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MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 133 — Press ~~Mis~~

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Dated 15-1-1867.

Not to be folded or roughly handled

133
15-1-67

Proceedings of the Madras Government, Revenue Department,
15th January 1867.

No. 275. Read the following Proceedings of the Madras Government in the Judicial Department:—

Considering it inexpedient to sanction the introduction, into this Presidency, of the Punjaub system of collecting process fees by means of distinctive stamps in supersession of the mode in which these fees are now levied. } (Here enter 3rd January 1867, No. 11.)

No. 276. ORDER THEREON, 15th January 1867, No. 133.

Miscellaneous. Communicated to the Board of Revenue.

(True Extract.)

(Signed) J. GROSE,
Under Secretary to Government.

To the Board of Revenue, with Proceedings Judicial Department, No. 11.

Ind. S. T. Augustin.

JUDICIAL DEPARTMENT.

No. 1748.

To

THE HONORABLE SIR ADAM BITTLESTON, KT.,
Acting Chief Justice of Her Majesty's High Court of Judicature,
Madras.

HONORABLE SIR,

With reference to the letter from the Registrar of the High Court, dated the 30th May last, No. 32, I am directed to forward the annexed copy of a letter from the Secretary to the Government of India, forwarding a report, explanatory of the system in operation in the Punjab, for collecting process fees by means of distinctive Stamps.

2. The Punjab system differs from that of Madras in two material respects: first, in lieu of fees at fixed rates being levied for each process before it is issued, as is the case in Madras, a consolidated *ad valorem* charge is levied once for all at the commencement of the suit, irrespective of the number, &c., of the processes which may be issued in its course; second, from the proceeds of these payments, a fixed establishment is maintained by the Government, which appropriates any surplus of receipts over charges, whereas in Madras the entire receipts are divided among the Establishment.

3. The plan of a consolidated charge certainly has the advantage of simplicity, and the Government would be glad to receive the opinion of the High Court, as to whether, in other respects, it is desirable to adopt it at Madras.

4. But, even if this plan be adopted, the Government fail to see the advantage of requiring payment to be made by means only of Stamps. If this system were adopted, it would be necessary for the Judge of every Court to inform the Collector periodically of the number of Stamps likely to be required in his Court; the Collector would have to indent for the Stamps required, as well as a sufficient reserve, on the Superintendent of Stamps at Madras, and to distribute them to the vendors, in respect to whose accounts and stock he would have to adopt the same precautions as in the case of Government Stamps; the Judges would, also, have to furnish the Collector with monthly Statements of the Stamps filed with suits in their Courts; and the whole transactions would eventually pass through the books of the Accountant General and Board of Revenue.

5. All this might be saved by the simple process of requiring the suitor to pay his money into the nearest Revenue Treasury, and attach the receipt of the Treasury Officer, which should be in duplicate, to his plaint, and the Judge to forward one of the receipts direct to the Collector. The Treasury Officer would enter the payment, like any other payment, in his accounts, and the duplicate received from the Judge would enable the Collector to see that no receipts were withheld. This plan, while affording equal security, would simplify the transaction greatly; and obviate all risk of suitors being put to inconvenience by any accidental want of Stamps.

6. At the same time, the Government must remark that the rules regarding process fees, now current in Madras, are sufficient, if duly observed, to prevent malpractices, and that if the Nazirs of the Court cannot be trusted in this respect, the sooner a more reliable class of Officers is secured by higher pay, the better for the sake of the private interests with which they also have to deal.

7. Under the present Madras system, payment by means of Stamp paper is out of the question, on account of the inconvenience, both public and private, which it would obviously entail.

I have the honor to be,
Honorable Sir,
Your most obedient Servant,

FORT SAINT GEORGE,
5th November 1866.

Secretary to Government.

From the Secretary to the Government of India, to the Chief Secretary to Government, Fort Saint George; dated Simla, 13th August 1866, No. 1896.

Financial Department.

In reply to your letter, No. 1065, dated the 10th ultimo, I am desired to forward the accompanying copy of a letter from the Government of the Punjab, dated the 16th July 1866, explaining the details of the plan in operation in that Province for collecting process fees by means of Stamps.

From the Secretary to the Government of the Punjab, to the Secretary to the Government of India, Financial Department; dated Murree, 6th July 1866, No. 894.

In reply to your letter, No. 1397, dated 9th instant, calling for a report explanatory of the system in operation in this Province for collecting process fees by means of Stamps, I am desired to state as follows.

2. A sufficient number of the ordinary Law Stamps are set aside by the Superintendent of Stamps, Calcutta, and marked with the words "Punjab Sheriff's Fees."

3. These are supplied to the different Districts of the Province, on Indents countersigned by the Financial Commissioner, precisely as ordinary Law Stamps are supplied.

4. Parties requiring the issue of a process, instead of paying the prescribed cost to the Nasir in cash, purchase a Tutubana Stamp of the requisite value, and file it with the case.

5. The amount realized by the sale of Tutubana Stamps is paid into a fund which is debited with the cost of the fixed Process Serving Establishment, and with the cost incurred by the Superintendent of Stamps for paper, stamping, and carriage; and the balance, at the close of the year, is credited to Government.

6. Two practical benefits are found to result from this system of realizing process fees; first, the keeping of the Tutubana accounts is facilitated; secondly, extortion and embezzlement on the part of the Ministerial Officers are prevented.

7. It may be mentioned that, in this Province, matters are still further simplified, because process fees are not charged according to distance, but are, in the District Courts, a consolidated *ad valorem* charge, paid once for all at the commencement of the suit, and no further charge is made, whatever may be the number of processes issued.

Exd. J. H. Burns.

Proceedings of the Madras Government, Judicial Department, 3rd January 1867.

No. 21. Read the following letter from the Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, Fort Saint George; dated Madras, 29th November 1866, No. 67.

In reply to Mr. Sim's letter of the 5th instant, No. 1748, I am directed by the Acting Chief Justice and Judges to inform you that they entirely agree with the Government, that there would be no advantage in requiring payment for the service of Civil processes to be made by means of distinctive stamps. The Government, however, suggest that it might be expedient to introduce here a modification of the Punjaub system, levying a consolidated charge at the institution of the suit, irrespective of the number and actual cost of the processes which may have to be issued. This is now done on the Appellate Side of this Court, which issues no processes of execution, but the charge does not vary with the value of the property in suit (see order published in the Gazette on the 13th April 1866, page 580); but the Judges are not prepared to recommend the extension of the plan to the Mofussil Courts. Considering the large number of cases in which no process of execution is required at all, it seems to the Judges that no alteration should be made in the practice now prevailing in this Presidency of levying the necessary fees for each process at the time at which it is to be served.

No. 22. ORDER THEREON, 3rd January 1867, No. 11.

Under the opinion given by the High Court and the Board of Revenue, and for the reasons recorded in the letter from Government to the Acting Chief Justice, dated the 5th ultimo, No. 1748, the Governor in Council does not consider it expedient to sanction the introduction into this Presidency of the Punjaub system of collecting process fees by means of distinctive Stamps, in supersession of the mode in which these fees are now levied.

(True Extract).

Chief Secretary.

To the Honorable the Judges of the High Court.
" Revenue Department.

Exd. J. H. Burns.

Rec.d 1867. Dep.t
Rec.d of Govt. for Summary
No. 38.

Proceedings in this
Ind.l Dep.t.

Dated 3.d day
Rec.d 6.th 1867.

No. 11.

Considering it ex-
pedient to sanction the intro-
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Punjab system of collecting
process fees by means of
distinctive stamps in lie-
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which these fees are now
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No 133. 15 Jany
Wells order

No. 183.

Communicated to
the Board of Revenue

15.th Jany 67.

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