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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No.	358.	Press.
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Not to be folded or roughly handled

358
GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

5th February 1878, No. 241.

Bills—Legislative.

Read the following papers :—

No. 19. *From A. PHILLIPS, Esq., Secretary to the Government of India, Legislative Department, to the Chief Secretary to Government, dated Simla, 31st October 1877, No. 898.*

I am directed to forward, herewith, twenty copies of the Bill to consolidate and amend the law relating to Stamps and Court Fees and of its annexure, and to request that His Excellency the Governor in Council will favor the Government of India in this department with an expression of his opinion on the provisions of the Bill.

2. I am also to request that the Bill and Statement of Objects and Reasons be published in the *Fort St. George Gazette* in English and in such other languages as His Excellency in Council may direct, and the dates of such publication may be communicated in your reply.

3. I am further to request that the reply to this letter may be sent in within two months of this date, and I am to intimate that replies not submitted within that time will arrive too late to be considered by the Select Committee.

No. 20. *From D. FITZPATRICK, Esq., Secretary to the Government of India, Legislative Department, to the Chief Secretary to Government, dated Fort William, 16th January 1878, No. 83.*

I am directed to invite your attention to letter hence, No. 898, dated 31st October last, forwarding, for opinion and publication, copies of the Stamp Bill, as introduced into the Legislative Council, and requesting that your reply might be sent in within two months.

2. That period having now expired, and no communication having been received from you on the subject, I am to point out to you that the matter is urgent.

3. As the majority of the alterations of the law for which the Bill provides are based upon the general conclusions and recommendations of the Committee appointed by the Government of India under Resolution in the Financial Department, No. 632, of June 1876, and as the proposals of that Committee were, previous to the casting of the Bill in its present shape, referred to and concurred in by the local Governments and subordinate officers consulted, it will probably be unnecessary to do more than consider those provisions of the Bill which exhibit some divergence from the original proposals, or which were not contemplated when local officers were consulted, but have since been added. Upon these variations and additions it is especially desirable to have the opinions of local officers of experience, both executive and judicial, in matters connected with the stamp-revenue, and at as early a date as may be practicable, so that there may be no avoidable delay in the submission of the report of the Select Committee of the Legislative Council to which the Bill has been referred. I am, accordingly, to invite especial attention to the following points.

4. The measures for better enforcing the requirements of the law contained in Sections 30, 33, and 35 are somewhat different from what was at first proposed as regards the details of procedure; but they involve no change of the principle which met with the unanimous approval of the local officers formerly consulted on the

subject. It has, however, been suggested that an alternative power of levying the fine imposed by the law for not stamping or under-stamping any instrument, instead of prosecuting the offender before a Magistrate, might with advantage be given to the Collector. There may (it is said) frequently be cases in which, whilst the levy of a fine is necessary for the protection of the revenue, a criminal prosecution may not be desirable. If the Collector were allowed the option of levying the fine direct, the power of recovering it in the same way as an arrear of land-revenue would of course be added.

5. The change in the mode of valuing certain suits between landlords and tenants prescribed by Section 56, clause xi (c) and f), is based on a suggestion made by a Member of the Board of Revenue, North-Western Provinces.

6. The criminal penalties for certain offences (Sections 86, 87, and 89) have been raised from their present limit (Rupees 100) to Rupees 200 instead of Rupees 500 as had been proposed.

7. The *ad valorem* stamp-duties in Schedule I have been sub-divided into four, instead of three, classes, by which arrangement the classification, it is thought, is rendered more simple and generally intelligible.

8. In deference to the opinion of some of the local Governments consulted, notably that of the North-Western Provinces, the proposed *minimum* rates of duty chargeable on bonds and conveyances has been reduced from one rupee and eight annas to eight annas and four annas respectively.

9. Instruments of partition, which it was proposed to charge as conveyances, have been transferred to class II and made liable to the same duty as bonds.

Customs
Administration } Bonds.
Indemnity
Security
Release of mortgaged property.
Surrender of lease.
Appraisement.
Award.

10. The maximum rate on the instruments noted in the margin has been materially reduced from the limit originally proposed, namely, from Rupees 10 to Rupees 5.

11. The Schedule formerly proposed provided for counterparts of leases only, and the maximum rate for such documents was fixed at Rupees 2-8-0. This it is proposed by the Bill to fix at one rupee, and make applicable to the counterparts of all instruments.

12. In the Schedule attached to the report of the Committee appointed in 1876 copies were made chargeable with stamp-duty at eight annas per sheet without reference to the value of the stamp (if any) borne by the original instrument. It is now proposed to revert to the plan of taking the value of the stamp borne by the original document as the standard by which the duty to be charged on the copy or duplicate should be regulated; but a low maximum rate has been fixed, and the change contemplated by the Bill is in favor of the tax-payer.

13. The duty on bills of lading and dock warrants which it was proposed to raise to eight annas is fixed in the Bill at the rate now in force, namely, four annas. It has, however, been suggested that the duty on bills of lading might advantageously be reduced to one anna, and that a similar tax might be imposed on all receipts granted by Railway Companies and other public carriers in respect of goods carried by land or water and made deliverable, by virtue of such receipt, to their consignees? Such a duty would probably produce a material increment to the stamp-revenue.

14. The second Schedule comprises a few other deviations from the original scheme of amendments of the existing law; but they are not such as to call for special notice, except perhaps the proposed fixed rate (Rs. 5) on instruments of divorce. It has been doubted whether so high a rate can be borne by such documents, as they are probably for the most part executed by Muhammadans amongst the lower and poorer classes.

15. Turning now to Schedule IV, it will be observed that it is proposed (1) to equalize (see No. 2) the rates of institution-fee levied in the Small Cause Courts of the Presidency towns and in the Mofussil Courts of that class, by reducing the rate, in the case of the former, from 12½ per cent. to 10 per cent., and raising the rate now levied in the latter Courts, *i.e.*, 7½ per cent. to 10 per cent.; and (2) to raise (see No. 14) the rates of duty or fees now levied on Probates, Letters of Administration and Certificates for the collection of debts of deceased persons from 2 to 2½ per cent.

16. As regards service of processes, the Local Governments have already expressed a general concurrence in the expediency of substituting fixed rates of fees, to be laid down in the Act, for the present system under which the rates of fees chargeable are from time to time determined by rules framed by the Chief Courts of each province. The proposed rates are set forth in Schedule V, Nos. 20 and 21; they are in their present shape purely tentative and need careful consideration.

17. The Government of India would be glad to have the opinion of His Excellency the Governor in Council and of a few selected subordinate officers on all these additional provisions. If replies to this department's circular letter of 31st October, in regard to the Bill generally, are ready or nearly ready for submission, I am to request that they may be forwarded at once, and the subject of this letter treated separately if necessary. But in any case it is desirable to avoid any delay in reporting on the subject of the Bill, the early passing of which through the Council is deemed to be of great importance.

No. 21.

ORDER THEREON, 5th February 1878, No. 241.

Ordered that copies of the Bill, received with the letter from the Government of India, dated 31st October 1877, consolidating and amending the law relating to Stamps and Court Fees, and of the Statement of Objects and Reasons, be forwarded to the High Court of Judicature, Madras, and to the Board of Revenue, with the request that they will favor the Government with the least possible delay, or within one month at most, with their own opinion and the opinion of a few selected officers of experience on the provisions of the proposed enactment, with especial advertence to the points noticed in paragraphs 4 to 16 of the letter from the Government of India, dated 16th January 1878, No. 83.

2. The Bill and Statement will be immediately published in the *Fort St. George Gazette*.

(True Extract.)

Chief Secretary.

To the Hon'ble the Judges, High Court,
with covering letter to Chief Justice and 8 copies
of the Bill and Statement.

To the Board of Revenue, with 8 copies of
Bill and Statement.

To the Revenue Department. ✓

Exd. T. D. Ryan.

Revenue Dept

Cost. of 18781 30/10/75.

JUDICIAL.

To THE HON'BLE THE JUDGES,
High Court,
&c., &c., &c.

Dated February 5th.

Issued

Recd. 7 Feb.

G.O. 5th February 1878, No. 241.

FEBRUARY.
Nos. 19-21.

Note.—Legislative.—Copies of Bill received from Government of India, consolidating and amending the law relating to Stamps and Court Fees, together with Statement of Objects and Reasons, forwarded for opinion; and the Bill and Statement published in the Fort St. George Gazette.

Revenue Dept

956/78