, including the examination of certificates by a Clerk, the attestation of a Sheristadar, and the sign manual of a Collector, should be put in motion twenty times a-day to make petty refunds. In July, for instance, the Board find that the Vendor paid 602 refunds, of which 319 were less than one Rupee. It is an obvious remark that Small Cause Court refunds differ from those of other Courts very materially, both in number and in value.

7. The Collector of Madras and the Superintendent of Stamps will await the orders of Government on these Proceedings before changing existing arrangements.

DRAFT RULES.

Mode of using Stamps.—The necessary stamps shall be provided by the parties liable to pay the commission and fees, and shall, in respect of the institution of suits, be affixed to the plaint, in respect whereof such commission and fees are

payable. The costs and fees payable in respect of Warrants, Subpœnas, second Summonses, and all other Processes whatsoever not being original Summonses, in reference to which it has not been customary to file, as part of the record, any written or printed document or paper whereon the stamp could be affixed, shall be paid as follows:—viz., the party requiring such process to be issued shall produce an application in writing and a stamp, equal to the amount of costs and fees payable, shall be affixed to such application. Such application shall be entitled in the cause or matter to which it relates, and shall specify shortly the object thereof, and shall be filed in the particular office of the Court to which it relates.

II. *Number of Stamps.*—In order that the terms of a document may not be defaced or obscured, the stamp affixed to it shall be of an amount corresponding, as nearly as practicable, with the amount of the stamp which such document requires. It shall be in the discretion of the Clerk of the Court to refuse to accept any document which shall bear an unnecessary number of stamps.

RS.	A.			RS.	A.
0	½	...	...	5	0
0	1	...	...	6	0
0	2	...	...	7	0
0	4	...	...	8	0
0	8	...	...	9	0
1	0	...	...	10	0
2	0	...	...	20	0
3	0	...	...	30	0
4	0	...	...	50	0

III. *Stamps to be of the values specified.*—Stamps of the values noted in the margin will be required for the purposes of the Court.

IV. *Provisions for sale of Stamps.*—Stamps will be sold by a licensed Stamp Vendor, or by the Assistants employed by him for that purpose, in a stall or office situate within the premises of the Court, and by all other Vendors authorized to sell Court Fees Stamps. The Stamp Vendor's office on the premises of the Court shall be open daily for the sale of stamps (except on such days as the Court shall not be sitting) between the hours of 10 A.M. and 5 P.M.

V. *Register of compromised Suits, etc., to be kept.*—A register shall also be kept in the office of the Clerk of the Court by one of the Clerks attached to that office, who shall be styled the Compromise Register Writer; and in this register shall be entered the particulars of cases compromised, and of cases in which costs have been remitted, either in whole or in part, by order of the Judges. It shall also be the duty of the Compromise Register Writer to make out the certificates for the payment of half and remitted costs. It shall be the duty of the Deputy-Clerk of the Court to examine the certificates and compare them with the original records, and, if correct, to pass and initial the same for payment. The certificates, after being signed by the Clerk of the Court, will be paid by the Collector of Madras. The Clerk of the Court will also furnish to the Collector of Madras, at the close of each month, a memorandum showing the number of, and the amount for which, certificates have been issued during the month.

Certificates for refund of half costs.

VI. *Duties as to examination of Stamps.*—It shall be the duty of the Manager or Head Officer of the department, in which applications are filed, with such aid as may be required under the immediate superintendence of the Clerk of the Court, to receive all documents and see that the blank space in them is not unnecessarily

covered with stamps, and that stamps of the proper description and values are affixed. The Manager shall grant a receipt or memorandum for every application filed.

VII. *Rules inapplicable to Counsel and Attorneys, and to costs of references to High Court.*—These rules do not apply to fees payable to Counsel and Attorneys of the High Court in cases certified, or to the costs of references to the High Court.

(Signed) J. GROSE,
Acting Secretary.

No. 250. Proceedings of the Board of Revenue, dated 20th October 1870.

Read the following letter from the Collector of Madras, to the Acting Secretary to the Board of Revenue, dated Madras, 17th October 1870, No. 43.

WITH reference to the Proceedings of the Board, 6th October 1870, No. 6,011, I have the honour to state, for their information, that should the Government adhere to their former orders, transferring the payment of refunds of stamps now made by the Small Cause Court Stamp Vendor to my office, it would be necessary to increase my Permanent Advance Fund (now Rupees 8,000=Collector 1,000, Deputy-Collector 7,000) by at least Rupees 1,000. The monthly payment of the refunds, as ascertained from the Stamp Vendor, vary from Rupees 1,500 to 2,000.

2. The procedure in the case of each refund is detailed in the accompanying memorandum, and the number of daily refunds, according to the Vendors' books, is between 20 and 35. A register, showing all the particulars specified by the Court in their orders, has to be kept. Most of the payments are fractions of a Rupee, as the Board have already observed, and to tell out the copper to the parties, who will toss up each coin before accepting it; their registration and payment will involve the same procedure as any other refund.

3. The four Clerks in the Sheristadar's Department are already over-worked, and it is quite impossible for them to perform the additional work which would be required. The arrangements I have detailed will reduce the entries and registration now made for refunds, which are paid by the Custom Treasury, and which involves another set of entries and books.

4. To make these payments, therefore, to keep a register of them, and also to look after and keep order among the people who come to be paid, and who are mostly of the lower classes, it would be absolutely necessary to add to the Sheristadar's Department a Shroff on a salary of Rupees 20 per mensem and a Peon on Rupees 7. Every morning the Shroff would receive from the Sea Customs Cash-keeper the funds required for the day, and after making the payment in the presence of the Sheristadar, return the balance to the Cash-keeper before the Treasury is closed in the afternoon. A security for Rupees 500 would have to be taken from the Shroff.

5. If, therefore, it is finally decided that the work is to be transferred to me, I request that the Board will be good enough to obtain the sanction of Government for increasing the Permanent Advance Fund, and entertaining the additional establishment required before the transfer is caused.

6. I need say nothing on the point of taking up the time of the highly paid officer, the Sheristadar, who has even now so much work that he seldom leaves the

office till seven o'clock, and even later, as the Board have already stated their opinion on the subject, in which I entirely concur.

7. I would, however, beg to point out that the practical inconvenience to the applicants for refunds will be very great, as the Sheristadar will only be able to devote a certain fixed time daily to examining their papers, claims, etc., and consequently applicants may very often have to come twice to the office before they get their 3 or 4 Annas.

MEMORANDUM.

Procedure in case of each refund.

CLAIMANT must produce order of Court for refund to Collector. Collector initials and dates, and sends it to the Sheristadar.

2. Claimant must then go to the Sheristadar's office.

3. Sheristadar examines claimant for identification, and compares the order of refund with the advice from the Court, and initials the order.

4. Order must then be sent to Collector for Pay Order. Pay Order is given, and the order returned to the Sheristadar who sends it to the Shroff.

5. The Shroff then pays the amount, and enters particulars in a register, and the register must be compared by another Clerk or the Sheristadar.

MADRAS,
17*th October* 1870.

(Signed) J. HUNTER-BLAIR,
Collector of Madras.

SUBMITTED to Government in continuation of Board's Proceedings, dated 6th October 1870, No. 6,011.

No. 251. ORDER THEREON, 18th November 1870, No. 1,800.

Separate Revenue, No. 20.
Stamps.

THE foregoing Proceedings will be referred, through the Judicial Department, to the Judges of the Small Cause Court, in view to its being ascertained whether any serious inconvenience to the suitors is likely to be occasioned by the discontinuance of the special arrangements under which stamps are now purchased and refunds obtained at the Small Cause Court.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

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

Exd. F. R. Bantleman.

Govt. of 1870 Stamps.

REVENUE.

TO

THE JUDICIAL DEPARTMENT

&c., &c., &c

Dated November 18*th.*
Read Encl.

G. O., 18*th November* 1870, *No.* 1,800,

NOVEMBER.
Nos. 240–251.

Refund of Small Cause Court Stamp-duty.—Proceedings Board of Revenue on this subject referred to the Judicial Department for the opinion of the Judges of the Small Cause Court.

14. 10. 70.

L. & S.

Memo

The Government do my humble thinking seem to have been carried away by the single idea of uniformity suggested by the Superintendent of Stamps, to be sufficiently alive to the wants and conveniences of the active mercantile population of the Presidency Town.——

In the Mofussil, the refunds of Stamp duty take a considerable amount of time and even supposing that matters are much better arranged at Madras, the formalities usually observed in a Government Office must subject parties to some delay and inconvenience of which they will soon begin to complain. No fair comparison can be made with the High Court, where the refunds are few and that for large amounts, nor with the Mofussil arrangements which having to provide for the wants of a whole District are unavoidably cumbersome; and then the Government will require an additional establishment for the refunds or at all events must draw upon the time of their other establishments unnecessarily, and must also forego the favourable discount which they have secured by giving the sale to a single vendor, and all these for the mere idea of uniformity.——

If uniformity is the object in view, it ought to be secured not by subjecting the mercantile population of the Presidency Town to the inconveniences with which the less active Mofussil population are accustomed to put up.——

If one vendor is not so specially appointed the remuneration divided among several will make it no body's interest to keep an unfailing supply of Stamps. The only parties that can be dissatisfied with the present arrangement are a possible few disappointed competitors for the post. But the interests of the public must come before those of individuals

at large, and the public interests can best be protected by appointing an agency who will be as good and responsible as a paid one, without entailing any expense on the State. This I am sure will be the opinion of all practical officers connected with the Courts, the objection but a seeming one and not real. A Court with its urgent wants cannot be left to shift for itself with optional vendors; it must have a responsible vendor. It is also a mistake to call the present arrangement a monopoly. The real monopoly is with the Government. The vendors are simply their agents for the sale, and instead of being remunerated with pay are allowed a discount and at the same time to provide boldes for the convenience of the people by entrusting the sale to one man, no one can possibly be injured by it. If one man has the sale he can be bound to meet the wants of the public without stint or delay, but the arrangement now ordered will lessen his interest in the work and provide stamps at many other places where no body cares to have them.

For the Mofussil, sometimes it may be useful [illegible] extension. But where such practices are impossible under the immediate eye of a Court especially when responsibility is secured by contract, and in the face of a large and intelligent public as at Madras, it cannot be wise to throw away all the advantages of an efficient arrangement with a single vendor for a mere idea.

Then as to distinctive Stamps, though it may involve a little more labour in the Stamp Office, it has many advantages. It would show at once the revenue secured by the Court, it would afford better security against frauds in the refunds and it would practically prove more convenient to the ordinary run of clients that resort to the S. C. Court. I cannot but think that all these considerations will sooner or later force themselves upon the notice of the authorities, who have to deal with the question practically; not to mention the loss sustained by me from neglecting other openings in business by entering upon this contract.

I therefore request that as a favorable consideration may be given to my case as the matter is now before the Govt. for their final orders.

Judicial Department
Madras

A. Williamson

Revenue Dept.

Memo: for orders on No. 3120.

By G.O. dated 20th August 1870 No. 1352 the Govt. decided that the monopoly of the sale of stamps for the Madras Small Cause Court should be abolished.

2. The Board now having divulged the preliminaries for this reduction with the present stamp vendors elicited the orders of Govt. before cancelling his engagement.

3. The chief objection to the monopoly appeared to consist in a doubt as to its legality. This is,

should not be to the advantage of the Vendors after. The present arrangement should continue until the 3 months notice expires & the Govt. should invite tenders as they did before - on the understanding that the Vendor is to enjoy no monopoly & is not to make payments. But before doing this the Govt. should carefully consider whether it

is, however, no doubt that the Govt of India consider it legal, for the system is in force for the Calcutta Small Cause Court. If it be legal, Section 27 of the Court's Act must be considered to confer the requisite authority. And by rule IV of the rules embodied in the notification dated April 26th 1870, a monopoly must have been contemplated by this Govt.

4. The chief argument in favor of continuing the existing monopoly is that it is a fairly instituted experiment with the working of which no fault has been found, and if successful, it may be with advantage introduced into

would not be economical to employ a salaried vendor on 100 or 150 Rupees p. m. & allow Stamps for 4 N. the high & remote Cause Courts. The Court would be best that the present vendor be continued in Office.

SDS

(same to — 200 Rs p.m. I understand).

her hair was not untied that her Body any about upwards and the labor which they will entail on the Collector's Office in last letter this way the subject again in Council.

A.J.S.

I think so. I am favourable to Monopoly. N.

into the parts of the Presidency.

5. The present arrangement was settled by Govt in consultation with the Judges of the Small Cause Court. Vide G.Os. dated 10th June No 963 and 13th Dec. No 1972, 1869. The Board allege that if it is now abolished, additional establishment will be entailed on the Collrs Establt.

6. It seems likely that if, as the Board propose, the monopoly be abolished & the stamp vendors allowed to retain his stall, he will be a gainer & the public to a corresponding extent a loser — he will still in all probability supply the whole demand for Small Cause Court stamps

stamps, and the only difference will be that he will be freed from the duty of making ~~el~~ -fuedis, for which the ~~suitors~~ will have to go ~~to the~~ Coll'r's office - a necessity which is ~~cer~~ -tain to involve delay.

No 1800

8/18 November 1870

The foregoing Proceedings will be referred through the Judicial Dep't to the Judges of the Small Cause Court in order to its being ascertained whether any serious inconvenience to the suitors is likely to be occasioned by the discon- -tinuance of the special arrangements under which stamps are now purchased and refunds obtained at the Small Cause Court.

I have no doubt but cannot see the advantage or need of this?

5 Table Judicial Dep't Dec 1870
14 — B. of Rev.