

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	<i>P33</i>	Press
		Mis.
	<i>259-260</i>	
Dated	<i>29.5.1863</i>	1st

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
29th May 1863.

No. 259. Read the following letter from J. W. S. WYLLIE, Esq., Under Secretary to the Government of India; to J. D. SIM, Esq., Secretary to the Government of Fort Saint George, dated Fort William, the 16th March 1863, No. 1,673.

Home Department.

3. Should any reduction of the fees be made in the High Court at Calcutta I have further to request that you will communicate on the subject with the Governments of Madras and Bombay in order that the same course may be followed in the High Courts of those Presidencies.

* From Clerk to Chief Justice, dated 28th October 1862 and enclosure.
To Chief Justice, No. 6,434, dated 12th November 1862.

Referring to the annexed Extract, paragraph 3, from a Judicial Despatch from the Secretary of State for India, No. 88 of 1862, dated the 16th of December, I am directed to forward, for submission to His Excellency the Governor of Madras in Council, copy of a correspondence* with the Chief Justice of the High Court at Fort William in Bengal, together with a copy of the Tables of Fees to be allowed

to the Sheriff and the Attorneys of the High Court referred to therein.

From E. B. PEACOCK, Esq., Clerk to the Chief Justice; to E. C. BAYLEY, Esq., Secretary to the Government of India, dated High Court, the 28th October 1862.

I am directed by the Chief Justice to forward, for the sanction of His Excellency the Governor General in Council, the enclosed Tables of Fees to be allowed to the Sheriff and Attorneys. These Tables were prepared by a Committee of the Judges of the High Court, of whom Sir Charles Jackson was one, after much consideration and consulting the Taxing Officer and others acquainted with the subject. They have also been considered and approved of by the Chief Justice.

The Procedure under Act 8 of 1859, which has been extended to the High Court by Her Majesty's Charter, is so different from that which existed in the late Supreme Court, or has ever existed in any other Court in which Attorneys have been recognized as a distinct class of practitioners, that it is very difficult to form a correct estimate as to the amount of fees which ought to be allowed as a fair and proper compensation for the services which they perform. The present Tables are, therefore, merely experimental, and are declared to be liable to such reductions and alterations as may hereafter be considered necessary.

The Chief Justice intends that they shall be revised after a year's trial.

GENERAL FEES.

TABLE I.

	RS.	A.	P.
Drawing Plaintiff	10	0	0
Instructions for Plaintiff when drawn by Counsel (if this fee be allowed, no charge for drawing is to be allowed)	10	0	0
Drawing or Instructions for statement of questions of law or fact agreed on under Section 142 of Act VIII of 1859, between the parties. The Attorney of each party thereto...	20	0	0
NOTE.—If the Statement agreed on is presented at the commencement of the suit, or on the day fixed for the settlement of issues, the Attorney of each party shall be entitled to fees for instructions, conferences, and perusing papers, according to the Certificate of the Judge as to the case being an ordinary or important one.			
Drawing other Statements...	10	0	0
Instructions for such statements when drawn by Counsel (if allowed, no fee for drawing is to be allowed)...	10	0	0
Presentation of Plaintiff...	10	0	0
Authority to sue or defend...	5	0	0

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	RS.	A.	P.
Drawing written particulars of set off...	10	0	0
If drawn by Counsel instructions for same (if allowed, no fee for drawing is to be allowed)...	10	0	0
Application to Court or Judge for summons against Defendant, or to witnesses, or for copy decree...	2	0	0
No application for copy decree in cause in Class 1.			
Every other application to Court, or Judge, before or after decree, and for every attendance to oppose the same...	10	0	0
Unless Court or Judge shall consider it a frivolous or unjustifiable application. Attending Court, or Judge, or any objection taken by such Court or Judge or any of the Officers of Court to any proceeding, and explaining the same satisfactorily...	5	0	0
Receiving, filing or depositing any Statement or Papers from or in any Office of Court...	1	0	0
Attending Court upon the swearing of every necessary affidavit...	2	0	0
Attending Counsel with Brief or Instructions...	2	0	0
For every necessary attendance on the client, or the opposite Attorney (when a letter would not suffice)...	5	0	0
Letter of demand before suit...	5	0	0
Writing letter (if material to the cause and not solely for the benefit of the party who succeeds)...	3	0	0
Receiving and persuing letter ditto ditto	2	0	0
Drawing all necessary affidavits	5 to 30	0	0
As may be allowed by the Taxing Officer, exclusive of copies inserted therein.			
When affidavit settled by Counsel, the Attorney's charge to be the same as if he had drawn the affidavit so settled.			
All necessary translations made in the Office of the Attorney per folio of 90 words.	0	8	0
Charge for copying or engrossing papers necessary for the cause, such as Pleint, Statement, Particulars, Summons, Notices of motion, Briefs, Affidavits, Orders or Documents, per folio of 90 words.	0	3	0
Searches...	2	0	0
„ in the Record Office where Office copies are required	5	0	0
Other searches in the Record Office	2	8	0
Serving every necessary notice	2	0	0
Attending Court to hear judgment delivered when judgment is not delivered at the end of the trial	10	0	0
Attending Taxation per hour	5	0	0
Money properly paid, or advanced out of pocket for the client, for fees of Court, fees to Counsel, or Stamps or fees to the Sheriff, and interest thereon at 6 per cent.			
Drawing every security Bond	5 to 15	0	0
Attending client on the execution of the same...	2	8	0
Drawing Notice of motion, Notice to produce, or list of documents (as may be allowed by the Taxing Officer)...	5 to 10	0	0
Attending before the sitting Judge on reference for each hour while the case is on...	10	0	0
Registering Warrant of Attorney or cognovit executed before the 1st of July 1862, not including affidavit...	10	0	0
Entering up judgment on the same...	15	0	0
Signing judgment on the same...	8	0	0
Issuing execution on the same...	16	0	0

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TABLE III.

Costs which may be allowed as between Attorney and client, but which are not to be allowed upon taxation as between party and party.

	RS.	A.	P.
Conferences with and attendances on the client if necessary, or requested by the client...	5	0	0
Conferences with Counsel not allowed as party and party costs, if such conference is sanctioned or directed by the client.	5	0	0
Expenses of the Attorney incurred with or under the sanction or direction of the client, in collecting and taking down the evidence and defraying the expenses of witnesses, other than hereinbefore provided for, as may be allowed by the Taxing Officer.			
For every attendance by an Attorney in person on a Purdah woman, or upon clients unable to attend Court or at the Solicitor's Office to obtain their signatures to the verification to Pleints, statements, claims, and all other proceedings required to be verified, and to get affidavit sworn under Commission if within Calcutta	20	0	0
Ditto if by a Clerk	5	0	0
Beyond the local limits and within 5 miles, every mile	5	0	0

TABLE IV.

Fees chargeable by the Sheriff.

For executing every warrant or attachment against one defendant	2	0	0
Where more than one defendant, for serving, each	2	0	0
For every ordinary return	1	0	0
For every search	1	0	0
For serving every summons, subpoenas, notice to produce or other notice, notice of injunction for each person served	2	0	0
Translations of ditto, 8 annas each	0	8	0
For drawing security Bond	2	0	0
For every warrant to discharge defendant out of custody	1	0	0
For every special return	2	0	0
For executing every Habeas Corpus for each person named in the writ	2	0	0
For executing every process from the Ecclesiastical or Admiralty Courts against one or each defendant	2	0	0
Poundage on sum levied under a writ of execution against the effects of or taking defendant in execution for first 1,000 Rupees 5 per cent., for the rest 2½ per cent.			
Poundage on a writ of possession 8 Annas upon every 10 Rupees of the yearly value.			
For executing writs of execution against persons and effects, warrants for apprehension of witnesses, sequestrations and warrants for security to be furnished by defendants issued by Mofussil Authorities for each defendant	4	0	0
For serving summons, notice, proclamation, subpoenas, &c., under Act XXIII of 1840, on each person...	2	0	0
For bringing up every defendant out of Jail...	2	0	0
For every Bill of Sale from the Sheriff...	8	0	0
Such Bill of Sale to include all parcels bought by each purchaser under the same writ, unless he requires a separate Bill of Sale for any parcel.			
For every Bond of Indemnity for seizing property, &c., when there are adverse claims...	32	0	0

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The last four charges to include all attendances, but not affidavits.

	RS.	A.	P.
Conference with Counsel as to appeal...	10	0	0
Presentation of petition of appeal...	10	0	0
Consultation with Counsel with brief on hearing of appeal...	10	0	0
Attendance on local inquiry, or Commission to examine parties or witnesses <i>debenesse</i> , or before Receiver on letting property, or any Officer of Court other than a Ministerial Officer, for every hour or part of an hour engaged on such reference...	10	0	0
If beyond $\frac{1}{2}$ of a mile from the Court House, and within the local limits of Calcutta, an additional fee for going and returning...	20 to 30	0	0
For every extra mile, or portion of a mile, beyond the local limits, additional to cover travelling expenses and loss of time...	5 per mile		
All necessary attendances, inspecting documents, books and accounts before and after decree in the Court House, or Office of the Attorney, per hour	2	8	0
When attendances of Attorney or his principal Clerk is required...	10	0	0

TABLE II.

Fees which shall be payable to Attorneys in contested cases with reference to the importance and difficulty of getting up the cases. The class under which the case falls shall be determined by the Certificate of the sitting Judge with reference to the fees and proceedings up to and including the settlement of issues; and as to subsequent costs by the Certificate of the Court, or sitting Judge, to be given at the hearing or at or after the passing of the final Decree, or other determination of the suit. Provided also that on the application for such last mentioned Certificate, if it shall be made to appear to the satisfaction of the Court that the fee ordinary allowed under the Headings 4, 5 and 7 will not be sufficient to indemnify the party (Plaintiff or Defendant) against the costs necessarily incurred by him, and that such fees ought to be increased, it shall be lawful for the Court or Judge to make such special directions as to the fees under these heads as to them may seem fit.

	Class 1. Short Clauses.	Class 2. Ordinary Causes.	Class 3. Important Causes.
1. Instructions from client...	10	25	50
2. Preparing draft Brief for Settlement of Issues...	...	20	30
3. Attending Court thereon	...	10	15
4. Perusing papers at discretion of the Taxing Officer, not exceeding ...	...	50	75
5. Collecting and taking down evidence	...	30	70
6. Conference with Counsel (not more than 1 in Class 2, or 2 in Class 3).	...	10	10 each.
7. Preparation of Draft Brief for trial.	10	25	50
8. Consultation...	...	10	10
9. Attending Court or Judge at trial each day during the progress of the cause...	10	25	50
10. Preparing Bill of Costs...	...	10	15
11. Instructions for Petition of appeal.	...	25	50
12. Attending Court during the hearing of the Appeal, each day during the time the case is on...	...	25	30

NOTE.—The fees mentioned in Tables No. 1 and No. 2 are the rates to be allowed upon taxation as between Attorney and client or between party and party, but it will be for the Taxing Officer in every case to decide whether the particular business or attendance charge for or monies advanced are to be allowed as between party and party, or between Attorney and client.

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	RS.	A.	P.
For serving every notice under execution to seize property if no other property seized than what is mentioned in the notice	4	0	0
For serving notice of a second or subsequent seizure...	2	0	0
For serving citation...	2	0	0
For every Certificate from the Sheriff's Office signed by the Sheriff...	1	0	0
For giving copies of notice of claim to the Sheriff, 4 Annas per folio.			
Copies of all other papers taken from his Office per folio or 90 words, 4 annas.			
Attendance in Court or before the Sitting Judge or other Officer of Court with papers, &c.	3	0	0
<i>Fees of Sheriff on account of his European Officers, if paid by Sheriff to them.</i>			
For arresting defendant, each defendant	16	0	0
Seizing property	16	0	0
Giving possession of landed property	16	0	0
For serving summonses, citations, notices of seizure and other notices, for each person served	2	0	0
If an Attorney of the Court accepts service, for each person	1	0	0
Serving subpoenas, each person	2	0	0
<i>Fees of Sheriff on account of his Native Officers, if paid by Sheriff to them.</i>			
Serving summonses or subpoenas, each person	0	6	0
For arresting defendant, each defendant	3	0	0

From E. C. BAYLEY, Esq., Secretary to the Government of India; to the Honorable Sir BARNES PEACOCK, Kt., Chief Justice of the High Court of Judicature at Fort William in Bengal, dated the 12th November 1862, No. 6,434.

Mr. E. B. Peacock's letter, dated the 28th of October, having been laid before the Governor General in Council, I am directed in reply to inform you that His Excellency in Council is pleased, under Section 15 of the Act of Parliament constituting the High Courts of Judicature in India, to sanction, as a temporary arrangement, the Tables of Fees settled by your Honorable Colleagues and yourself for the Sheriff and the Attorneys of the High Court at Fort William.

2. The Tables are returned with this letter.

No. 260. ORDER THEREON, 29th May 1863, No. 833.

His Excellency the Governor in Council resolves to forward to the Honorable the Judges of the High Court, the correspondence above recorded, having reference to the Table of Fees to be allowed to the Sheriff and the Attorneys of the High Court at Calcutta, and to request that they will favor the Government with their opinion as to the expediency of adopting a similar Table in the High Court at Madras.

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

Exd, T. McMeotry.

Imperial

Judicial Department.

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PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following
letter from the Under Secretary
to the Government of India.

(Here enter 15th March 1853)

Order thereon 29th May 1853 No 833.

His Excellency the
Governor in Council resolves
to forward to the Honorable
the Judges of the High Court,
the correspondence above
recorded, having reference to
the ^{table of} fees to be allowed to the
Sheriff and the Attorneys of
the High Court at Calcutta,
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their opinion as to the ex-
pediency of adopting a
similar table in the High
Court at Madras.

To The Honble the Judges of the
High Court. } des^d 30/5/53

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Sub E 1863. Department.

No. 833

PROCEEDINGS OF GOVERNMENT.

Dated 29 May 1863.