MRL., G. 1—32,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1833 Press ~~His.~~

229-232

Dated 26.11.1863 ~~19~~

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Not to be folded or roughly handled

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1833

Proceedings of the Madras Government, Judicial Department, 26th November 1863.

Read the following papers: —

No. 229. From G. A. BALLARD, Esq., Magistrate of Malabar; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Judicial Department, Fort Saint George, dated Calicut, 15th September 1863, No. 101.

Madras Act No. III of 1863, making better provision for the service of Process under Act XIII of 1859.

Adverting to the enactment quoted, I have the honor to bring to your notice that its provisions have not yet been carried out in this District, as no rules of the nature referred in Section IV have been received.

2. It is most desirable that the existing system of serving Processes for breach of contract by the Police should cease.

3. I solicit early instructions on the subject. Perhaps the following rules may be approved for Wynad:—

1. Fees to be charged as noted: —

	Annas.
For a Single summons...	12
For each additional Summons in the same case...	8

I reckon that about Rupees 400 would have been collected in all 1863 had these fees been charged throughout, and cases been as numerous as they have been.

2. The fees to be chargeable as costs to either party at the discretion of the sitting Magistrate.

3. Peons to be entertained on a fixed monthly pay of Rupees 4 each, increasable by payment from the fees on the Summonses served in each month to any amount up to Rupees 7 each, for such month.

4. The balance of fees collected to be carried to an account from which the fixed pay of the Peons would be met as far as possible. Any deficiency would be chargeable to Government under the head "Law and Justice."

Excess is not likely to occur, but can be easily disposed of if it does.

I think the expenditure and receipt would pretty evenly balance in Wynad.

4. For the present two Peons should be attached to the Taluk Sub-Magistrate, one to the Deputy Collector, and one to each of the Division Sub-Magistrates, in Wynad; in all five Peons.

It is not necessary to employ special Peons elsewhere. When occasion arises Summonses can be served by the Revenue Peons; and the fees charged and carried to account.

5. It would be necessary to provide a standing advance of Rupees 20 monthly, till experience shows how far the fund is likely to meet requirements.

I beg I may be favored with early instructions.

Referred to the Inspector General of Police for his opinion.

FORT SAINT-GEORGE,
29th September 1863.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

No. 230. From W. ROBINSON, Esq., Inspector General of Madras Police; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated Kotagherry, 2nd October 1863, No. 2577.

General Department.

From Magistrate of Malabar, No. 101, dated 15th September 1863.

I would urge the adoption of Mr. Ballard's proposed rules for executing Processes under Madras Act III of 1863, as a tentative measure.

2. It is impossible to say, with our present knowledge, what rates will pay; or what effects this, being obliged to pay for their Processes, will have on the number of complainants under these provisions of the law; but Mr. Ballard's rates are moderate. The danger, as regards the proposed establishment of Summon Peons, seems to me, judging from the experience of the Police, to be that it will prove quite inadequate. This too can be rectified as experience shows what is wanted.

No. 231. From R. W. LODWICK, Esq., Acting Deputy Auditor and Accountant General, Madras; to the Chief Secretary to the Government of Fort Saint George, dated 11th November 1863, No. 252.

I have the honor, with reference to Government Memorandum, No. 388, dated 10th instant, to state that a new head will be ordered to be opened in the accounts under "Public Department" styled "Process Service Fund" and all Treasury Officers will be instructed to make the payments from the said fund appear in their accounts under the above head.

2. The following is the draft of rules which it is proposed to publish for the guidance of Treasury Officers:—

1. All amounts received under Section 3 of Act No. III of 1863, are to be credited to the head of "Process Service Fund" subordinate to "Public Department."

2. All sums paid to Peons for the service of Processes are to be debited to the same head, and the payments are to be supported by the original order of the Magistrate.

No. 232. ORDER THEREON, 26th November 1863, No. 1833.

The Governor in Council observes that the only points on which it is competent to the Government to make rules for giving effect to Act III of 1863 are:—

1st. The number of Peons to be employed.
2nd. The terms upon which they are to be retained.
3rd. The rate of their remuneration.
4th. The custody and disposal of the fees received under Section II.
5th. The mode of accounting for such fees.

2. It is not open to the Government to interfere with the discretion vested in the Magistrate by Section II, as to the amount of fee to be demanded from the complainant.

3. The rate of pay proposed by the Magistrate of Malabar, viz., Rupees 4 per mensem, subject to increase to Rupees 7, should the amount of fees collected be sufficient to meet the charge, is approved; and the Magistrate is authorized to appoint five Peons, viz., two Peons to the Taluq Sub-Magistrate, one to the Deputy Collector, and one to each of the Division Sub-Magistrates in Wynad. The Civil Paymaster will pass the Abstracts for these Peons on salaries not exceeding Rupees 7 each per mensem; and it will be the duty of the Accountant General to report, for the sanction of the Government, cases where the expense of any of these extra establishments must be borne by the State.

4. Ordered that the following Notification be published in the Fort Saint George and Malabar District Gazettes:—

NOTIFICATION.

The Governor in Council has sanctioned the following rules for giving effect to the provisions of Madras Act No. III of 1863, in the Wynad Taluq of the District of Malabar.

I. The number of Peons to be employed for the service of Processes in the Wynad Taluq under the Madras Act No. III of 1863 shall, for the present, be five.

II. Each Peon employed under the said Act shall be liable to be discharged at the discretion of the Magistrate of the District.

III. Each Peon employed under the said Act shall receive a fixed salary of Rupees 4 per mensem, which may be increased at the discretion of the Magistrate of the District up to Rupees 7 per mensem, should the amount of fees collected under Section II be sufficient to meet the charge.

IV. All sums received under Section III of the said Act shall be remitted to the nearest Treasury and shall be credited to the head of "Process Service Fund," subordinate to "Public Department."

V. All sums paid to Peons for the service of Processes, shall be debited to the same head; the payments being supported by the original order of the Magistrate.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. T. McMootry.

JUDICIAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers:—

From G. A. BALLARD, Esq., Magistrate of Malabar; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Judicial Department, Fort Saint George, dated Calicut, 15th September 1863, No. 101.

Madras Act No. III of 1863, making better provision for the service of Process under Act XIII of 1859.

Adverting to the enactment quoted, I have the honor to bring to your notice that its provisions have not yet been carried out in this District, as no rules of the nature referred in Section IV have been received.

2. It is most desirable that the existing system of serving Processes for breach of contract by the Police should cease.

3. I solicit early instructions on the subject. Perhaps the following rules may be approved for Wynad:—

1. Fees to be charged as noted:—

	Annas.
For a Single summons...	12
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2. The fees to be chargeable as costs to either party at the discretion of the sitting Magistrate.

3. Peons to be entertained on a fixed monthly pay of Rupees 4 each, increasable by payment from the fees on the Summonses served in each month to any amount up to Rupees 7 each, for such month.

4. The balance of fees collected to be carried to an account from which the fixed pay of the Peons would be met as far as possible. Any deficiency would be chargeable to Government under the head "Law and Justice."

Excess is not likely to occur, but can be easily disposed of if it does.

I think the expenditure and receipt would pretty evenly balance in Wynad.

4. For the present two Peons should be attached to the Taluk Sub-Magistrate, one to the Deputy Collector, and one to each of the Division Sub-Magistrates, in Wynad; in all five Peons.

It is not necessary to employ special Peons elsewhere. When occasion arises Summonses can be served by the Revenue Peons; and the fees charged and carried to account.

5. It would be necessary to provide a standing advance of Rupees 20 monthly, till experience shows how far the fund is likely to meet requirements.

I beg I may be favored with early instructions.

Referred to the Inspector General of Police for his opinion.

FORT SAINT GEORGE,
29th September 1863.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

From W. ROBINSON, Esq., Inspector General of Madras Police; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated Kotagherry, 2nd October 1863, No. 2577.

General Department.

From Magistrate of Malabar, No. 101, dated 15th September 1863.

I would urge the adoption of Mr. Ballard's proposed rules for executing Processes under Madras Act III of 1863, as a tentative measure.

2. It is impossible to say, with our present knowledge, what rates will pay; or what effects this, being obliged to pay for their Processes, will have on the number of complainants under these provisions of the law; but Mr. Ballard's rates are moderate. The danger, as regards the pro-

posed establishment of Summon Peons, seems to me, judging from the experience of the Police, to be that it will prove quite inadequate. This too can be rectified as experience shows what is wanted.

From R. W. LODWICK, Esq., Acting Deputy Auditor and Accountant General, Madras; to the Chief Secretary to the Government of Fort Saint George, dated 11th November 1863, No. 252.

I have the honor, with reference to Government Memorandum, No. 388, dated 10th instant, to state that a new head will be ordered to be opened in the accounts under "Public Department" styled "Process Service Fund" and all Treasury Officers will be instructed to make the payments from the said fund appear in their accounts under the above head.

2. The following is the draft of rules which it is proposed to publish for the guidance of Treasury Officers:—

1. All amounts received under Section 3 of Act No. III of 1863, are to be credited to the head of "Process Service Fund" subordinate to "Public Department."

2. All sums paid to Peons for the service of Processes are to be debited to the same head, and the payments are to be supported by the original order of the Magistrate.

ORDER THEREON, 26th November 1863, No. 1833.

The Governor in Council observes that the only points on which it is competent to the Government to make rules for giving effect to Act III of 1863 are:—

1st. The number of Peons to be employed.
2nd. The terms upon which they are to be retained.
3rd. The rate of their remuneration.
4th. The custody and disposal of the fees received under Section II.
5th. The mode of accounting for such fees.

2. It is not open to the Government to interfere with the discretion vested in the Magistrate by Section II, as to the amount of fee to be demanded from the complainant.

3. The rate of pay proposed by the Magistrate of Malabar, viz., Rupees 4 per mensem, subject to increase to Rupees 7, should the amount of fees collected be sufficient to meet the charge, is approved; and the Magistrate is authorized to appoint five Peons, viz., two Peons to the Taluq Sub-Magistrate, one to the Deputy Collector, and one to each of the Division Sub-Magistrates in Wynad. The Civil Paymaster will pass the Abstracts for these Peons on salaries not exceeding Rupees 7 each per mensem; and it will be the duty of the Accountant General to report, for the sanction of the Government, cases where the expense of any of these extra establishments must be borne by the State.

4. Ordered that the following Notification be published in the Fort Saint George and District Gazettes:—

NOTIFICATION.

"Under the provisions of Section IV, Madras Act No. III of 1863, the following rules have been passed by the Governor in Council.

I. The number of Peons to be employed for the service of Processes under the Madras Act No. III of 1863 shall, for the present, be five.

II. Each Peon employed under the said Act shall be liable to be discharged at the discretion of the Magistrate of the District.

III. Each Peon employed under the said Act shall receive a fixed salary of Rupees 4 per mensem, which may be increased at the discretion of the Magistrate of the District up to Rupees 7 per mensem, should the amount of fees collected under Section II be sufficient to meet the charge.

IV. All sums received under Section III of the said Act shall be remitted to the nearest Treasury and shall be credited to the head of "Process Service Fund," subordinate to "Public Department."

V. All sums paid to Peons for the service of Processes, shall be debited to the same head; the payments being supported by the original order of the Magistrate.

(True Extract.)

A. J. ARBUTHNOT,
Chief Secretary.

To the Magistrate of
" Inspector General of Police.
" Civil Paymaster.
" Accountant General.

Exd. T. McMootry.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letters:—

From the Magistrate of Madura (Extract) 15th Sept. 1863. No. 107)
From the Inspector General of Police (—do— 2d Octr. — No. 257)
From the Sec. to Govt. Public Works Department (—do— 11th Novr. — No. 252)
Order thereon 25th November 1863. No. 1833.

The Governor in Council observes that the only points on which it is competent to the Government to make rules for giving effect to Act III of 1863 are,

1st.— the number of peons to be employed.

2d.— the terms upon which they are to be retained.

3d.— the rate of their remuneration

4th.— the custody and disposal of the fees received under section II.

5th.— the mode of accounting for such fees.

2. It is not open to

the Government to interfere with the discretion vested in the Magistrate by Section II, as to the amount of fee to be demanded from the Complainant.

3. The rate of pay proposed by the Magistrate of Malabar—viz. Rs. 4 per mensem, subject to increase to Rs. 7, should the amount of fees collected be sufficient to meet the charge—is approved; and the Magistrate is authorized to appoint five persons, viz. two persons to the Talook Sub Magistrate, one to the Deputy Collector, and one to each of the Division Sub Magistrates in Wynaad. The Civil Paymaster will pass the Abstracts for these persons on salaries not exceeding Rs. 7 each per mensem

mensem; and it will be the duty of the Accountant General to report, for the sanction of the Government, cases where the Expense of any of these Extra Establishments must be borne by the State.

4. Ordered that the following Notification be published in the Fort Saint George and Malabar District Gazettes.

"Notification

"Under the provisions of Section IV, Madras Act No III of 1863, the following rules have been passed by the Governor in Council.

I. The number of persons to be employed for the service of processes under the Madras Act No III of 1863 shall, for the present, be five.

II. Each person employed under the said Act shall be liable to be discharged at

The Governor in Council has sanctioned the following rules for giving effect to the provisions of Madras Act No II of 1863 in the Wynaad Taluq of the District of Malabar

of the Sanction of the Magistrate of the District

III. Each Clerk employed under the said Controller

receive a fixed Salary of Rupees 4 per Mensem, which may be increased at the discretion of the Magistrate of the District upon the Report of the Manager of the Estate collected under Section II. of sufficient to Cover the Charge.

IV. All Sums received under Section III of these Rules shall be remitted without delay into the Treasury and shall be credited to the Head of "Proceeds of Estates &c. under Distraint for Public Dues."

V. All Sums finally realized from the Estates shall be divided as the Same Rule, the Payments being subject to the Approval of the Magistrate by the Original Order of Reference.

By Order,

A. Stanes, 1/13/43

Chief Secretary to Govt.

Fort St. George, 1/13/43

Revised Copies

To the Magistrates of all the Districts. despe 7

Inspector General of Police
" Civil Paymaster.
" Accountant General. } despe 4

Note- Ten additional copies sent to the Inspector General of Police, Madras, as per Memo No. 3284 from that Officer. } 7

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Judicial 1863. Department.

No. 1833

PROCEEDINGS of GOVERNMENT.

Dated 26 November 1863

Pet. No. 706/64 — 2213/53
537
Pet. No. 2408 of 2/64.

Rules laid down for giving effect to the provision of Contract Act III of 1863.

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