Read the following :—

No. 92. Proceedings of the Board of Revenue, dated 8th July 1873, No. 1,227.

Read the following letter from the Hon. D. ARBUTHNOTT, Officiating Collector of Madras, to J. GROSE, Esq., Secretary to the Board of Revenue, dated 8th March 1873, No. 47 :—

I HAVE the honour to forward the report called for in the Board's Miscellaneous Order, No. 700, dated 5th February 1873.

2. In the G. O., dated 18th January 1873, it is remarked that the Deputy Collector's office is already very expensive, costing Rupees 3,327* per mensem, etc. The Board are aware that our land revenue is only 80,000 Rupees paid by about 40,000 persons, and that the amount of labour expended in collecting this small sum is very great.

		Rs.
* Deputy Collector's Establishment	...	129
Quit-rent ,,	...	937
Registration ,,	...	276
Abkári ,,	...	1,813
Stamps ,,	...	78
Weights and Measures ,,	...	94
Total...		3,327

3. From careful and minute inquiries I am satisfied that there is no harder-worked department than the Quit-rent Department of Madras. In 1870 the establishment of the Deputy Collector was carefully reorganized† by the Board, and the chief alteration made in the rates of salaries was in that of the Curnams, whose pay was raised from Rupees 15 to 21 each.

† Paragraph 9 of the Board's Proceedings of 11th April 1870, recorded in G. O., dated 31st May 1870, No. 788, Revenue Department.

4. In the Abkári Department the revenue is large and the establishment extremely small, whether we consider it in reference to the revenue or to the area over which it has to travel. It consists of 162 individuals, of whom only forty-seven receive more than 12 Rs. a month, and only two more than Rs. 15 excluding the Superintendent, his Deputy, and Assistant. The gross revenue is about Rupees 11,00,000‡ and the nett about Rupees 9,00,000, so that the cost of establishment is only about 2·4 per cent. on the actual income. The total revenue of the Madras Taluq is given marginally, and it will be seen that the total cost of establishment is only 3·01 per cent. on the total income. The great majority of the salaries are small,* and no redistribution of work would cause any appreciable saving either in men or money and reduction of small salaries would only cause inefficiency.

	Annual Cost. Rs.	Annual Revenue. Fasli 1281. Rs.
Quit-rent Establishment.	11,244	84,371
Registration ,, ...	3,312	4,153
Abkári ,, ...	21,756	11,10,344
Stamps ,, ...	936	2,87,284
Weights and Measures Establishment	1,128	4,278
Deputy Collector's Establishment	1,548	...
Collector's Establishment.	4,944	...
Total...	44,868	14,90,430

‡ We actually collect upwards of 11,00,000, but out of this the arrack has to be paid for.

	Salaries above 20 Rs.
* Deputy Collector's	1
Quit-rent	2
Registration	2
Abkári	...
Stamps	1
Weights and Measures...	1
Total...	7

5. From the mention of Taluq Gumastahs and Clerks in the Government Order referred to above I fear that Government is under the impression that the records alluded to are vernacular records of small or doubtful value. This is not the case. They are chiefly English records relating to all departments under the Deputy Collector, and many of them date back one hundred years, and it may be safely affirmed that there is not a piece of real property in Madras with which these records are not in some degree connected. More than one hundred of these records are yearly called for by the different Courts, and many of them are called for and examined by private parties at the Deputy Collector's office. I think moderate fees might very properly be charged for the production of records, at all events to private parties, if not to the Courts.

The records fill twenty-one almirahs and three very large boxes.

6. The only other proposal I can make (and I do so most reluctantly) is that a deduction of 2½ Rupees should be made from the pay of each of the Curnamships† as these appointments fall vacant, so that in the course of a few years the required sum will be obtained without extra expense.

† Fifteen Curnamships at 2½ Rs. = 37½ Rs.

7. Pending the final settlement of the above question I beg that the Accountant-General be authorized to pass the salaries of the two temporary hands‡ continued in charge of the records from 1st November last.

	Rs.
‡ Record-keeper	25
Attender	10
Total...	35

Vide Deputy Collector's letter recorded in the Government Order under report.

Submitted to Government with reference to G. O., dated 18th January 1873, No. 67, Revenue Department.

2. After the fullest inquiry the Board are satisfied that the Record Establishment applied for by the Deputy Collector of Madras is necessary.

3. The office was carefully examined and revised in 1870 and placed on the most moderate footing compatible with efficiency. The Board do not think it is costly considering the mass of work which has to be transacted in it. The charge, it is true, consists of one taluq only, but that taluq is covered by a large town and its suburbs, and the work cannot be fairly estimated by comparing it with the work of any other taluq in the Presidency.

4. The only way in which the indispensable requirements of the record-room can be provided without additional cost is by reducing the pay of the Curnams which has been raised recently. This is quite out of the question as the records of the inquiries held in 1870 prove.

5. The records are English records relating to most, if not all, of the innumerable pieces of real property in Madras. The present Deputy Collector has brought them out of confusion into order at the expense of unremitting exertion and they cannot be kept in order without a special establishment.

6. The Board think that parties examining the records should be charged a fee of 1 Rupee for each document or set of documents which they inspect. This will cover the greater part of the expense.

No. 93. Proceedings of the Board of Revenue, dated 11th July 1873, No. 1,260.

Read the following letter from B. HORSBRUGH, Esq., Acting Collector of Madras, to J. GROSE, Esq., Secretary to the Board of Revenue, dated 6th June 1873, No. 137 :—

I have the honour to forward, for the consideration and orders of the Board, copies of the letters noted in the margin from the Deputy-Collector of Madras, bringing to notice certain inconveniences and risks attending the production of *original* records called for from his office by the High and other Courts in Madras.

No. 277 of 8th April 1873.
,, 307 of 25th ,, ,,
,, 395 of 21st May ,,

2. It is reported that the Courts in Madras invariably call for the production of original papers, without going into the question whether the production of originals is necessary or not; and that they have seldom directed parties to produce an attested copy of any document in cases in which copies could have been received. It appears that last year the number of subpœnas received from the Courts was 99, or 47 more than in the previous year; that, in consequence of these requisitions becoming numerous, not only is one Clerk obliged to be attending one or two of the Courts almost every working day to the prejudice of his own duties at the office, but the records produced being detained by the Courts for several days, and, in some instances, for several weeks, the Deputy-Collector is often prevented from passing early orders on applications for transfer of registry. It is also urged by the Deputy-Collector that, by sending out these records, some of which are of great value, their safety is risked. He reports that recently two sheets of paper were missing in a bound book of correspondence, and that it was impossible to ascertain when and by whom this was done. Another inconvenience urged is that the Clerk who produces the records receives no conveyance-hire in the case of subpœnas issued by the Police and Small Cause Courts. The High Court sends a rupee with each subpœna; but this is not sufficient to meet the actual expenditure of the Clerk, as he has invariably to go to the Court more than twice to satisfy each subpœna.

3. Under the above circumstances, the Deputy-Collector suggests, for consideration, the advisability of requesting the Courts to call upon parties, in future, to obtain and produce certified copies of his records, instead of themselves calling for the originals from the Deputy-Collector; and also to require parties to pay a fee of Rupees 4 when the production of originals is unavoidably required.

4. By Section 65 of the Evidence Act, secondary evidence of the contents of a document is admissible, when the original is a public document within the meaning of Section 74; and Section 74 declares all documents forming records of the acts of public officers, executive, to be public documents. It, therefore, seems to me that no objection could lie to certified copies being accepted in the case of the records of the Deputy-Collector, unless it could be argued that the proceedings of the Deputy-Collector in the Registration Department (which form the majority of the papers called for by the Courts) are not those of an *executive* public officer, in consequence of their not being held under any enactment.

5. With regard to the fee for each subpœna, I think that a fee should be paid to the Clerk producing papers, whether he produces them before the High Court or the Police and Small Cause Courts. This fee, instead of being so much for each subpœna, may be the actual or reasonable conveyance-hire calculated according to the number of days the Clerk has attended.

ENCLOSURE No. 1.

From R. RAGOONATHA ROW, Deputy-Collector, to B. HORSBRUGH, Esq., Acting Collector of Madras, dated 8th April 1873, No. 277.

I HAVE the honour to enclose a memorandum showing the number of subpœnas which I received from the Presidency Courts during the years 1871 and 1872, calling upon me to produce books and papers from the records of this office. These documents were sent to the Courts in charge of a Clerk of this office, but were not invariably received by the Courts on the days on which they are produced before them. This Clerk had, therefore, to attend the Courts for many days for each process.

2. The records delivered to the Courts are not generally given back to the Clerk on the day on which they are delivered to them, but are often detained for several days, and, in some cases, for several weeks, to the detriment of work in my office to a serious extent.

3. They, in many cases, thus remain in the Courts for a considerable period, and are often forgotten that they have been sent to the Courts. When they are required for reference after a long interval, they are searched for in the records, and are reported to have been not forthcoming.

4. The High Court collects and sends to me one rupee for every such process served on me, while the other Courts give nothing. This sum is paid to the Clerk who takes the records to the Courts. He has to pay 8 Annas for a Jutka from my office to these Courts and back. If he has to attend the High Court only twice, the one rupee given to him is sufficient. As a rule, he has to go to that Court more than twice for each subpœna. If he has to go only once, there is a saving to him of 8 Annas, but such cases are rare. The savings effected in such cases are not found sufficient to defray carriage-hire paid for his trips in other cases and to other Courts. The Clerk complains that he has to lay out a part of salary to meet these charges.

5. One Clerk is now compelled to be always attending one or two of these Courts almost every working day, with the records of this office, some of which are of very old date, and of a great value. The system of taking them out of the office is open to many serious objections, and is now being worked at a great risk to the safety of the records.

6. If one volume, a bundle, or even a paper which may be an important document, is unfortunately lost in the transit (as I fancy there has been) from hence to the Courts or from the Courts to this office, the loss to the general public arising therefrom is considerably greater than the gain to one of the public, on whose account it is taken out of the records.

7. It may so happen that the Clerk to whom these documents are entrusted, and whose pay does not exceed Rupees 20 a-month, may be a man of no principle, and he may transfer with entries therein when the book may be in his custody. If so, it is impossible to discover the forgery immediately, and even if discovered immediately or some time afterwards, he may plead innocence, and urge that it was done when the document was not in his possession, and it would be almost impossible to bring the charge home to him.

8. Many a volume in several series of books is not now forthcoming in the records of this office. Whether they have not been brought back from the Courts, lost by the carelessness of the Clerk who took them there, or tampered with, it is now most difficult to determine.

9. This state of confusion in the records has no doubt arisen from the want of a Record-keeper to look after them, and from the system of taking these papers and books out of the records to the Courts of Justice.

10. As a partial remedy to this state of things, I have been urging for the last two years the necessity of the appointment of a Record-keeper. Now I beg to propose the only additional remedy that suggests itself to me, viz., an application should be made to the High Court, through the regular channel, praying for an order that, as a rule, the Courts should be satisfied with an attested copy of the document required to be produced in evidence, as is done in the Mofussil; that the parties requiring it should obtain an order from the Court for its production, and file it in the Deputy-Collector's office; that it shall be a sufficient authority for him to grant the copies required, unless he sees any objection to do so, in which case he should submit the matters for the orders of his superiors; that such copies should be granted on the Court Fees Stamp as prescribed in the Court Fees Stamp Act; and that whenever the Courts may require the production of the original itself, they may so direct and allow a fee of Rupees 4 for the same.

11. Some such rules will mend matters, relieve one of the subordinates of this office from continually attending these Courts at times at his expense, and always to the detriment of his legitimate business in the office, and add greater facility for the preservation of the records and security thereof.

12. If you agree with me in this opinion, I beg that the matter may be referred for the orders of higher authorities.

(True Copy.)

(Signed) B. HORSBRUGH,
Acting Collector.

Statement showing the Number of Subpœnas received during the Years 1871 *and* 1872.

	1871.	1872.
From the High Court	23	65
Do. Small Cause Court...	21	28
Do. Police Courts	8	6
Total...	52	99

(Signed) R. RAGOONATHA ROW,
Deputy-Collector.

(True Copy.)

(Signed) B. HORSBRUGH,
Acting Collector.

ENCLOSURE No. 2.

From the same officer, dated Madras, 25th April 1873, No. 307.

IN continuation of my letter as per margin, I have the honour to bring to your notice that it has been to-day reported to me that two sheets of paper in the bound book of correspondence have been cut off, when and by whom it is not possible to ascertain, owing to the system of sending out these and similar volumes to several Courts, and to the non-existence of a Record-keeper to look after them. The High Court having now called upon to produce the book containing these sheets, a search was made, and this tampering of the records has been discovered.

No. 277 of 8th instant.

2. Under these circumstances, I beg to reiterate my request that the steps I have already proposed, viz., placing the records in charge of a responsible Record-keeper, and obtaining orders to discontinue the practice of sending out the original records may be soon sanctioned.

(True Copy.)

(Signed) B. HORSBRUGH,
Acting Collector.

ENCLOSURE No. 3.

From the same officer, dated Madras, 21st May 1873, No. 395.

IN reply to your letter, No. 225, of the 23rd ultimo, I beg to state that I know that the Courts in Madras invariably send for the original records, whether the originals were necessary or not, and that they have not in one instance directed parties to produce an attested copy of any document in cases in which there was no necessity for the originals themselves.

2. I have been often prevented from passing my orders on applications for the transfer of registry owing to the absence of the Survey and Grant Registers from the office, they having been filed in the Courts, but I have kept no notes of such delays. Since the late arrangement of the records, a list of the papers detained by Courts is kept, but no regular list appears to have been kept before the temporary establishment was entertained.

3. In recommending an increased rate of fee, I had no particular reason for fixing it at Rupees 4, but I thought if this amount be demanded from parties, they would naturally require the production of the originals only in cases in which their production was absolutely necessary. I thought also it would enable me to send such documents entrusted to a responsible officer of this office, the Courts now paying such a fee in cases in which they require the personal attendance of such an officer.

(True Copy.)

(Signed) B. HORSBRUGH,
Acting Collector.

THE Deputy-Collector of Madras represents that he had 99 subpœnas to produce original documents before Courts in 1872; that they had always to be sent by a Clerk on small pay; that this Clerk's time was almost entirely taken up with the work of answering subpœnas, as he had on most occasions to attend the Courts several times; that the fees allowed (Rupee 1 by the High Court, nothing by other Courts) are not nearly enough to cover his expenses; that great delay in disposing of business is caused by the long detention of documents in the Courts; and that documents of value may easily be, and often are, lost or tampered with.

2. He reiterates his application for a Record-keeper,—a subject on which Government, differing from the Board, have called for further information,—and recommends that the Courts should be urged to allow attested copies to be produced whenever the ends of justice will be so attained, and that the fee in all cases for the production of an original document should be fixed at Rupees 4.

3. Mr. Horsbrugh points out that the new Evidence Act expressly allows attested copies of public documents to be received in evidence instead of the originals. He recommends that the fee should be calculated in each case on the actual expenses incurred by the producing Clerk in hiring a conveyance.

4. The Board are satisfied that the Deputy-Collector's statements are not exaggerated, and they recommend Government to ascertain whether the High Court are willing to make the production of attested copies, instead of originals, the rule, instead of the exception, and to raise the Subpœna fee.

Proceedings of the Madras Government, Revenue Department, 13th September 1873.

No. 94. ORDER THEREON, 13th September 1873, No. 979.

Miscellaneous.
1 Record-keeper, Rupees 25 per mensem.
1 Attender ,, 10 ,,

UNDER the circumstances stated in these papers, sanction is granted for the employment of the establishment noted in the margin in the Office of the Deputy-Collector of Madras. This sanction will have retrospective effect from 1st December 1872 (1st November 1872, the date given in paragraph 7 of the Acting Collector's letter, dated 8th March 1873, is not correct, *vide* paragraph 4 of the Deputy-Collector's letter, dated 4th December 1872, No. 997, recorded in the Proceedings of Government, dated 18th January 1873, No. 67), and the additional cost will be met from savings under "Land-revenue."

2. The Board's recommendation, that parties examining the records should be charged a fee of one rupee for each document or set of documents which they inspect, is approved. The Government are of opinion that, if the inspection is carried on beyond one day, a smaller fee of eight annas should be collected for every succeeding day. The Board will report the result of this order after one year's trial.

3. No person should be admitted to the Record room without the permission of the Collector conveyed to him in writing, and the Collector will be empowered to withhold permission in any case where he sees reason for so doing; while he must arrange for inspections being always made in the presence of some responsible officer.

4. The proposals made in Board's Proceedings, dated 11th July 1873, No. 1,260, regarding the production in the Courts of the Presidency Town of attested copies of public records instead of originals, and the raising of the Subpœna fee, will be considered in the Judicial Department.

5. The fact of two sheets having been found to be missing in a bound book when the High Court called for it, as reported in the Deputy-Collector's letter, dated 25th April 1873, No. 307, looks very suspicious. The Board will be good enough to order a strict inquiry to be instituted into the matter, and report the result.

(True Extract.)

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

To the Board of Revenue.
,, the Judicial Department.
,, the Accountant-General.

Exd. F. R. Bantleman.

Revenue Department.

No. 979 dated 13 Sept. 73

Proceedings of the Madras Government.

Read the following Proceedings of the Board of Revenue.

Submitting letter from the Coll.r of Madras furnishing explanation in regard to the necessity for the retention of the Record Establt. in the office of the Dy. Coll.r of Madras

(M.C. 8 July 1873 No. 1227.)

Submitting letters from the Coll.r of Madras regarding production of documents before the Courts of Madras and recommending that it be ascertained whether the High Court are willing to raise Subpœna fee and to make it the rule to require production of attested copies instead of originals.

(M.C. 11 July 1873 No. 1260.)

1 Record keeper Rs. 25 per mensem.
1 Attender — — 10 — — —

Under the circumstances stated in these papers, sanction is granted for the employment of the establishment noted in the margin in the Office of the Deputy Collector of Madras. This sanction will

will have retrospective effect from 1st December 1872 (1st Nov. 1872, the date given in para 4 of the Ag. Collector's letter dated 8th March 1873 is not correct, vide para 4 of the Dy. Collectors letter dated 4th December 1872 No. 997. recorded in the Proceedgs of Govt. dated 18th January 1873 No. 67.) and the additional cost will be met from savings under "Land Revenue."

2. The Boards recommendation that parties examining the records should be charged a fee of 1 Rupee for each document or set of documents which they inspect is approved. The Govt. are of opinion that if the inspection is carried on beyond one day a smaller fee of 8 annas should be collected for every succeeding day. The Board will report the result of this order after one years trial, and direct the inspection to be always made in the presence of

3 No person should be admitted to the record room without the permission of the Collector conveyed to him in writing and the Collector will be empowered to withhold permission in any case where he sees reason for so doing: while he must arrange for the inspections being always made in the presence of some responsible officer.

4. The proposals made in Boards' Proceedings dated 11th July 1873 No. 1260 regarding the production in the Courts of the Presidency Town of attested copies of Public records instead of originals and the raising of the Subpœna fee will be considered in the Judicial Department.

5 The fact of two sheets having been found to be missing in a bound book when the High Court called for it as reported in the Dy. Collrs letter dated 26 April 1873 No. 307. looks very suspicious. The Board will order a strict enquiry to be instituted into the matter, and report the result.

Is the privilege of inspection to be allowed to any one but Barristers? If not why to pleaders?

Memo sent to Board

28/7/73

J. The Board of Revenue
Judicial Depart.
Scott Smith —
Cp 22-9.

98

Record Estate for Defendants
Letter of Jere - Madras
V the Production of
Documents before the
Privy Council

Despatch

98

B

Proceedings of the Madras Government, Revenue D...