

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	953	Press ~~Mis.~~
328-29	Dated 27-6-	1870

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
27th June 1870.*

No. 328. Read the following Proceedings of the Board of Revenue, dated 14th May 1870, No. 3,300 :—

Read the following letter from Colonel A. HOWLETT, Officiating Quartermaster-General, to the Secretary to Government, Military Department, dated Fort Saint George, 8th March 1870, No. 1,435.

IN modifying the form of lease for land in Military Cantonments, so as to embody therein the provisions of Government Order, No. 386, dated 13th October 1868, the Government Solicitor has taken the opportunity, "wherever practicable, and with the view of allowing more space for the registration endorsements and also for assignments by endorsement, to shorten the language used in the forms, taking care to retain all the provisions in the lease." He has also expunged in the lease the provisions, making the lease renewable at the end of every ten years of such term at the option of the Governor in Council as being unnecessary.

2. A fair copy of each of the leases, as altered by the Government Solicitor, is herewith submitted for the approval of Government, prior to the same being brought into use.

3. The previous Stamp Act exempted the payment of Stamp-duty on a document where Government was a party, but the Government Solicitor is of opinion that, under the provisions of Sub-division C. of the 19th clause of the first Schedule to Act XVIII. of 1869, leases granted for land in Military Cantonments at the several stations, except in Burmah, must bear a Conveyance Stamp of 8 Annas. This will involve a charge of one Rupee in each case for stamping the original and duplicate copies of the lease; and I am to request the orders of Government as to whether the charges on one or both are to be paid by the lessee.

No. 580, dated 28th October 1869.
,, 10, ,, 11th January 1870.

4. The forms of lease at present in use are enclosed, as also letters as per margin from the Government Solicitor for reference.

REFERRED to the Revenue Department, with regard to paragraph 2.
FORT SAINT GEORGE, (Signed) A. T. WILDE, Colonel,
12th March 1870. Secretary to Government.

REFERRED to the Board of Revenue for their remarks.
FORT SAINT GEORGE, (Signed) H. WELLESLEY,
1st April 1870. Acting Under-Secretary to Government.

ENCLOSURE No. 1.

From H. G. PRICHARD, Esq., Government Solicitor, to the Deputy-Quartermaster-General, Fort Saint George, dated High Court House, Madras, 28th October 1869, No. 580.

WITH reference to your letter of the 8th instant, No. 6,046, forwarding forms of building-leases of lands in Military Cantonments, and the subsequent interview I had with you thereon, I have now the honour to return herewith the two forms of lease with the clauses required in your letter inserted therein.

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27th June 1870.*

2. As the insertion of the additional clauses in the two forms of lease will necessitate their being re-printed, I have, wherever practicable, and with the view of allowing more space for the registration endorsements and also for assignments by endorsement, shortened the language used in the forms, though, at the same time, I have taken care to retain all the provisions in the lease.

3. The lease now in use is for a term of fifty years, renewable at the end of every ten years of such term at the option of the Governor in Council of Fort Saint George: this provision has, I understand, been allowed to become a dead letter; and as the effect of its retention is to subject the lessee for the time being, when selling the property, after the expiration of the first 10 years, to a requisition from the intending purchaser, calling upon him to show either that he has renewed his lease at the expiration of every ten years, or in the event of his having failed to do so, that Government have waived their right to compel such periodical renewal, I have thought it advisable to expunge the provision altogether.

4. If you approve of the alterations made by me in the Draft forms herewith returned, I shall be happy, should you wish it, to correct the proofs of the re-prints.

5. In conclusion, I should mention that the forms of lease now in use are applicable only to cases where land only is leased for building purposes. In all cases, therefore, where buildings have already been erected on the land to be leased, and it is only intended that a fresh lease should be granted of the land and existing buildings, the clauses now inserted by me should be omitted, and it may therefore be considered desirable to print forms of lease to meet both these cases.

ENCLOSURE No. 2.

From H. G. PRICHARD, Esq., Government Solicitor, to the Quartermaster-General, Fort Saint George, dated High Court House, Madras, 11th January 1870, No. 10.

I have the honour to acknowledge the receipt of your letter, No. 146, of the 8th of January, instant, and in reply to inform you that I see no objection to the original lease and counterpart being *both* executed by the lessor and lessee, although it is the usual practice in conveyancing, where a lease and counterpart are executed, for the lease to be executed by the lessor, and the counterpart by the lessee; the lease being afterwards held by the lessee, and the counterpart by the lessor. If, however, the course suggested by you is followed, it would be more correct to describe the lease as being executed in duplicate, and not as a lease and counterpart; and in case of a lease being so executed (in duplicate), it will, as it appears to me, be sufficient to register only one of the parts.

2. With reference to your question as to whether the registered document should be retained by Government, and the duplicate only given to the lessee, it appears to me to be entirely a matter of arrangement, and if the lessee agrees to this course, there can be no objection to its being followed. In strictness, however, the lessee is the party entitled to the possession of the registered copy of the lease, as such copy forms his sole title to occupy and enjoy the property leased, and upon it alone must he rely in case of having to maintain his rights as lessee.

3. In conclusion, I think it right to call your attention to the fact that the new Stamp Act has made an alteration with regard to Stamps upon deeds, to which the Secretary of State is a party. Under the late Act (No. X. of 1862) all deeds executed by, or on behalf of Government, by any Government, Board, Commission, Court, Officer or Agent, were entirely exempt from Stamp-duty; but by the new Act (No. XVIII. of 1869) only receipts or other instruments executed by, or on behalf of Government, in cases where the Government would, but for this exemption, be liable to pay for the Stamp thereon, are exempt (see Clause 15 of Section 15); and in the cases of leases and counterparts, the Act goes on to provide that Stamp-duty on leases must be borne by the *lessees* and on the counterparts by the *lessors*. In all cases, therefore, must the *lease* bear a Stamp, even though it is executed by or on behalf of Government.

ENCLOSURES Nos. 3 to 8.—Forms of lease.

*Proceedings of the Madras Government, Revenue Department,
27th June 1870.*

THE forms of lease appear to the Board to be quite satisfactory.

No. 329.

ORDER THEREON, 27th June 1870, No. 953.

Miscellaneous.

THE word "acres" should be substituted for "cawnies" in the modified form of lease. With this proviso

it is approved for use in cases when unoccupied land belonging to Government is leased for building purposes in Military Cantonments. The old form will be retained for the lease of land already built on, and for renewals of leases already made in its terms.

2. Adverting to paragraph 3 of Colonel Howlett's letter the Government consider that the usual practice of executing a lease and counterpart should be followed, the cost of the Stamp on the lease being borne by the lessee, and of that on the counterpart by the Government, as laid down in Section 6, Act XVIII. of 1869.

(True Extract.)

(Signed) R. S. ELLIS,

Chief Secretary.

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

Exd. F. R. Bantleman.

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the June 1870.

Read the following. *Proceedings of the Board of Revenue.*

Informing that forms of lease for lands in Military Cantonnments, as altered by Gov. Solicitor, appear to Board quite satisfactory.

*H.C. 14 May 1870 N^o 3300
The word "acres" should be substituted for "cannies" in the modified form of lease. With this proviso*

The forms of lease as modified by the Governor, it is ~~Solicitor~~ are approved for use in cases when unoccupied land is leased for building purposes. The old form ^{will} can be retained for the lease of land already built on, &c.

*I D.S.
I would see to the late "acres" for "Cannies".*

*A/A
N.*

? for renewals of leases already made in its terms.

2. Adverting to para 3 of Colonel Howlett's letter, the

Revenue Department Office of the Secretary to Government Madras 1870 100. 200. 300. G. O. 171. 1870. No. 200.	Revenue Department Office of the Secretary to Government Madras 1870 100. 200. 300. G. O. 171. 1870. No. 200.
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the Govt. consider that the usual practice of executing a lease and counterpart should be followed, the cost of the stamp or the lease being borne by the lessee, and of that on the counterpart by the Govt, as laid down in Section 6, Act XVIII of 1869.

He

But this is in fact duplicate -

It is apparently merely a difference in form but as the Govt Solicitor (para 1) of his letter dated 11th June 1890 (No 10) states that it is usual to execute as "lease" & "counterpart", & as this course is contemplated by the Act, it seemed proper to follow it. The only difference appears to be that in the case of duplicates, the registration of only one of the parts is necessary.

He

Sept 20/90

Forms attached
for lands in
Military Contonments

1870

Comm.

Under the
proposed order to
beul to be made
J. S. S.

Revenue Department

N. 953

Proceedings of the Madras Government
under date the 27th June 1870

Reads the following proceeding
of the Board of Revenue.

Informing that forms of Lease
for lands in Military Contonments,
as altered by Govt. Solicitor, appear
Board quite satisfactory } (H. E. 14th May 1870 N. 3300.)

J. S. S.

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substituted for "cawnies" in the
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terms.

2 Adverting to para 3
of Colonel Howlett's letter, the
Government consider that the
usual practice of executing a lease
and counterpart should be followed,
the cost of the stamp on the lease
being borne by the lessee, and
of that on the counterpart by
the Government, as laid down
in Section 6, Act XVIII of 1869.

W. H. Hall
1869

7 Latta Military Dept with 6 Latta Dept
14-10-69 J. H. Hall

S. H. Hall