M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 172 — Press / Mis.

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Dated 24-6 18 64.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
24th January 1861.

Read the following letters :—

No. 341. From Lord H. ULICK BROWNE, Under Secretary to the Government of India (Home Department), to J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, dated Fort William, 11th December 1860, No. 2,772 :—

SIR,

1. I am directed to acknowledge the receipt of your letter noted in the margin, forwarding a representation from the Chamber of Commerce at the port of British Cochin, urging that the use of adhesive Stamps for Bills of Lading and Bills of Exchange may be allowed, and in reply to state that as the Law does not provide for the use of adhesive Stamps except on those documents for which their use is specified in the Act, the President in Council is unable to comply with the Chamber's request. The question of allowing an extended use of adhesive Stamps requires very careful deliberation, and I am desired to state that it will be considered when the Stamp Act is revised in connection with other representations that have been made to Government.

No. 2,087, dated 9th November.

2. With respect however to the special inconvenience pointed out by the Chamber at Cochin, I am desired to state that in the opinion of the President in Council, Merchants at out-ports should be permitted to deliver their forms to be stamped to the local Collector, and that he should be required to send them to the Presidency for the purpose. By the adoption of this course, there will be no charge for postage, and it will probably not be necessary for any Merchant at Cochin to keep on hand more than a ten days' supply.

3. The question adverted to in the 4th paragraph of the Chamber's letter is still under consideration.

No. 342. From W. GREY, Esq., Secretary to the Government of India (Home Department, Separate Revenue), to J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, dated Fort William, 21st December 1860, No. 2,843 :—

SIR,

1. I am directed with reference to the second paragraph of the letter from the Madras Chamber of Commerce enclosed in your communication of the 25th October, No. 1,956, to forward for the information of the Government of Madras, and for communication to the Chamber an extract* of an opinion given by the Advocate General in Calcutta, and to state that the President in Council concurs in the view expressed by Mr. Ritchie that the Stamp to be affixed on one copy of a Foreign Bill of Exchange drawn out of India and purporting to be one part of a Bill drawn in triplicate, need only represent the duty prescribed by the Act for one part of a set of three.

* *Paragraphs* 1 *and* 2.

2. With respect to the 3rd paragraph of the Chamber's letter, I am desired to state that the Advocate General agrees in the construction placed upon Section 10 of the Stamp Act by the Chamber, namely that the words "as aforesaid" and the general tenor of the Section limit its applicability to Bills drawn *in India* and payable out of India. This construction appears to the President in Council to be correct.

3. With respect to the objection urged by the Madras Chamber of Commerce, and also by the Chamber of Commerce at Cochin† to the provision of the same Section, which requires that any person transferring or negotiating a Bill of Exchange drawn in India and payable out of India, and purporting to be drawn in a set of three, shall at the same time transfer and deliver the whole number of Bills

† *Vide your subsequent letter, No. 2,087, dated 9th November.*

which such Bill purports the set to consist of, I am to state that the Section was taken verbatim from the 6th Section of the English Act.* It is possible however that the circumstances of India may render such a provision, although unobjectionable in England, the source of some inconvenience in this country, and I am desired to state that the point will be carefully considered when the Stamp Act is amended next year.

* 17 *and* 18 *Vic., C.* 83.

4. The subject of the Chamber's fourth paragraph has already been referred to in my endorsement No, 2,719, dated the 3rd instant. The Chamber's request that letters of hypothecation attached to document Bills shall be exempted from Stamp duty, will also be considered in connection with the general amendment of the Act, but as at present advised the President in Council does not perceive any good ground for altogether exempting such documents from Stamp duty.

5. The important question raised in the fifth paragraph of the Chamber's letter, namely, the expediency of exempting from Stamp duty agreements to cultivate any article of commerce, will also I am desired to state be carefully considered by the Government of India.

Extract from an opinion of the Advocate General, dated 20th November 1860.

1. I do not see the force of the objection taken by the Chamber of Commerce to Section 7 of the Stamp Act, supposing the construction put by the Chamber upon Section 10 be correct, so that the prohibition contained in the latter Section does not apply to Bills drawn out of British India. For in that case, under Sections 7 and 9 taken together, it will be sufficient that any person receiving in India one part of a set of Bills drawn out of India, and desiring to negotiate it, should before doing so affix an adhesive stamp of the proper value. This proper value the Chamber of Commerce say has not been provided for by the Act. But it is obviously either the full amount of duty on a Foreign single Bill for the same amount, or the duty on one part only of a Foreign Bill drawn in a set of three. The Act has not clearly defined which. If the latter construction be adopted, the State would run the risk of losing the duty upon the other two parts of the set, if neither of them were subsequently negotiated, there being no provision, supposing the Chamber's construction of Section 10 to be right, to render it compulsory on the party to negotiate or deliver such other parts. Still I incline to think that, if the Bill profess to be drawn in a set of three, no higher stamp duty need be denoted in the adhesive stamp affixed on the part that is negotiated than that applicable to a single part of a set of three. If this be so, the only party who would suffer by this particular provision would be the Government; who are exposed to the risk of losing the duty on the remaining two parts of the Bill.

2. On the other hand, supposing the full amount of duty on a complete Bill, ought to be impressed, the hardship and difficulty that would arise would not be in the negotiation of the single part:—but in dealing with the other parts when they came to hand and the holder of the first requires the transfer to him of the others. By the very act of negotiation of one part, the the holder obtains the same benefit (supposing no other parts to have been previously transferred to another) as if the whole set had been transferred in which case no doubt the full duty on the three parts would have been properly chargeable. And as the Bills are ex-hypothesi drawn out of British India, they do not already bear any Indian Stamp, and it is only in case the other parts come forward and are transferred that any danger of a double duty will arise. The holder indeed cannot endorse or transfer the 2nd and 3rd parts under Section 9, without affixing a fresh Stamp on each;—and the unreasonableness of requiring him to do this, after he has already affixed a Stamp equal to the duty in all three parts would be so great, that it greatly strengthens my view that the Stamp to be affixed need only represent the duty on one part of a set of three. If this view be erroneous I think with the Chamber of Commerce that Section 7 will require amendment.

(True Extract.)
(Signed) H. U. BROWNE,
Under Secy. to the Govt. of India.

Proceedings of the Madras Government, Revenue Department,
24th January 1861.

No. 343. ORDER THEREON, 24th January 1861, No. 172.

Ordered that the foregoing letters be communicated to the Chambers of Commerce at Madras and Cochin with reference to their letters dated respectively 10th and 30th October 1860, and to the Board of Revenue for information and guidance.

(Signed) J. D. BOURDILLON,
Secretary to Government.

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Proceedings of the Madras Government
Under date the 24 January 1861.

Read the following letters

From the Under Secy to the
Govt of India
Referring to comply
with the request of the Cochin
Chamber of Commerce to be permitted
to use Adhesive stamps for Bills
of Lading and Bills of Exchange.

There enter 11 Dec 60
No 2772

From the Secy to the Govt of India.
Forwarding for observations
an Extract of an opinion given by
the Advocate General in Calcutta
with reference to a letter from the
Madras Chamber of Commerce on certain
points of the new stamp law.

There enter 21st do do
No 2843

Ordered that
the foregoing letters be
communicated to the
Chambers of Commerce
at Madras & Cochin
with Refce to their
letters dated respectively
10th and 30th Oct 1860
and to the Bd of Rev
for information & guidance

WM

MW

Copy
1 to
The Ch. of Comce Madras
" Cochin
1 to The Bd of Rev.
1 Col. Mal. with Ref.
to his letter 2d Nov 60 No 74.

Pg 125 129

Regarding adhesive stamps for Bills of Exchange.

Revenue 1861 Dept.
Pro: of Govt for January
— —
No 172.

Pro: of the Madras Govt.
Dy 24th January 1861.

Letter from Govt of India on the representation from the Chamber of Commerce at the Port of British Cochin respecting the use of adhesive stamps and Bills of exchange, communicated to the Chamber of Commerce at Madras and Cochin and Bd of Revr.

No 341 at 343.

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