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G.O. No.	<u>785</u>	Press
		<u>Mis.</u>
Dated	<u>7. 9.</u>	<u>18. 86</u>

Not to be folded or roughly handled

PROCEEDINGS OF THE BOARD OF REVENUE.

Read—the following G.O., dated 19th July 1886, Mis. No. 4277, Revenue :—

Read—the following Proceedings of the Board of Revenue, dated 2nd July 1886, Mis. No. 4915 :—

Read—the following letter from J. STURROCK, Esq., Collector of South Canara, to the Secretary to the Board of Revenue, dated Mangalore, 11th June 1886, No. 1528 :—

In their Proceedings, Mis. No. 1597, dated the 20th February 1885, the Board remarked that "the omission from Act I, 1870" (Canals and Ferry Act), of provision for collection of arrears under a ferry lease" under Madras Act II of 1864 was "apparently an oversight," and directed me to continue the existing practice for the recovery of arrears under the latter Act.

2. As I find that it is proposed (Bill No. 1 of 1886) to amend the Canals and Ferry Act, I have the honor respectfully to suggest that the opportunity may be taken to distinctly empower a Collector to collect arrears under a ferry lease under Madras Act II of 1864.

Resolution—dated 2nd July 1886, Mis. No. 4915.

Submitted to Government with copies of the previous papers, in reference to the bill published as supplement to *Fort St. George Gazette*, No. 8, dated 24th February 1886.

(A true Copy and Extract.)

(Signed) H. A. SIM,
Acting Sub-Secretary.

To the Secretary to Government, Revenue Department, with
copy of Board's Proceedings, Mis. No. 1597, dated 20th February
1885; No. 4064, dated 7th June 1869; No. 5052, dated 15th
July 1869; and No. 8493, dated 17th November 1869.
Copy to the Collector of South Canara.

Order—dated 19th July 1886, Mis. No. 4277, Revenue.

The Government consider that the Government Pleader should first be consulted on the question whether ferry toll rentals are public revenue or not. The fact that they are by law to be appropriated only to certain purposes does not, in the opinion of Government, deprive them of this character. Should the opinion of the Government Pleader be against this contention, the needful action might then be taken in the Legislative department.

(True Extract.)

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

To the Board of Revenue.

Reference on the above, dated 29th July 1886.

The papers will be referred to the Government Pleader for the favor of his opinion.

(Signed) H. A. SIM,
Acting Sub-Secretary.

To the Government Pleader, with Government Order, in original,
to be returned and copies of Board's Proceedings, No. 4064, dated
7th June 1869; No. 5052, dated 15th July 1869; No. 8493,
dated 17th November 1869; dated 2nd July 1886, Mis. No. 4915;
and dated 20th February 1885, Mis. No. 1597.

READ—also the following letter from E. B. POWELL, Esq., Acting Government Pleader, to the Secretary to the Board of Revenue, dated Madras, 5th August 1886, No. 223:—

In reference to the Proceedings of the Board of Revenue noted in the margin referring for my opinion the question whether ferry toll rentals are revenues due to Government within the meaning of section 52 of Act II of 1864, I have the honor to submit the following opinion.

The rentals from ferry tolls form one of the sources of public revenue, and are *prima facie* therefore within the meaning of the section. The fact that this particular branch of revenue is appropriated to a particular purpose cannot in my opinion alter its character as public revenue. The definition of public revenue in the Act is used with reference to land revenue, and therefore cannot be taken as a correct definition of the meaning attached to it in section 52 where it is used to describe "revenue other than land revenue." The insertion of such a provision as section 52 in a Land Revenue Act in the opinion of my learned predecessor Mr. Handley militated against the word "revenue" having such an extended meaning. I do not however agree with Mr. Handley that it was out of place at the time that Act was framed. If at the time the legislature were providing for the recovery of arrears of the land revenue, it was thought that the same summary procedure was advisable for the realization of arrears of other branches of revenue, surely the insertion of a section to that effect was not altogether inappropriate. At any rate there is the provision, and the words are sufficiently wide to cover the revenue obtained from ferry toll rentals. Unless there are words in the Act which expressly or impliedly restrict the general application which the words of section 52 bear, they must be given effect to. I can find nothing in the subsequent words to restrict or limit the operation of those words to any particular branches of revenue.

The inference drawn by Mr. Handley from the express provision in the Abkari Act for the recovery of arrears under Abkari contracts would carry weight where it not that this (Abkari Act) and the subsequent Act IV of 1864 seem to have been drawn up without any reference to Act II of 1864. Section 52 says that all fees or other dues payable by any person to or on behalf of the village servants employed in revenue or police duties may be recovered in the same manner as arrears of land revenue under the provisions of this Act.

Nevertheless it was thought necessary to reiterate the power which had already been given by section 52 by inserting section 4 in Act IV of 1864. It appears to me this provision was clearly superfluous. If, therefore, the legislature in this instance made a superfluous provision, why may not the provision in the Abkari Act also have been superfluous.

Moreover the fact that in section 19 of Act I of 1870 (tolls on ferries and canals) there is a provision for recovering any expense incurred by the Collector on behalf of the lessees in the manner provided for in the case of an arrear of land revenue by Madras Act II of 1864, scarcely warrants the conclusion that the absence of such a provision for the collection of arrears under a ferry lease was an oversight. On the other hand, it appears to me to have been intentionally omitted on the assumption that such a case was already sufficiently provided for by section 52 of Act II of 1864.

RESOLUTION—dated 17th August 1886, No. 1839.

Submitted to Government in reference to G.O., dated 19th July 1886, No. 4277.

2. The law seemed doubtful and the Board thought it advisable to put the matter before Government in connection with the proposed amendment of the Act, in order that opportunity might be taken to get rid of the doubt.

(True Copies and Extract.)

Acting Sub-Secretary.

To the Secretary to Government, Revenue Department.

Copy to the Government Pleader.

" " Collector of South Canara.

Exd. W. J. Lewis.

19-7-86 No 4277

19-7-86

In the face of the opinion
expressed by the Government
Pleader, the Government
considers it unnecessary
to have recourse to fresh
legislation

W.S.

5. Legislative Dept.

Dec. 20. 9. 86.

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REVENUE DEPARTMENT.

1886.

Board of Revenue,
MADRAS.

1869



Printed August th.
R. J. W. Aug.

Proceedings, 17th August 1886, No. 1839.

Submitting to Government opinion of the
Government Pleader on question whether ferry
toll rentals are revenues due to Government
within the meaning of section 52 of Act II of
1864.

7TH SEPTEMBER 1886, No. 785, REVENUE.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

Read—the following Proceedings of the Board of Revenue, dated 17th August 1886,
No. 1839 :—

Read—the following G.O., dated 19th July 1886, Mis. No. 4277, Revenue :—

Read—the following Proceedings of the Board of Revenue, dated 2nd July 1886,
Mis. No. 4915 :—

Read—the following letter from J. STURROCK, Esq., Collector of South Canara, to
the Secretary to the Board of Revenue, dated Mangalore, 11th June 1886,
No. 1528 :—

In their Proceedings, Mis. No. 1597, dated the 20th February 1885, the Board
remarked that “the omission from Act I, 1870” (Canals and Ferry Act), “of provi-
sion for collection of arrears under a ferry lease” under Madras Act II of 1864 was
“apparently an oversight,” and directed me to continue the existing practice for the
recovery of arrears under the latter Act.

2. As I find that it is proposed (Bill No. 1 of 1886) to amend the Canals and
Ferry Act, I have the honor respectfully to suggest that the opportunity may be taken
to distinctly empower a Collector to collect arrears under a ferry lease under Madras
Act II of 1864.

Resolution—dated 2nd July 1886, Mis. No. 4915.

Submitted to Government with copies of the previous papers, in reference to the
bill published as supplement to *Fort St. George Gazette*, No. 8, dated 24th February
1886.

(A true Copy and Extract.)

(Signed) H. A. SIM,
Acting Sub-Secretary.

To the Secretary to Government, Revenue Department, with
copy of Board's Proceedings, Mis. No. 1597, dated 20th February
1885; No. 4064, dated 7th June 1869; No. 5052, dated 15th
July 1869; and No. 8493, dated 17th November 1869.

Copy to the Collector of South Canara.

Order—dated 19th July 1886, Mis. No. 4277, Revenue.

The Government consider that the Government Pleader should first be consulted
on the question whether ferry toll rentals are public revenue or not. The fact that
they are by law to be appropriated only to certain purposes does not, in the opinion of
Government, deprive them of this character. Should the opinion of the Government
Pleader be against this contention, the needful action might then be taken in the
Legislative Department.

(True Extract.)

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

To the Board of Revenue.

Reference on the above, dated 29th July 1886.

The papers will be referred to the Government Pleader for the favor of his opinion.

(Signed) H. A. SIM,
Acting Sub-Secretary.

To the Government Pleader, with Government Order in original to be returned, and copies of Board's Proceedings, No. 4064, dated 7th June 1869; No. 5052, dated 15th July 1869; No. 8493, dated 17th November 1869; dated 2nd July 1886, Mis. No. 4915; and dated 20th February 1885, Mis. No. 1597.

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Dated 29th July 1886, G. Reference on No. 2980 of 1886.

The rentals from ferry tolls form one of the sources of public revenue, and are *prima facie* therefore within the meaning of the section. The fact that this particular branch of revenue is appropriated to a particular purpose cannot in my opinion alter its character as public revenue. The definition of public revenue in the Act is used with reference to land revenue, and therefore cannot be taken as a correct definition of the meaning attached to it in section 52 where it is used to describe "revenue other than land revenue." The insertion of such a provision as section 52 in a Land Revenue Act in the opinion of my learned predecessor Mr. Handley militated against the word "revenue" having such an extended meaning. I do not, however, agree with Mr. Handley that it was out of place at the time that Act was framed. If at the time the legislature were providing for the recovery of arrears of the land revenue, it was thought that the same summary procedure was advisable for the realization of arrears of other branches of revenue, surely the insertion of a section to that effect was not altogether inappropriate. At any rate there is the provision, and the words are sufficiently wide to cover the revenue obtained from ferry toll rentals. Unless there are words in the Act which expressly or impliedly restrict the general application which the words of section 52 bear, they must be given effect to. I can find nothing in the subsequent words to restrict or limit the operation of those words to any particular branches of revenue.

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provision for the collection of arrears under a ferry lease was an oversight. On the other hand, it appears to me to have been intentionally omitted on the assumption that such a case was already sufficiently provided for by section 52 of Act II of 1864.

Resolution—dated 17th August 1886, No. 183.

Submitted to Government in reference to G.O., dated 19th July 1886, No. 4277.

2. The law seemed doubtful and the Board thought it advisable to put the matter before Government in connection with the proposed amendment of the Act, in order that opportunity might be taken to get rid of the doubt.

(True Copies and Extract.)

(Signed) H. A. SIM,
Acting Sub-Secretary.

To the Secretary to Government, Revenue Department.

Copy to the Government Pleader.

" " Collector of South Canara.

ORDER—dated 7th September 1886, No. 785, Revenue.

Miscellaneous.

In the face of the opinion expressed by the Government Pleader, the Government consider it unnecessary to have recourse to fresh legislation.

(True Extract.)

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

To the Board of Revenue.
" the Legislative Department.

Exd. W. H. French.

50 Copies.

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Govt. of (1886) Madras.
REVENUE.

Issued

Recd.

Encl.

G.O., 7th September 1886, No. 785.

SEPTEMBER.

Ferry Toll Rentals.

Considering it unnecessary to have recourse to fresh legislation with reference to the question whether — are revenues due to Government within the meaning of section 52 of Act II of 1864.