

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. /355

Press

~~Mrs.~~

242-243

Dated 18-6-1867.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
18th June 1867.*

No. 242. Read the following letter from the Secretary to the Board of Revenue, to the Secretary to Government, Revenue Department, Fort Saint George, dated 30th April 1867, No. 2,632 :—

1. I am directed by the Board of Revenue to submit, for the consideration of Government, the following observations on Act XXVI of 1867 "to amend the law relating to Stamp duties," which became law on the 22nd March, though, by a Notification of the Governor General, it does not come into full operation until the 1st proximo.

2. The Board observe that this enactment was introduced into the Council of the Governor General on the 1st March, and passed on the 23rd idem, and that, according to the Honourable Mr. Taylor, the Government were not consulted as to certain important changes which it introduces in this Presidency, although it was known that they had been opposed to them when suggested on a previous occasion, and the Board think it is much to be regretted that the Act was so hurriedly passed.

3. The exemption from Stamp duty, hitherto allowed in this Presidency in the case of petitions and applications to Revenue Officers and of Suits in Revenue Courts, has been summarily withdrawn.

4. As regards the former, the Board have no hesitation in deprecating the change as most impolitic. The relations between a Revenue Officer and the people in this Presidency, where Ryotwary settlements prevail, are very different from those in Presidencies where Zemindary and village settlements obtain; and the freest inter-communication between a Collector and the ryots of his district has always been strongly encouraged here, to the manifest advantage both of the people and the State. The imposition of Stamp duty on all petitions and applications to Collectors and their subordinates, and on ordinary appeals to the Board will be most unpopular, and will often be tantamount to a denial of justice. The Board are satisfied that the revenue thus gained will be dearly acquired, and they strongly recommend that the Governor General in Council be moved to exercise the powers conferred by Act XVIII of 1865, and to continue the exemption.

5. If the Government are not prepared to adopt this recommendation, the Board would suggest that petitions and applications of all descriptions presented to Executive Revenue Officers be subject to a Stamp duty of one Anna only, and that petitions to the Board of Revenue, not being appeals from Decrees of Revenue Courts, should be charged eight Annas only.

6. With regard to Plaints and Appeals in Revenue Courts, some ground may be shewn in favour of a Stamp duty; but the sweeping character of the change effected by the new Act seems to the Board open to most serious objection. Article 11 of Schedule B. renders Petitions of Plaint and Appeal in *any Revenue Court* in the Provinces "for the recovery of any sum of money, or to obtain possession of any interest, matter or thing" liable to the same duties as ordinary suits and appeals in the Civil Courts.

7. Under Regulation VI of 1831, all claims to hereditary village offices in the Revenue and Police Departments, or to the enjoyment of the emoluments attached to them, which are often small and generally inadequate remuneration for their duties, are adjudicable only by Collectors with an appeal to the Board. The

offices here referred to are those of Man-gars, Curuams, Talaries, and other officials performing State service, and neither the offices nor the emoluments attached to them are private property, inasmuch as the State possesses the power of ejecting an unfit holder, and they cannot be alienated or burdened, temporarily or permanently, at the will of the incumbent. Under Regulation XII of 1816, Village and District Panchayets are authorized to decide such suits as Collectors may refer to them regarding disputed lands and crops, and such are by special enactment exempt from Stamp duties. This authority is given solely for State reasons as the preamble of the Regulation sets forth. The Board consider that Suits under both Regulations should continue exempt from Stamp duties.

Section 2.—By landlord to enforce acceptance of Pottah.
Do. 47 and 48.—By tenant for illegal distraint.
Do. 26.—By do. against detainer.
Do. 35.—By do. for loss by default of purchase.
Do. 49.—By any person for loss by proceedings under the Act.

8. Under Act VIII of 1855, (Madras) summary suits can be instituted before a Collector by landlords and tenants, and these are free from Stamp duties under its 75th Section.

9. As regards exemptions of this nature by special enactment, the introducer of the Bill, the Honourable Mr. Hobhouse, declared in the Council, and the statement was not challenged, that the Stamp Act, as a matter of course, abrogated all previous exemptions even by special enactment. The Board can scarcely suppose that this is really the case, and recommend that the question be at once authoritatively set at rest. It seems to them that the terms of a special law, passed by a competent Legislature with the assent of the Governor General, can hardly be thus annulled. As regards Suits under the Madras Act (VIII of 1865) above referred to, both the Honourable Mr. Hobhouse and the Honourable Mr. Taylor declared that a Stamp duty of eight Annas would suffice; but this section seems of questionable accuracy. Schedule B, of Act X of 1862, Article 11, note 7, prescribed a special duty for Suits under the corresponding Bengal Act X of 1859; but this provision finds no place in the new Schedule, and the Stamp Act makes no distinction between Summary and other Suits. These Suits clearly do not come under the definition given in the last paragraph of Article 10 of petitions or applications liable to eight Annas duty. They are unquestionably "Suits" in a "Revenue Court," and unless, as the Board think, this special exemption holds good till specially repealed, they are clearly liable to the duties in Article 11.

When a tenant was in arrears, the landlord, or the tenant, which was the general rule, had in the Madras Presidency, as one of the tenant's property, and if the tenant died, the property was transferred to the Collector, and the Collector decided the matter as if it were a suit for arrears of rent of the current year.

10. The Board would here draw attention to the misconception of the Revenue Amalgam Law of this Presidency, evidenced by the marginal extract from the speech of the Honourable Mr. Hobhouse.

11. With regard to the exemptions under Article 10, the Board would urge—
I. That appeals to them under Section 12 of the Road Cess Act (No. III. of 1855) have no such claim to exemption as appeals to a Magistrate against the Bengal Chauthdary assessment, and should be added to the list.

II. That in the third exemption the words "if presented pending the formation of such settlement" should be omitted as regards Madras.

III. That applications for Government lands, irrigation, &c., should be exempted equally with applications for Government timber.

12. They would also point out that they have no power in any case of awarding costs or damages, and consequently have no means of re-imbursing appellants when proved to be in the right. In many cases also, as shewn in the margin, the appeal is from the act of a Government Officer who may be in the wrong. They consider that, if proceedings before them are to be stamped as proceedings before Civil tribunals are, they ought to be vested in the first case with power to recover the Stamp duty from the unsuccessful party as the Courts do, and in the second to remit the duty.

Regulation VII of 1828.
Act XII of 1851.
Act XXVII of 1860.

13. They consider also, that when Suits in Revenue Courts are taxed under Article 11, a refund of the duties should be permissible in the same manner as in ordinary Civil Suits under Section 26 of Act X of 1862.

14. They further recommend that under Section 7 of Act X of 1862, the use of Adhesive Stamps be permitted in the cases of petitions, &c., under Articles 8, 9, 10, and 11 in Schedule B. This will be a great convenience to the public, and frauds are impossible.

15. Lastly, they direct me to state they are in communication with the Superintendent of Stamps regarding the new Stamps necessary under the Act. The Government will observe that the new Act will apparently render necessary the preparation of stamped papers of no less than 180 different values between Rupee 1 and Rupees 1,000, instead of, as at present, 33, and that the number of value above Rupees 1,000 will be still more largely increased.

No. 243.

ORDER THEREON, 13th June 1867, No. 1,355.

Separate Revenue, No. 17.
Stamps.

1. The "Exemption for the Presidencies of Madras and Bombay," annexed to Article 10, Schedule B, Act X of 1862, declares that "No

"petition or application to the Revenue authorities need be presented on stamp paper, except as prescribed in the special rule given at the close of this Schedule, with respect to suits cognizable by Collectors in the Presidency of Bombay."

2. The amended Schedule set out in Section 6, Act XXVI of 1867, which, it is provided by Section 8 of the Act, "shall be read with and taken as part of the said Act No. X of 1862," omits this exception, and provides generally for the use of Stamps in Suits and Appeals in Revenue Courts and to Revenue Boards, and in the case of petitions and applications to Revenue Officers and Boards.

3. In the above letter the Board of Revenue bring forward several objections to the provisions of Act XXVI of 1867 as read by them.

4. Before dealing with these objections, the Government may observe that no opportunity was afforded them of offering any opinion on the provisions of the Act prior to its enactment, except on one point referred to them by telegraph, viz., the duty charged on complaints before Criminal Courts; and the Honourable Mr. Taylor's statement, in the debate of 22nd March 1867, that "the opinions received

"from the Madras Government were entirely in favour of the Bill," can apply to this point only.

5. The Government are of opinion that the Board have misapprehended the effect of Act XXVI of 1867, as regards Suits in Revenue Courts in this Presidency. The amended Schedule is to be read with and taken as part of Act X of 1862, and Section 30 of that Act provides "that nothing in this Act shall be held to repeal any special provision in the Code of Civil Procedure or in any other Act or Regulation for the use of plain or unstamped paper in any judicial proceeding, unless such provision shall be expressly repealed by this Act," and it is evident that this provision was not overlooked on the occasion of framing the recent Act, for the provision in regard to the Code of Civil Procedure was expressly cancelled by Section 4, Act XXVI of 1867, leaving that relating to "any other Act or Regulation" untouched. It is thus evident that the enactment of the amended Schedule can make no more change in "any special provisions" * * * in any other Act or Regulation for the use of plain or unstamped paper in any judicial proceeding "unless such provision shall be expressly repealed by this Act" (X of 1862) than did the original Schedule B; and thus the provisions of Regulations IV, V, VII and XII of 1816, I of 1825, VII of 1828, and Act VIII of 1865, for the use of unstamped paper in Suits and Appeals in Revenue Courts and to the Revenue Board remain in full force.

6. The only class of Revenue Suits, which appears to have been rendered for the first time liable to Stamp duty by the passing of Act XXVI of 1867, is that of Suits under Regulation VI of 1831 for hereditary village offices in the Revenue and Police Departments.

7. The Government concur in opinion with the Board that such Suits should remain exempt from Stamp duty.

8. The claims adjudicated by Collectors in the enquiries held under this Regulation are not purely personal claims to private rights, but are rather appeals against the arrangements in force for the discharge of a public office, such arrangements being, in most instances, the result of orders by the Revenue authorities.

9. The Government have, for State reasons, expressly reserved to themselves and their Revenue Officers (to the exclusion of the ordinary Courts) the disposal of the emoluments attaching to this hereditary class of village offices, and it seems incongruous to oppose any such law as is created by the levy of Stamp duty against the fullest investigation of all questions relating to them.

10. The offices themselves are of much importance, and in the interest both of Government and of the general public it is necessary to maintain them in as efficient a state as possible. To secure their efficiency it is essential that the legitimate authority of the officeholder should be readily recognized by the people, and this recognition will not be obtained if full enquiry into hereditary claims be checked by the operation of the Stamp Act.

11. Application will be made to the Government of India for an order, under Act XXIII of 1860, exempting all Suits under Madras Regulation VI of 1831 from Stamp duty.

12. As regards Miscellaneous petitions to the Revenue authorities, the Government entirely concur in opinion with the Board that the levy on all such Petitions

in Madras of the Stamp duties prescribed by Act XXVI of 1867, would be opposed to the established policy of the Home and Local Governments for promoting the most unrestricted intercourse between those authorities and the ryots under the Ryotwary system, would endanger the satisfactory working of that system, and would in many cases be tantamount to a denial of justice; but it appears to Government that the Board have scarcely allowed sufficient force to the exemption annexed to Article 10 of the amended Schedule in favour of "Petitions to a Collector or Officer making a settlement, relating to matters connected with the assessment of lands, the ascertainment of rights, or to any other matter affecting the settlement of the Government revenue on land, if presented pending the formation of such settlement."

"Petitions to a Board or Commissioner of Revenue relating to the same."

13. The "settlement of the Government revenue on land" may be a matter of yearly adjustment with individual landholders under the Ryotwary system, although the assessment of the land remains unchanged, for the demand against the individual depends on the extent of his holding, and the occasional remissions he may be entitled to claim according to circumstances under the Rules; and it appears to Government that the spirit of the exemption clearly includes all petitions or applications "affecting the settlement of the Government revenue on land" from an individual landholder, pending the determination of the demand against him.

14. The same interpretation will, in the opinion of Government, exempt petitions relating to the assessment of the Road cess on land, which cess although appropriated for local purposes, is clearly of the nature of "Government revenue on land," for the people have no voice in the imposition or assessment of the cess, and the administration of the fund is reserved by Government entirely in its own hands.

15. Were the above classes of petitions not already, in the opinion of Government, exempt from the tax, the Government would entirely concur in opinion with the Board that they ought to be made so.

16. There will still, however, remain a very numerous class of petitions to Revenue authorities under the Ryotwary system, which the people have hitherto been encouraged to present, which cannot be brought into the above category, and which relate to subject-matters incapable of valuation, and therefore deprived of the advantage of the one Anna rate of duty provided for cases in which the amount or value of the subject matter is less than Rupees 50.

17. It seems inevitable that all such petitions, except they can be brought within the exemption in favour of "any application for permission to cut timber in Government forests, or relating to such forests," must be charged with a Stamp duty of 8 Annas, even though presented to a Tahsildar or still more subordinate Revenue authority, and the Government entirely agreed with the Board in thinking that this requirement of the law will, in a vast number of minor cases, be productive of much hardship, and be tantamount to a denial of justice to the poorer classes. The relations of the people to the Revenue authorities under the Ryotwary system are so far more intimate, and the intercourse between them so much more frequent and constant than under a Zemindari or village settlement, that provisions which may work perfectly well under the latter systems may be utterly unsuited to the circumstances of the greater part of this Presidency, where there is no middleman

or community between the individual landholder and the Government or its local representatives.

18. As regards the poorer class of ryots, the operation of the law will be oppressive and most unpopular, the burden of the tax thus suddenly imposed will be intolerable, and the revenue derivable from it in its present form will be very dearly acquired. The principle of a scale of duties varying with value of subject-matter is inapplicable to the class of cases in question, and the Government resolve to apply to the Supreme Government for an order, under Act XVIII of 1865, reducing the Stamp duty on all Revenue petitions and applications, not exempt from duty, to a uniform rate of one Anna in this Presidency, and for permission, under Section 7, Act 10 of 1862, to use Adhesive Stamps in such cases.

19. Application will also be made for the inclusion of applications for leave to take up Government land for cultivation, or for irrigation to land in the list of exemptions. It cannot be the intention of the Legislature to check such applications.

20. The attention of the Supreme Government will be drawn to the effect of the scale of duties for plaints in combination with the "general rule" at the end of the amended Schedule, in enormously increasing the number of values of stamp paper to be manufactured.

21. The rule apparently requires that for every petition of plaint or appeal in suits, there shall be used a single paper of the value prescribed by the Schedule with reference to the value of the subject-matter, and if the space afforded by that paper be insufficient to set forth the case, then other papers of the value prescribed for petitions (viz., 8 Annas) may be used to complete it.

22. The scale requires—

1 value for 10 Rupees and under.			
18 values between 10 Rupees and 100 Rupees.			
90	"	100	" 1,000 "
190	"	1,000	" 20,000 "
800	"	20,000	" 1,00,000 "
5,000	"	1 lac	" 5 lacs "
6,099			

or a total of 6,099 different values of stamped papers to provide for the requirements of suits up to six lacs of Rupees value of subject-matter.

23. The labour involved in the manufacture, and the confusion that must occur in the interval before they are ready, cannot but be excessive.

(True Extract.)

Secretary to Government.

To the Board of Revenue.

Per S. C. Augustus.

Recd Dept.
Memo for orders

Letter from Revenue Board dated 30 April 1867. No. 2632.

The revision point in the Board's letter is by omission the withdrawal of the exemption from Stamp duty accorded by Act 10 of 1862 Schedule B article 10 in the case of all "petitions or applications to the Revenue authorities in the Madras Presidency."

The provision made in the Subordinate Schedule B in Act 26 of 1867 is as follows

follows.

Art 8

Petition of appeal not
being from an order
respecting a plaint
or from a decree or
order having the
effect of a decree -
when presented to
any Revenue Court
other than the
Board of Revenue - ^{Rs 2} - 8

Art 9 When presented to the
Board of Revenue - 2 - "

Art 10 Any other petition
or application -
when presented to the
Board of Revenue - 1 - "

to a Collector
or Officer of Revenue
in relation to any
suit or case in
which the amount
or value of the subject
matter is less than
Rs 50

to the Collector
of Customs at the
Presidency Town.

to Board for
order of appeal or
application

Petition or applica-
tion not falling
within any of the
provisions or exemptions
presented to any Collec-
tor or other Revenue
authority - - - - -

Exemptions

Petitions to a Collec-
tor or Officer making a
settlement relating to
matters connected with
the assignment of lands
the ascertainment of
rights or to any other
matter affecting the
settlement of the Govt
Revenue on land if
presented pending the
formation of such settle-
ment.

Petition to the Board
of Revenue relating to
the same - application

Application for
permission to cut timber
in Government forests
or relating to such
forests.

Art 11. Petition of
Plaint or appeal in
suits and appeals not
otherwise provided for
instituted in any Civil
or Revenue Court outside
the limits of the ordinary
original jurisdiction
of the Courts established
by Royal Charter for the
recovery of any sum of
money or to obtain
possession of any
interest in any thing

A scale of duties ac-
cording to value of subject mat-
ter graduated on the prin-
ciple that up to Rs 1,000 there
should be paid a duty of 10%
the duty gradually decreasing
in suits over Rs 1,000.

Thus the effect of the
change is that whereas all re-
petitions to Tahsildars & to
Collectors and the Board on
general subjects and all ap-
plications of the nature of
plaints or appeals in Revenue
suits - as e.g. for hereditary vil-
lage offices - to obtain possession
of land or crops - the use of
water or puttahs from
landlords - to eject default-
ing tenants &c were for-
merly free of stamp duty.
Now ~~no~~ Revenue petition can
be

be presented to any revenue officer on a stamp of less value than 1 anna. If the value of the subject matter is Rs 50 and upwards and the petition is to a Collector or subordinate Rev^y officer the stamp must be 8 annas.

If the petition is to the Board the stamp must be 1 Rupee.

And if it be of the nature of an appeal to the Board "not being from an order respecting a plaint or from a decree or order having the force of a decree" the stamp must be 2 Rupees.

If the case be of the nature of a suit the petition must be stamped according to value of subject matter at 10 % up to Rs 1000

at

at 5 % on the excess between 1000 and 20,000.

at 1 % on the excess between 20,000 and 1,00,000.

and at 1/2 % on the excess above 1,00,000 fractions of 100 Rs being charged as Rs 100.

The Board point out that Revenue suits referred to Village and District Munsifats under Regⁿ 12 of 1816 are expressly exempted from stamp duties by Section 11 of the Regulation and that Sec. 75 Act 8 of 1865 (Madras) similarly exempts all summary suits between Landlord and Tenant brought before a Collector under that act but that according to Mr. Hobhouse in his reply to Mr. Taylor on the occasion of introducing the

The Bill, these special exemptions would be introduced by the absence of a corresponding special exemption in the general stamp act.

They question the correctness of this assumption which passed unchallenged in the Legislative Council and consider that it should at any rate be more explicitly and authoritatively affirmed.

They also question the correctness of the opinion expressed by Messrs Taylor and Hobhouse that summary suits between Landlord and Tenant under Madras Act 8 of 1865 would be charged only 8 annas as an ordinary petition and not as a plaint. and they point out

out in support of their opinion that whereas in Sch. B Act 10 of 1862 special provision was made for suits under the Bengal Rent Act 10 of 1859. no such provision is made in the revised schedule and that consequently it must be assumed that such suits must come under the general scale of stamp duty for plaints & that therefore similar suits under the Madras Act must be treated likewise. They observe that plaints under the Madras Act could certainly not come within the definition in Art. 10 of the revised schedule of the petitions on which a stamp of only annas 8 is needed which is "Petition or application

Application not falling within any of the other provisions or of the exemptions of the Schedule" while Art II provides for Petitions of plaint or appeal "for the recovery of any sum of money, or to obtain possession of any interest matter or thing."

They recommend that Revenue suits before Panchayats and suits for Village officers before Collectors under Regulation of 31 should be expressly exempted from all stamp duty. They make no recommendation in regard to suits under Madras Act 8 of 1865.

In regard to ordinary petitions and applications to Revenue officers and the Board they express a decided

decided opinion that the hitherto exemption should be continued or that at the utmost a duty of only one anna on petitions to Executive officers and of 8 annas to those to the Board other than appeals from decrees of Revenue Courts should be charged. They observe that the relations between a Collector and the Dyots in this Presidency ^{are} very different and far more ^{intimate} ~~intimate~~ than those where the Zemindary or Village settlement systems prevail. That to encourage the ^{free} ~~first~~ communication between a Collector and the Dyots of his district has always hitherto been a leading principle in the policy of the Govt of this Presidency and that to check it by the imposition of a stamp duty will be most unpopular and often tantamount

to a denial of justice.

Before remarking on the points noticed by the Board I may point out that this Govt. was in no way consulted as to the expediency of the provisions of the new Act. except on one point viz. the duty proposed to be charged on Magisterial complaints and that only by telegram. Mr. Eaylor's statement in the final discussion on the Bill that "the opinions received from the various Govts. were entirely in favor of the Bill" can apply to this one provision only.

So far as the principle involved in the provisions objected to by the Board the Government have on two occasions intimated their concurrence in the Board's views. In Ltr. dated 29th March 1862 the Govt. assuming that the Govt. of India had already decided that the use of stamps should be required in Rev. Court ad. indicated the adoption of the

uniform duty of one anna for the plaint and on 12th March 1866 in a letter relating to required and suggested amendments of the Stamp Law, they expressed their concurrence in certain opinions of the Board including one in which the Board deprecated the suggested requirement of a stamp on all petitions to any Public Officer or Government.

It appears to me however that Messrs. Hobhouse & Taylor are both altogether wrong in supposing that the modified Schedule

Schedule B. enacted in
Act 26 of 1867 as to
be "read with and taken
as part of Act X of
1865" has any effect

whatever in cancelling
previous express exemp-
tions from Stamp duty
except where specified
in the Act 26 of 1867

It is expressly
provided at the close
of Section 30 Act 11
of 1865. that nothing
in this Act shall be
held to repeat any
special provision in
the Code of Civil Pro-
cedure or in any other
Act or Regulation for
the use of plain or
unstamped paper

Sanquidi of this opinion.
The view of Mr. Justice &
Seymour are, however, worth nothing
except as one who might be
opposed judicially to decide
the point.

unstamped paper in
any judicial proceeding
unless such provision shall
be expressly repealed by
this Act.

This proviso was
inserted by the Imperial
Legislative Council
at the instance of the
Madras Member Mr. H.
Forbes expressly in order
to give effect to what
he understood to be the
wish of this Govt that
leases & rents under Reg-
t of 1822 should be
exempt from Stamp
duty.

(see Pro. 3rd May 1862 No 968)

Either this provision has
been altogether overlooked
on the present occasion
which is scarcely possible
since the late Act 26 of
1867 does deal with the
exceptions at the beginning

It has evidently not been
overlooked. for on referring
again to Act 26 of 67. I observe
that in Sec 4. certain Sec of the
Civil Pro. Code allowing the use of
unstamped paper have been
expressly repealed. & so I make
the new Act apply to the cases.

It is not once more coming in to
the argument that previous papers
& documents are not stamped
by reason of omission from the new
Schedule.

of this very section of Act
10 of 1862 or else both
Messrs Hobhouse & Layton
have wrongly interpreted
the intention of their
colleagues.

It is I think un-
questionable that Revenue
Suits hitherto ^{generally} exempted
from Stamp duty irrespec-
tive of the ^{jurisdiction} in
Sche B. Act 10 of 1862 are
not rendered liable to it
by Act 26 of 1867, and if
this be so, all Suits under
Regulations IV & VII and
XII of 1816 (the Village
Mooneeffs & Bunchayet &
Regulations) and all
appeals from Collectors
decrees to the Board (Sec 5
Reg II of 1825) and all
summary suits between
Landlord and Tenant
under Act 8 of 1865 are
still exempt from Stamp
duty.

Similarly appeals to
the

Exempt from all Revenue Revenue
& applications in the
main

Reg. 6 of 31. Nov
It is however certain
any special exemption
is the distinct result
of the law not the
law under it. The
enquiry is really, surely
a private matter. But
the minimum as to
the amount for public
cost.

the Board under Sec 6
Reg VII of 1828 remains exempt

I think all petitions
to the Board in their quasi
judicial capacity will
also remain exempt (see
Sec 20 Reg VIII of 1816 and
the marginal abstract)
but I don't feel so clear as
to petitions & applications
to them or to Collectors or
any Revenue Officers on
general subjects.

An exemption made
in the recent Act under
Sec. 10 in favor of Petitions
"to a Collector or Officer
"making a settlement
"relating to matters con-
"nected with the assess-
"ment of lands. the
"ascertainment of rights
"or to any other matter
"affecting the settlement
"of the Government revenue
"on land. if presented
"pending the formation
"of such settlement.

Petition

Petition to a Board of
Revenue relating to the
"same".

and the Board recom-
mend that the words
"if presented pending &c"
be omitted as regards
Madras so as to make
the exemption constant.

And that applications
for Government land -
for irrigation &c be
added to the exemption
in the Act in favor of
applications for timber
from Government forest.

Also that the use
of adhesive stamps for
Petitions be permitted.

The Governor Genl
is competent by Sec 7
Act 10 of 1862 & Act 11 of
1865 to make these con-
cessions by order in Council.

It appears to me
that

that the object the Board
have in view in proposing the
omission of part of the exemp-
tion is attainable without such
omissions.

The intention of the
Supreme Government appears
to be that so long as the de-
mand on individuals for
"Govt revenue" (not the as-
sessment on the land) re-
mains unsettled - no stamp
shall be needed on appli-
cations relating to it.

It appears to me
that ^{in Madras} the state of things
continues so long as there
is any cause for ad-
dressing petitions to the
Collector or Board.

on the subject of the
yearly settlement of
the demand of Govern-
ment.

I cannot conceive
it possible that the Su-
preme Government contem-
plated charging stamp
duty on any application
that a Ryot might de-
sire to make for the ad-
justment of an incorrect
demand for the admittedly
heavy tax on the land.

Supposing it how-
ever to be otherwise - a
large class of such in-
applications

It would be
hard to suppose that

applications (probably a
great majority) would
come within the one anna
stamp. The subject mat-
ter being of less value
than 50 Rs. but it cer-
tainly seems preposterous
that if the applicant be
dissatisfied. his further
appeal to the Board must
be stamped certainly not
less than one Rupee value
under Art. 10. and possibly
two Rupees under Art. 9.
unless this last Art. is
limited to quasi judi-
cial proceedings.

The

The same interpretation might I think apply to appeals from assessment ~~to~~ the Boards which may fairly be deemed part of "the Govt revenue on land" altho' the proceeds are devoted to local purposes. The administration of the tax is entirely under the orders of Government.

The duty of 8 annas on every petition or application to any Coll^r or other Rev^y authority which cannot be brought under any other provision or exemption appears ~~me~~ excessive beyond all reason. when one considers the multitude of little

I would except
w/ 1/2

I quote after W.D.

I would apply for the
exemption in the
case of a small town or
village having for the purpose
of a small number of houses
not for a large number

At the same time
application to the Govt.
for an exemption

little matters on which
Ryots address Collectors,
Tahsildars, &c. which
could scarcely be valued
so as to bring them under
the 1 Anna Stamp.

I think great weight is due to the Board
argument as to the necessity
for far more intimate
and frequent intercourse
between Collectors & Ryots
under our system of
Land Revenue than
under a Zeminidary or
Village system, and I
fully agree with them
in the opinion that the
tax will in very many
instances be tantamount
to a denial of justice.
I am sure it will create
the greatest discontent
throughout the Presidency.

I request the order
of Govt as to the course
they wish to be adopted
There

There is great ground
for the Board's remark
in the last para of their
Secretary's letter as to the
enormous number of
new values of Stamp
that will need to be
manufactured under this
act.

great confusion
in the
work by the
multiplicity of changes

As I read the "General
Rule" at the end of the
new Schedule one paper
of the value required by
the Schedule must be
first used for the plaint,
and if this ^{page} be insuffi-
cient then other "Petition"
papers may be used in addition.

Same demand of the same
opinion.

A separate value
of Stamp paper will have
to be prepared for

Every 5 Rs. of value between Rs. 10 & Rs. 100

Every 10 Rs. ————— 100 — 1000

Every 100 Rs. above ————— 1000

to meet the possible require-
ments of suitors.

The labor will be
enormous.

the confusion
will be
W.D.

L.B. & J. J. J.

Comp. 1877

12-12-08 ✓

N 1355

Proc of the Madras Govt
of 18th June 1867.

Proc of the Board of Revenue
of 19 June 1867 & 1868
of 17 June 1868 & 1869

Referring orders on Board's Pro-
ceedings on the subject of fix-
ing the Stamp duties on petitions
applicable to the authorities
exempting from the same all writs
in civil suits relating to heredi-
tary rights & other matters.

N 242 & 243

Rev Dept

N 1355

Proceedings of the Madras Govt
Under date the 18th June 1867

Read the fol-
lowing letter from the
Secretary to the Board
of Revenue.

Submitting for con-
sideration Board's observa-
tions on Act XXVI of 1867
"to amend the law relat-
ing to Stamp duties."

Here enter 30th April 1867
L 2632

N.

WDM

The "Exemption
for the Presidencies of
Madras and Bombay"
referred to Article 10
Schedule B. Act 8 of
1862 declares that
The petition is applica-
ble to the Revenue
Authorities need be
presented

presented on Stamp
papers except as pre-
scribed in the special
rule given at the
close of this Schedule
with respect to suits
commenced by Collectors
in the Presidency of
Bombay."

The amended
Schedule set out in
Section 6 Act 26 of
1862 which it is pro-
vided by Section 1 of
the Act "shall be
read with and to have
as part of the same
Act No. 8 of 1862"
until this exemption
was provided generally
for the use of Stamp
papers.

in suits and appeals
in Revenue Courts and
to Revenue Boards
and in the case of Peti-
tions and applications
to Revenue Officers and
Boards.

In the above
letter the Board of Revenue
have brought forward
several objections to the
provisions of Act 26 of
1862 as read by them.

Before dealing
with these objections
the Government ^{have} ~~are~~
^{observed} ~~expressed~~ that no oppor-
tunity was afforded
them of offering any
opinion on the provisions
prior to the enactment
of the Act except in

no point referred to
them by Telegraph.
By the duty charged on
complaints before Criminal
Courts and the Honble
Mr. Taylor's state-
ment in the debate
of 22nd March 1867 that
"the opinions received
from the Madras
Government were en-
tirely in favor of the
Bill" can apply to
this point only.

The Govern-
ment are of opinion
that the Board have
misapprehended the
effect of Act 21 of 1864
as regards suits in the
Mofussil in this

Presidency

Presidency. The amended
schedule is to be read
with and taken as part
of Act X of 1862 and
Section 30 of that Act
provides "that nothing in
this Act shall be held
to repeal any special
provision in the Code of
Civil Procedure or in
any other Act or Regu-
lation for the use of
plain or unstamped
paper in any judicial
proceeding, unless such
provision shall be im-
plicitly repealed by this
Act" and it is evident
that the provision was
not overlooked on the
occasion of passing
the recent Act for the
provision.

provision in regard to the
Costs of Civil Procedure
was expressly cancelled
by Section 4 of Act 28 of
1867 leaving that re-
lating to "any other Act
or Regulation" untouched.

It is thus evident that
the enactment of the
Amended Schedule can
make no more change
in any special provisions
x x x in any other
Act or Regulation
for the use of plain or
unstamped paper in
any judicial proceed-
ing, and for each pro-
vision shall be expressly
repealed by this Act
(x of 1862) than in the
original
Schedule B. and thus
the

the provisions of Regu-
-lations IV - V - VII. and
XII. of 1816. II. of 1825.
VII. of 1828. and Act
VIII. of 1865 for the
use of unstamped
paper in suits and
appeals in Revenue
Courts and to the Revenue
Board remain in full
force.

The only clause
of Revenue suits which
appears to have been
revoked for the first
time liable to Stamp
duty by the passing
of Act 28 of 1867 is
that of Suits under
Regulation 6 of 1801
for Hereditary Village
Officers in the Revenue
Courts

and Police Depart-
ments.

The Govern-
ment concurs in opinion
with the Board that
such suits should
remain exempt from
stamp duty.

The claims
adjudicated by Collec-
tors in the enquiries
held under this re-
gulation are not
purely personal claims
to private rights, but
are rather appeals
against the arrange-
ments in force for the
discharge of a public
office such as
arrangements

arrangements being in
most instances the
result of orders by
the Revenue authorities.

The Government
^{for this reason}
have expressly reserved
to themselves and their
^{Revenue} officers (to the ex-
clusion of the ordinary
Courts) the disposal
of the evolutions
attaching to this
limited class of village
offices and it seems
incongruous to oppose
any such bar as
is created by the
law of Stamp
Duty.

duty against the
fullest investigation
of all questions re-
lating to them.

The officers
themselves are of much
importance and in the
interest both of Govern-
ment and of the
general public it is
necessary to maintain
them as efficient
a state as possible.
To secure their efficiency
it is essential that
the legitimate authority
of the Officer holder

should

should be readily re-
cognised by the people
and this recognition
will not be obtained
if full enquiry into heredi-
tary claims be check-
ed by the operation of the
Stamp Act.

Application will
be made to the Govt of
India for an order under
Act 18 of 1865 - rescripting
all suits under Madras
Regulation 6 of 1831 from
Stamp duty.

As regards Miscel-
laneous petitions to the
Revenue authorities the
Govt entirely concurs in
opinion with the Board
that the ^{miscellaneous petitions} levy of Stamp du-
ties prescribed by Act
26 of 1867 would be ~~directly~~
opposed to the establish-
ment policy of the Home
and Local Govts for pro-
moting the most unobstructed
intercourse between
those authorities and the
Ryots under the Ryotwary
system.

system would endanger
the satisfactory working
of that system - and would
in many cases be tantamount
to a denial of
justice - but it appears
to Govt that the Boarders
have scarcely allowed
sufficient force to the
recognition annexed to Art.
10 of the amended schedule
in favor of "Petitions to a
Collector or officer making
a settlement, relating to
matters connected with the
assessment of lands - the
determination of rights -
or to any other matter
affecting the settlement of
the Govt revenue on land,
if presented pending the
formation of such settle-
ment -"

"Petitions to a Board
or Commissions of Revenue
relating to the same -"

The settlement of
the Govt revenue on
land may be a matter
of yearly adjustment with
individual landholders
under the Ryotwari system
although

although the assessment
of the land remains un-
changed for the demand
against the individual
depends on the extent of
his holding - and the oc-
casional remissions he
may be entitled to claim
according to circumstan-
ces under the Rules and
it appears to Govt that
the spirit of the recognition
clearly included all pe-
titions or applications
affecting the settlement of
the Govt revenue on land
from an individual land-
holder pleading the de-
termination of the demand
against him -

The same inter-
pretation will in the
opinion of Govt exempt
petitions relating to the
assessment of the Board
cess on land, which
although appropriated
for local purposes is
clearly of the nature of
"Govt revenue on land"
for the people have no
voice

voice in the imposition
or assessment of the class
and the administration
of the fund is reserved
by Govt entirely in its
own hands -

Were the above
classes of petitions not
already in the opinion
of Govt exempt from the
tax - the Govt would en-
tirely concur in opinion
with the Board that they
ought to be made so -

There will still re-
main however a very
numerous class of peti-
tions to Revenue autho-
rities under the Registry
system which the people
have hitherto been en-
couraged to present
which cannot be brought
into the above category
and relating to subject
matters incapable of
valuation - therefore
deprived of the advantage
of the one & fixed rate
of duty provided for
cases in which the amount
or value of the subject matter

is less than Rs 50 -

It seems inevita-
ble that all such peti-
tions except they can be
brought ^{within} the ex-
emption in favor of
"any application for per-
mission to cut timber
in Government forests
or relating to such forests
must be charged with
a stamp duty of 8 Annas
even though presented
to a Tahsildar or a
still more subordinate
Revenue authority - and
the Government entirely
agree with the Board
in thinking that this is
a requirement of the
law -

law will in a vast
number of minor ~~cases~~
productive of much hardship and be-
cause be tantamount
to a denial of justice
to the poorer classes -
the relations of the
people to the Revenue
authorities under the
Ryotwary system are
^{far} so infinitely more in-
timate and the in-
tercourse between
them so much more
frequent ~~and~~

and constant than under a
Zemindari or Village settle-
ment, that provisions which
may work perfectly well
under the latter system
may be utterly unsuited to
the circumstances of the
greater part of this Presi-
dency where there is no mid-
dleman or community between
the individual landholder
and the Government or its
local representatives;

As regards the poorer
classes of Ryots the operation
of the law will be of precise
and most unpopular the
burden of the tax thus sud-
denly imposed will be intolera-
ble - and the revenue derivable
from it in its present form
will

will be very dearly required.

The principle of a scale of duties varying with value of subject matter is inapplicable to the class of cases in question and the Government resolve to apply to the Supreme Government for an order under Act 18 of 1865 - reducing the stamp duty on all Revenue petitions and applications not exempt from duty - to a uniform rate of one anna in this Presidency and for permission under Secy Act 10 of 1862 - to use adhesive stamps in such cases.

Application will also be made for the inclusion of applications for leave to take up

up Government land for cultivation - or for irrigation to land in the list of exemptions. It cannot be the intention of the legislature to check such applications.

The attention of the Supreme Government will be drawn to the effect of the scale of duties for Plaints in combination with the "General rule" at the end of the amended schedule - in enormously increasing the number of values of stamp paper to be manufactured.

The rule apparently requires that for every petition of plaint or application in suits there shall be used a single paper of the

The value prescribed by the schedule with reference to the value of the subject matter and if the space afforded by that paper be insufficient, set forth the case, then other papers of the value prescribed for petitions (viz 8 annas) may be used to complete it.

The scale requires

1 value for 10-^{Rs.} and under
18 values between 10-^{Rs.} & 100 ^{Rs.}

90 ^{Rs.} ——— 100 & 1000 ^{Rs.}

190 ^{Rs.} ——— 1000 & 2000 ^{Rs.}

800 ^{Rs.} ——— 2000 & 10000 ^{Rs.}

5000 ^{Rs.} ——— 1 lac & 6 lacs

6099

or a total of 6099 different values of stamped papers to provide for the requirements of suits up to 6 lacs of Rupees value of subject matter.

The

The labor involved in the manufacture and the confusion that must occur in the interval before they are ready cannot but be excessive.

L.B.

16 Copies for the H^{on} of Secy. Dec 1900

x 28/11