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MADRAS RECORD OFFICE.

Government of Madras.

Justice DEPARTMENT.

G.O. No. <u>461</u>	Press Mis.
Dated <u>5-4-18</u>	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

Read the following papers:—

No. 43. From the Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, Fort St. George, dated Madras, 22nd July 1870, No. 1369.

With reference to your letter to the Chief Justice, dated 18th May 1870, forwarding copy of the Proceedings of Government, Judicial Department, of the same date, and requesting that the rules contemplated by Sections 20 and 22 of Act VII. of 1870, respecting the levy of fees for serving and executing processes issued by the High Court in its appellate jurisdiction and by the other Civil, Revenue, and Criminal Courts established within the local limits of that jurisdiction, and respecting the remuneration of persons employed in the service and execution of processes, and respecting the strength of the establishments to be employed, may be framed and submitted for the confirmation of the Local Government and the sanction of the Governor-General of India in Council; I am instructed to forward the Rules framed by the High Court relating to processes issued by the Civil and Revenue Courts, and to state that the rules relating to processes issued by Criminal Courts will form the subject of a separate communication.

2. Previous to the receipt of your letter under reply, draft rules were framed in April and circulated to all Civil Judges for observations and suggestions. Many of the suggestions received have been adopted, and the rules as they now stand are a complete set of rules for the guidance of the Courts in all matters relating to processes, opportunity having been taken to assimilate all the existing rules on the subject.

3. The principle on which the schedules have been framed is that of making the parties to each suit liable for the actual cost of serving the processes required. With this view, the Courts have been divided into two classes according to the area of their jurisdiction, and the cost of each process fixed according to the time likely to be occupied in serving or executing it. The system in force in Lower Bengal and the North-Western Provinces is to levy a mileage rate calculated according to the distance of each village from the Court which issues the process, and the Schedule contains a list of villages and their distance from the Court. The advantage of the present system is that a table of fees is fixed in a conspicuous place in every Court, and suitors can ascertain at a glance what fee is payable. The only disadvantage seems to be the tentative nature of the rates. These, however, can be altered if found to be too high or too low. It is presumed that it is not the intention of the Government to derive any revenue from the service of processes.

Rules relating to Processes issued by Civil and Revenue Courts in the Madras Presidency framed by the High Court of Judicature at Madras in pursuance of Sections 20 and 22 of Act VII. of 1870 (Court Fees Act).

1. In supersession of all other Rules now in force relating to the service or execution of processes, the following Rules shall take effect from the date of their publication in the *Fort St. George Gazette*.

2. In the Civil Courts, the Principal Sadr Amins' Courts, Courts of Small Causes and District Munsifs' Courts, all processes shall, unless for some special reason, be served or executed by a separate establishment which shall consist of Amins and Peons.

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3. Every warrant for the attachment of property and every warrant for the sale or for the sale and delivery of possession of property (whether moveable or immoveable) shall be executed by Amins.

4. Every summons, notice, written order, warrant of arrest, injunction, and proclamation shall be served or executed by Peons.

5. The number of Amins and Peons fixed by the District Judge for his own Court and the Courts subordinate to him shall be reported to the High Court. In no case shall the number at first fixed exceed the number employed during the year ending 31st March 1870. In fixing the number of Amins and Peons to be employed in each Court, every District Judge shall compare the average disbursements of the three years ending 31st March 1872, with the cost of the proposed establishments calculated according to Rule 23, and in no case without the special sanction of the High Court shall the latter be allowed to exceed the former.

6. The establishment of each Court must suffice for the service and execution of processes transmitted from other Courts as well as of processes issued from the Court to which the establishment belongs.

7. Amins and Peons shall be appointed by the Judge of each Court, and shall be under the control of the Nazir, or (when there is no Nazir) the head Ministerial officer of the Court. Such Amins and Peons as have been for the longest period on the Batta establishment shall be the first persons appointed under this Rule.

8. The appointment of relatives or dependents of the Judge or of any of the Ministerial servants of the Court as Amins or Peons is strictly prohibited.

9. No person shall be eligible as Amin who cannot read and write and keep accounts, and ability to read and write shall be considered a necessary qualification for a Peon not at present on the Batta establishment. Every Amin shall be required to furnish security in 100 Rupees for the proper discharge of his duties.

10. Every Amin shall on appointment receive a sanad signed by the Judge and with the seal of the Court and he shall be prepared to produce the sanad whenever the party against whom a warrant is being executed requires its production.

11. A register is to be kept of Amins and Peons according to the date of their appointment.

12. No increase is to be made in the number of Amins and Peons fixed by Rule 5 without the previous sanction of the High Court, but transfers from one Court to another may be made at the discretion of the District Judge. When reduction in the establishments is feasible, the same should be made and reported to the High Court. On all occasions of reducing the establishments, those who were last appointed are to be first discharged.

13. All orders regarding the punishment and dismissal of Amins and Peons made by Civil Judges—Judges of Small Cause Courts and Principal Sadr Amins shall be final and not subject to appeal. Appeals shall lie to the Civil Judge from all orders passed by District Munsifs.

14. No Amin or Peon shall ordinarily be employed on any other duty than that connected with the service and execution of processes. Every Amin or Peon, when not employed in serving or executing processes, shall be in daily attendance at the Court-house, and all processes shall be delivered to those in attendance in regular order.

15. As many processes as possible are to be entrusted to each Amin and Peon so as to economize labour.

16. To ensure regularity, every Amin and Peon shall be required to keep a book (to be provided by the Court) in Form A showing the date of delivery of each process and the date of the return made. The Nazir or head Ministerial officer will be required to initial each entry when return is made to the process and to satisfy himself that no unnecessary delay has taken place. For the service of an ordinary process, time will be allowed at the rate of 15 miles *per diem* for

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the distance to be travelled to and from the place at which service is to be made and one clear day for the service.

17. Amins shall not be required to wear any belt or badge.

18. Every Peon shall wear a plain black leathern belt to be provided by the Court, with a brass badge on which shall be inscribed the name of the Court to which he belongs and his registered number.

19. Daily registers must be kept by the Nazir or head Ministerial officer in Forms B and C.

20. At the close of the month, an abstract statement is to be prepared for the Judge's inspection in Form D. District Munsifs will submit a copy of the abstract statement each month to the Civil Judge.

21. At the close of the official year, a general statement from each zillah of all processes served or executed during the year and the amount disbursed on account of the service or execution of processes must be prepared in Form D and submitted to the High Court together with a brief report on the working of the system. Judges of Small Cause Courts and Principal Sadr Amins will furnish the necessary information to the Civil Judge of their zillah to be included in the general Return.

22. All correspondence relating to the service of processes shall be deemed to be official correspondence on the public service, but a separate account must be kept of the postage on account of such correspondence and entered in Form D.

23. The salary of an Amin in a District Munsif's Court shall be 12 Rupees, and that of a Peon 6 Rupees *per mensem*. The salary of an Amin in every other Court specified in Rule 2 shall be 14 Rupees, and that of a Peon 7 Rupees *per mensem*. Provided that in exceptional cases and with the previous sanction of the High Court *batta* may be given in addition to salary.

24. The salary of Peons employed in the Revenue Courts shall not exceed 7 Rupees *per mensem* in the Collector's Court, or 6 Rupees *per mensem* in any other Court.

25. Processes issued by Village Munsifs shall ordinarily be served or executed by the Village Peon or Taliar, but processes issued by District Munsifs in execution of the decrees of Village Munsifs shall be served or executed by the officers of the District Munsif's Court.

26. On the introduction of these Rules no *batta* shall be received for the service of processes in any of the Courts specified in Rule 2, but stamps according to the rates prescribed in the schedules hereunto annexed shall be substituted. No other fees except those provided in the schedules shall hereafter be collected for the service or execution of processes, but where ferry charges have to be incurred, the party at whose instance the process is issued shall pay to the Amin or Peon entrusted with the process (through the Nazir or head Ministerial officer) the actual amount of such charge, and in cases in which the party at whose instance a process is issued desires expedition in the service or execution of the process, he may in like manner pay the actual cost of travelling by rail, boat, cart or otherwise.

27. When the Government of India shall prescribe the use of impressed stamps, every stamp paper presented must be endorsed by the party presenting it, with the particulars of the process required to be issued, and the Nazir or head Ministerial officer will in the usual way efface the stamp and endorse on the outside sheet the date of presentation with his initials on satisfying himself that the proper stamp has been presented and will then cause the required process to be issued.

28. When the Government of India shall prescribe the use of adhesive stamps, the Nazir or head Ministerial officer will attach the adhesive stamps to the process issued and efface the stamps.

29. Nothing in these Rules shall prevent the application for any process being presented on stamp paper if the law requires such application to be on stamp paper. The stamp required for the process itself need not be presented until an order is passed on the application.

FORM A.

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Name of Amins or Peons.	Date on which Process delivered.	Nature of Process.	Date of Return made thereto.	Mileage travelled.	Explanation of delay in serving or executing Process.
1	2	3	4	5	6

FORM B.

Daily Register showing the number of Processes issued and the Stamp fees collected in the _____ Court of _____

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[illegible]

Form C.

Daily Register showing the number of Processes received from other Courts for service within the jurisdiction of the Court of

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Date of receiving Process from other Courts.	Name of Court whence received.	No. of Suit or Petition in which Process issued.	Number and nature of Processes received.	Date of delivering Process to serving Officer.	Name of serving Officer.	Date of Return made thereto.	Nature of Return.	Date of transmitting Return to Court whence issued.	Remarks.
1	2	3	4	5	6	7	8	9	10

Form D.

Abstract Statement showing the number of Processes issued and the amount of Stamp fees collected in the Court of during the

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Name of Court.	Number of Processes issued (excluding those despatched to other Courts).	Number of Processes received from other Courts for service.	Total.	Number of Processes to which return has been made.	Number of Processes still outstanding.	Amount of Stamp fees collected on Processes.	Postage in connexion with service or execution of Processes.	Cost of Process serving establishment, deducting fines, stoppages, &c.	Total of columns 8 and 9.	Remarks.
1	2	3	4	5	6	7	8	9	10	11

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SCHEDULE A.

*In the High Court (Appellate Side) Civil Courts, Principal Sadr Amins' Courts and
Collectors' Courts.*

		Rs.	A.	P.
1	Summons or Notice to defendant or respondent	1	...	...
	And for every additional defendant or respondent, if applied for at the same time, and if defendant or respondent resides in the same neighbourhood	...	8	...
2	Summons to a witness	1	...	...
3	And for every additional witness, if applied for at the same time and if witness resides in the same neighbourhood	...	8	...
4	Warrant of arrest	2	...	...
5	Proclamation of attachment or sale	1	...	...
	Warrant of attachment of moveable or immoveable property according to the value of the suit, if applied for before judgment; or the amount decreed if applied for in execution of decree,			
	If the value or amount			
	does not exceed 100 Rs.	2	...	...
	exceeds 100 Rupees but does not exceed 500 Rs.	3	...	...
	,, 500 ,, ,, 1,000 ,, ...	4	...	...
	,, 1,000 ,, ,, 5,000 ,, ...	5	...	...
	,, 5,000 ,, ,, 10,000 ,, ...	6	...	...
	,, 10,000 ,, ...	7	...	...
6	Warrant of delivery of possession of property (moveable or immoveable).			
	If no attachment has taken place	The fee for attachment of said property.		
	If attachment has taken place:			
	For moveable property	Rs. 1	...	...
	For immoveable property	2	...	...
7	Warrant of sale of moveable property.			
	If conducted at the Court-house	...	8	...
	If not conducted at the Court-house	1	...	...
8	Warrant of sale of immoveable property.			
	If conducted at the Court-house	1	...	...
	If not conducted at the Court-house	2	...	...
9	Injunction, Order or Notice not otherwise provided for	1	...	...

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N. B.—(1). If a process is to be served or executed within a radius of 6 miles from the Court-house, half the above rates only are to be charged. The Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court-house.

(2). When it is found necessary to employ more than one Amin or Peon (as for instance where property is situated in different places) double rates are to be charged.

(3). When a warrant remains unexecuted for fifteen days after its delivery to the officer entrusted with its execution, an additional fee at the same rate shall be levied from the party at whose instance the warrant was issued for every fifteen days or portion of fifteen days until return is made, provided that the delay in executing the said warrant is not attributable to the officer of the Court.

(4). If the processes for attachment and sale are issued simultaneously, the proper fee for the former process only is to be charged.

(5). Under Section 8, Act XXIII. of 1861, the lowest rate for serving a process shall be deemed to be as heretofore 4 Annas *per diem*. A week's batta is to be deposited in advance and renewed at like intervals.

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SCHEDULE B.
*In Small Cause Courts, District Munsif's Courts and
Subordinate Revenue Courts.*

		Rs.	A.	P.
1	Summons to defendant	...	8	...
	And for every additional defendant if applied for at the same time, and if defendant resides in the same neighbourhood	...	4	...
2	Summons to a witness	...	8	...
	And for every additional witness if applied for at the same time, and if witness resides in the same neighbourhood... ..	...	4	...
3	Warrant of arrest... ..	1	...	...
4	Proclamation of attachment or sale	...	8	...
5	Warrant of attachment of moveable or immoveable property according to the value of the suit if applied for before judgment, or the amount decreed if applied for in execution of decree.			
	If the value or amount does not exceed 50 Rs.	...	8	...
	Exceeds 50 Rupees, but does not exceed 100 Rs.	1	...	...
	" 100 " " 500 "	2	...	...
	" 500 "	3	...	...
6	Warrant of delivery of possession of property (moveable or immoveable).			
	If no attachment has taken place			
	If attachment has taken place:			
	For moveable property... ..	...	8	...
	For immoveable property	1	...	...
7	Warrant of sale of moveable property			
	If conducted at the Court-house	...	4	...
	If not conducted at the Court-house	...	8	...
8	Warrant of sale of immoveable property.			
	If conducted at the Court-house	...	8	...
	If not conducted at the Court-house	1	...	...
9	Injunction, Order or Notice not otherwise provided for	...	8	...
10	Any process in execution of a decree of a Village Munsif	...	4	...

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N.B.—(1). If a process is to be served or executed within a radius of 6 miles from the Court-house, half the above rates only are to be charged. The Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court-house.

(2). When it is found necessary to employ more than one Amin or Peon (as for instance where property is situated in different places) double rates are to be charged.

(3). When a warrant remains unexecuted for fifteen days after its delivery to the officer entrusted with its execution, an additional fee at the same rate shall be levied from the party at whose instance the warrant was issued for every fifteen days or portion of fifteen days until return is made, provided that the delay in executing the said warrant is not attributable to the officer of the Court.

(4). If the processes for attachment and sale are issued simultaneously, the proper fee for the former process only is to be charged.

(5). Under Section 8, Act XXIII. of 1861, the lowest rate for serving a process shall be deemed to be as heretofore 4 Annas, per diem. A week's batta is to be deposited in advance and renewed at like intervals.

No. 44. From the Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, Fort St. George, dated 5th August 1870, No. 1455.

In continuation of my letter, dated the 22nd July 1870, No. 1369, transmitting the Rules framed by the High Court, relating to processes issued by the Civil and Revenue Courts, I am directed, herewith, to forward the rules relating to processes issued by the Criminal Courts.

2. The High Court have not felt themselves at liberty, looking at the provisions of the Court Fees' Act, to enter upon the question whether the levy of fees on processes in Criminal cases is expedient, and whether if expedient, the Police ought to be relieved from the duty of serving such processes. These questions appear to have been raised in a letter from the Secretary to the Government of Bengal, to the Secretary to the Government of India, Home Department, and the opinions of all Magistrates in this Presidency invited on the subject, in the Proceedings of the Madras Government, Judicial Department, dated 2nd February 1870. The High Court, however, understand the legislature to have affirmed the principle that fees are to be levied on processes in certain Criminal cases, and that an establishment distinct from the General Police Force is to be employed in serving and executing those processes. On this view they have framed the present rules.

3. It will be observed that the rules differ from the rules relating to Civil processes in providing that the establishments shall be confined to the Subordinate Magistrate's Courts, and that all processes issued from Superior Courts shall be sent through the Subordinate Magistrates. The object of this provision is to economize labour. It has been considered necessary to give to all Magistrates a wide discretion as regards remitting the fees in cases where, in the opinion of the Magistrate, hardship would result from their imposition.

4. The fees are confined to processes issued for the purpose of compelling the appearance of defendants or witnesses.

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Rules relating to processes issued by Criminal Courts in the Madras Presidency, framed by the High Court of Judicature at Madras, in Pursuance of Sections 20 and 22 of Act VII. of 1870 (Court Fees' Act).

1. THE following Rules shall take effect from the date of their publication in the Fort St. George Gazette.
2. When a complaint is made before any Criminal Court of an offence under the Penal Code or under any special or local law other than an offence for which the Police are authorized to arrest without warrant, no process to compel the appearance of a defendant or witness shall ordinarily be issued until the complainant has paid stamp fees at the rates mentioned in the Schedule hereunto annexed.
3. Similar stamp fees shall be levied from a defendant who applies for the issue of process to compel the appearance of his witnesses.
4. Provided that any Court may, on recording its reasons for so doing in the diary of the Court, remit the fees payable on account of the poverty of the party complainant or defendant, or for any good and sufficient cause.
5. Applications for processes may be oral or written. Written applications shall be exempt from stamp duty.
6. All processes issued under Rules 2, 3 and 4 shall be served or executed by Peons attached to the Courts of the Subordinate Magistrates. Processes issued by the Superior Courts shall be transmitted for service or execution to the Sub-Magistrate within whose jurisdiction the defendant or witness resides.
7. The number of Peons fixed by the District Magistrate, for the Courts of the Subordinate Magistrates shall be reported to the High Court. The number at first fixed shall not exceed the rate of one Peon for every 300 processes that may have been annually served or executed in cases in which the Police are not authorized to arrest without warrant, calculated on the average of the three years ending 31st March 1870.
8. No increase shall be made in the number fixed by Rule 7 without the previous sanction of the High Court; but transfers may be made from one Court to another at the District Magistrate's discretion. When reduction in the establishments is feasible, the same should be made and reported to the High Court.
9. Peons shall be appointed by the Sub-Magistrate, subject to the approval of the Divisional Magistrate, and shall be liable to punishment or dismissal by the Sub-Magistrate subject to an appeal to the Divisional Magistrate.
10. Peons appointed as aforesaid shall not be required to perform the duties of the regular establishment, but may be employed in serving or executing Civil or Revenue processes.
11. As many processes as possible are to be entrusted to each Peon so as to economise labour.
12. To ensure regularity, every Peon shall be required to keep a book (to be provided by the Court) in Form A showing the date of delivery of each process and the date of return made. The Head Gumastah will be required to initial each entry when return is made to the process and to satisfy himself that no unnecessary delay has taken place. For the service of an ordinary process, time will be allowed at the rate of 15 miles *per diem* for the distance to be travelled to and from the place at which service is to be made and one clear day for the service.
13. Every Peon shall wear a plain black leathern belt to be provided by the Court, with a brass badge on which shall be inscribed the name of the Court to which he belongs and his registered number.
14. Daily registers must be kept by the Head Gumastah in Forms B and C.
15. At the close of the month, an abstract Statement is to be prepared and submitted through the Divisional Magistrate for the District Magistrate's inspection in Form D.
16. At the close of the official year, a general Statement from each district of all processes served or executed during the year and the amount disbursed on account of the service or execu-

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tion of processes must be prepared in Form D and submitted to the High Court, together with a brief report on the working of the system.

17. All correspondence relating to the service of processes shall be deemed to be official correspondence on the public service, but a separate account must be kept of the postage on account of such correspondence and entered in Form D.

18. The salary of a Peon shall be 6 Rupees *per mensem*, provided that in exceptional cases and with the previous sanction of the High Court, batta may be granted in addition to salary.

19. Where ferry charges have to be incurred, the party at whose instance the process is issued shall pay to the Peon entrusted with the process (through the Head Gumastah) the actual amount of such charge, and in cases in which the party at whose instance a process is issued desires expedition in the service or execution of the process, he may in like manner pay the actual cost of travelling by rail, boat, cart or otherwise.

20. When the Government of India shall prescribe the use of impressed stamps, every stamp paper presented must be endorsed by the party presenting it, with the particulars of the process required to be issued, and the Head Gumastah will, in the usual way, efface the stamp and endorse on the outside sheet the date of presentation with his initials on satisfying himself that the proper stamp has been presented and will then cause the required process to be issued.

21. When the Government of India shall prescribe the use of adhesive stamps, the head Ministerial officer will attach the adhesive stamps to the process issued and efface the stamps.

22. Nothing in these rules shall apply to Magisterial processes issued by Heads of Villages.

Form A.

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Name of Peon.	Date on which Process delivered.	Nature of Process.	Date of Return made thereto.	Mileage travelled.	Explanation of delay in serving or executing Process.
1	2	3	4	5	6

Form B.

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Daily Register showing the number of Processes issued and the Stamp fees collected in the Court of

Date of receiving application for issue of Process.	No. of case in which applied for.	Date of Magistrate's order on application.	Number and nature of Processes issued.	Amount of stamp fees collected.	Date of delivering Processes to Serving Officer.	Name of Serving Officer.	Date of Return made thereto.	Nature of Return.	Remarks.
1	2	3	4	5	6	7	8	9	8

Form C.

Daily Register showing the number of Processes received from other Courts for service within the jurisdiction of the _____ Court of _____

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Date of receiving Process from other Courts.	Name of Court whence received.	No. of case in which Process issued.	Number and nature of Processes received.	Date of delivering Process to serving Officer.	Name of serving Officer.	Date of Return made thereto.	Nature of Return.	Date of transmitting Return to Court whence issued.	Remarks.
1	2	3	4	5	6	7	8	9	10

Form D.

Abstract Statement showing the number of Processes issued and the amount of Stamp fees collected in the _____ Court of _____ during the _____

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Name of Court.	Number of Processes issued (excluding those despatched to other Courts.)	Number of Processes received from other Courts for service.	Total.	Number of Processes to which return has been made.	Number of Processes still outstanding.	Amount of Stamp fees collected on Processes.	Postage in connexion with service or execution of Processes.	Cost of Process serving establishment, deducting fines, stoppages, &c.	Total of columns 8 and 9.	Remarks.
1	2	3	4	5	6	7	8	9	10	11

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SCHEDULE.

	RS.	A.	P.
1. Summons to defendant	0	8	0
And for every additional defendant if applied for at the same time and if resident in the same neighbourhood...	0	4	0
2. Summons to a witness	0	8	0
And for every additional witness if applied for at the same time and if witness resides in the same neighbourhood..	0	4	0
3. Warrant of arrest	0	12	0
4. Notice, order, injunction, or warrant not otherwise provided for	0	8	0

N. B.—(1.) If a process is to be served or executed within a radius of six miles from the Court-house, half the above rates only are to be charged. The Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court house

(2.) When a warrant remains unexecuted for fifteen days after its delivery to the officer entrusted with its execution, an additional fee at the same rate shall be levied from the party at whose instance the warrant was issued for every fifteen days or portion of fifteen days until return is made, provided that the delay in executing the said warrant is not attributable to the officer of the Court.

No. 45. From the Under Secretary to the Government of India, Financial Department, to the Chief Secretary to Government, Fort St. George, dated Simla, 30th June 1871, No. 1379.

The Governor-General in Council having had under consideration the principles upon which the process fees, chargeable under the Court Fees' Act, should be regulated, desires me to communicate the following remarks, and to request that the High Court may be asked to propose rules in accordance therewith for the sanction of His Excellency in Council, or, if already such rules have been proposed, to make any revision or alteration which may seem to be required.

2. The following are the expenses which have to be borne in connexion with the service and execution of process :—

- (1.)—Peons and other officers employed in the service and execution of process, their pay and pensionary allowances.
- (2.)—The Nazir or other supervising officer, and the establishment employed in arranging, registering, and executing process, and in controlling the establishment of peons; their pay and pensionary allowances. If the Nazir or other officers are partly employed in other work, then only that proportion of their whole pay and pensionary allowances should be taken which represents the portion of the time occupied in the duties above enumerated.
- (3.)—Office contingencies and cost of stationery, peons' badges, and other miscellaneous expenditure in connexion with process-serving.
- (4.)—Travelling allowances, boat-hire, and other similar expenses incurred in performing the duties.

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3. The process fees should be so arranged that the revenue derived by them should cover all the expenditure above classified; but, if fees calculated upon this basis seem, for any special reason, to be oppressive and burdensome to suitors, the Governor-General in Council will be prepared to accord sanction to the rules without this condition being fulfilled.

4. I am directed further to request that the High Court may be requested to propose rules, under Section 22, for the regulation of the number of peons employed in the Civil and Criminal Courts, and that the Chief Controlling Revenue Authority may be requested to propose similar rules for the Revenue Court.

5. The Governor-General in Council further desires that a report be submitted, after the expiry of each year, as to the financial working of the rules, so as to show how far the revenue under this head has met the expenditure. With a view to the preparation of this report, His Excellency in Council desires that the High Court may be requested to issue such instructions as may be necessary for maintaining, in an accessible form, the requisite information, both as to the revenue by process fee stamps, and as to the expenditure incurred in the ways above detailed.

6. With reference to the pensionary charges, I am to say that the liability for pension should be taken at six per cent. of the expenditure incurred in pay.

7. In connexion with this subject, I am to forward copy of the Rules* promulgated by the Bengal Board of Revenue. These refer to the procedure under the previous law; but, as they are the result of much consideration and experience in the working of process-serving establishments, they may afford some assistance to the High Court in considering the same subject.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Officiating Secretary to the Government of Bengal, Revenue Department, dated Fort William, 2nd February 1871, No. 40-B.

In continuation of my letter, No. 195-B., of the 23rd May last, I am directed to report that the Board have now been supplied by the High Court with copies of the Court's rules framed under Clauses 1 and 3, Section 20 of the Court Fees' Act for regulating (1) the fees to be levied in the Civil, Criminal, and Revenue Courts, on the issue of processes; (2), the remuneration to be given to the Process Officers of those several Courts; (3), the establishment of peons to be maintained in the Civil and Criminal Courts. It remains for the Board to submit a draft of Rules under Section 23 of the Act for regulating the process establishment to be entertained in the Revenue Courts, and to amend their own rules for the service of processes.

2. In respect to the process establishment, it is to be observed, in the first place, that the High Court have assumed, and the assumption has apparently been ratified by Government, that under Clause 3, Section 20 of the Act, which requires them to frame rules for "the remuneration of peons and all other persons employed by leave of a Court in the service or execution of processes," the remuneration of Nazirs is within their cognizance. They have accordingly assigned to the Nazirs of the Judges' Courts salaries of Rupees 100, rising to Rupees 200 per mensem, and salaries of smaller amount to the Nazirs of the subordinate Courts. At the same time they have fixed the salaries of peons at Rupees 8 and 10 in the Judges' Courts, and at Rupees 6 and 8 in the Munsifs' Courts; and the Registrar informs the Board that the Court have assigned to the peons attached to the Collectors' and Deputy Collectors' offices the same salaries as those which have been given to the peons of the Judges' and the Munsifs' Courts respectively. Nothing, however, is said

* Will be sent from the Financial Department at Calcutta.

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in the Registrar's communication about the Nazirs, and the Board can hardly suppose that a similar rule is to hold in respect of them. Considering how insignificant the work will now be in the Nizamat Department of the Revenue Courts, except in the Orissa Division, where alone, of the Regulation Provinces of Bengal, Act VIII. (B.C.) of 1869 has not been put in force, a salary of Rupees 100, rising to Rupees 200, would be extravagantly high for the Nazir. I am directed to request that the Board may be favoured with orders on this point.

3. I am further to solicit the attention of Government to the scale of salaries for peons which has been adopted by the Court. The Board presume that the Court's object is to secure the services of men who can read and write. They have reason, however, to believe that, while in most parts of Bengal those qualifications can be obtained at the rates fixed by the Court and even at lower ones, there are other parts, such as Assam, with the Commissioner of which Province the Board had a correspondence on the subject in the early part of the year, where even the high rate of Rupees 8, rising to Rupees 10, now fixed by the Court for the remuneration of peons attached to all District Judges', Collectors', and Deputy Commissioners' Courts, will fail to secure generally the class of men required. In such parts of the country the consequence of the Court's arrangements will be a waste of public money in the employment of uneducated men on salaries intended to command the services of a superior class. In view of these considerations, I am to request that the Board may be permitted to regard the rates of salary fixed by the Court for the peons of the Collectors' and Deputy Collectors' offices as applicable only to men who can read and write; and that where such men are not procurable, and it is found necessary to employ ignorant men, their pay should not be at a higher rate than at present.

4. In connexion with this subject, I am to bring to the notice of Government that, under the instructions contained in paragraph 2 of Government Order No. 2,272 of 10th June last, the Board, by their letter No. 333-B., of the 24th idem, copy of which is enclosed, requested the High Court to defer the submission of their rules for the approval of Government, until the Board should have framed, in communication with the Court, the rules required by Section 23 of the Act. Had this request been acceded to, the Board would have had an opportunity of drawing the Court's attention to the facts which they, in consequence of the course actually adopted by the Court, are only now for the first time able to bring forward.

5. The establishment of peons to be employed in the Revenue Courts must, of course, depend on the amount of work to be done,—an amount which will be found to vary in different districts, and in the same district at different times. The Court have recognized this in the rules which they have prescribed for the guidance of the Civil and Criminal Courts, and have left the Judges and Magistrates to regulate their staff of peons according to circumstances, laying down certain principles for their guidance. The Board entirely concurring with the views of the Court on this head, propose to adopt, *mutatis mutandis*, for the guidance of Revenue Officers the rules issued by the Court for the regulation of process establishments in the Civil Courts. A draft of Rules, prepared with the necessary modifications, is submitted for approval.

6. On receipt of the sanction of Government to the rules mentioned in the last paragraph, and of orders on the other points above noticed, the Board will be in a position to make the necessary alterations in the existing rules for the service of processes from the offices subordinate to them.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Registrar of the High Court, dated Fort William, 24th June 1870, No. 333-B.
I am directed by the Board of Revenue to forward, herewith, a copy of their letter to the Government of Bengal, No. 195-B., dated 23rd ultimo, and of the Government reply, No. 2,272, of the 10th instant, and to request that you will be good enough, with the permission of the Honourable Judges of the High Court, to supply the Board with a copy of the rules which it is proposed to issue for regulating the remuneration of peons to be employed for the service of processes issued by the Revenue Courts.

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2. I am desired also to request that the submission of these rules for the approval of Government may be deferred until the Board shall have framed, in communication with the Honourable Court, the rules they are required, by Section 23 of the Act, to prepare in reference to the number of peons to be employed in the Courts above alluded to.

Under the provisions of Section 23 of the Court Fees' Act, No. VII. (B.C.) of 1870, the following rules made by the Board of Revenue, Lower Provinces, and approved by the Lieutenant-Governor of Bengal and by the Governor-General of India in Council, are prescribed as the rules subject to which the District Collectors are to fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of their offices; and each of the officers subordinate thereto:—

- 1st.—The Collector or Deputy Commissioner of every district in the Lower Provinces shall ascertain the average number of processes issued from his own office, and from each of the offices subordinate thereto, during three years last past.
- 2nd.—From this shall be deducted, in the districts to which Act VIII. (B.C.) of 1869 has been extended, the average of processes issued by the same offices under Act X. of 1859 and Act VI. (B.C.) of 1862.
- 3rd.—The peons to be employed in each district shall be in number sufficient for the execution of a like number of processes, each peon being for this purpose considered capable of executing

	Per annum.
In the Collector's office	200
In the Deputy Collector's office	250

4th.—In order to provide for the service of processes of certain kinds which occupy a longer period, and in respect of which a higher fee is charged, 25 per cent. may be added in each case to the average ascertained under the first and second rules.

- 5th.—In the districts named in the margin, where the peons entrusted with a large proportion of processes have to be conveyed by boat, the number of processes which each peon is expected to serve may be reduced by one-third, and the number of peons to be employed shall be calculated accordingly.

Backergunge.	Luckimpore.
Dacca.	Chittagong.
Jessore.	Dinagapore.
Sylhet.	Mymensing.
Kamroop.	Rajshahye.
Nowgong.	Rungpore.

N. B.—For the districts in the second column, the calculation is to be made from May to October inclusive only.

6th.—Where there are in any district several offices of any one class, the Collector may authorize the appointment of such number of

peons on the whole for such offices as may suffice for executing the total number of processes, and may from time to time apportion such peons according to need among such offices.

7th.—When it appears to the District Collector that the number of processes issued out of any office or class of offices in the district has increased by 10 per cent., he shall be competent to make a corresponding increase in the number of peons; and if there shall be a diminution to the like extent, or if he shall be satisfied that the processes of all or any of such offices can be executed by a smaller number of peons, it shall be his duty to make a reduction accordingly.

No. 46. From the Secretary to the Government of India, Financial Department, to the Secretary to Government, Fort St. George, dated Fort William, 18th December 1871, No. 3121.

Separate Revenue—Stamps.

I am directed to request the early attention of the Government of Madras to the circular from this office, No. 1379, dated 30th June 1871, regarding the

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5th April 1872.*

framing of rules relating to process fees under Chapter IV. of the Court Fees' Act, 1870, and I am to take this opportunity of further explaining what it is necessary that these rules should provide for.

2. It must be remembered that the revenue by the sale of process fee labels will now form part of the general revenues of the country. It is not intended to issue any different form of label for use in payment of process fees, and the revenue from this source will be, so far as the accounts go, indistinguishable from that by other Court fee labels.

3. The special funds formed by the revenue by process fees will, therefore, cease to exist, and the expenditure, which was formerly charged against them, will now come under the same control and be accounted for in the same way as the other expenditure of Government.

4. The chief difficulty that has to be provided for in this view is that the establishments of peons cannot be absolutely fixed, but must continually vary according to the amount of work requiring to be done. As it is necessary that the expenditure on establishments be under control, it is necessary that definite rules be fixed with reference to the circumstances of each Province, according to which the varying expenditure may be regulated by the officers immediately responsible, controlled by the controlling authority, and checked by the Audit Officer.

5. The system of management which suggests itself to His Excellency in Council as the best, is to have as a permanent establishment the minimum required at any time of the year, and to employ, besides this, an extra establishment determined in amount by the amount of work to be done.

6. It is necessary, as part of the Imperial system of audit, that, whatever rules be framed, each monthly bill should be capable of being tested, in accordance with the rules, by the Audit Officer.

No. 47. *Proceedings of Government, Revenue Department, dated 13th March 1872, No. 446.*

Rules proposed under Sections 23 and 27 regarding the number of peons required for serving and executing processes issued by Revenue Officers, communicated to the Board of Revenue for remarks.

No. 48. *ORDER THEREON, 5th April 1872, No. 464.*

In their Proceedings under date the 18th May 1870, No. 694, the Government requested the Judges of the High Court to frame and submit, for the confirmation of this Government and for the sanction of the Government of India, the Rules required to be made, under Section 20 of the Court Fees' Act, for the levy of fees for serving and executing processes issued by the High Court in its Appellate jurisdiction and by the other Civil, Revenue, and Criminal Courts established within the local limits of that jurisdiction, and for the remuneration of peons and

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

all other persons employed by leave of a Court in the service and execution of processes; and also the Rules to be framed under Section 22 of the Act for regulating the number of peons to be employed for the service and execution of processes issued out of the District Courts and the Courts subordinate thereto. The Board of Revenue were also called upon at the same time to submit, through the Revenue Department, the rules required to be made by them, under Section 23 of the Act, for determining the strength of the establishments of process servers to be employed in the Courts of Collectors of districts and the Courts subordinate to the Collectors.

2. The first and second of the letters above entered give cover to the Rules submitted by the High Court in pursuance of this requisition. The third and fourth are communications received from the Government of India, setting forth the principles upon which the process fees chargeable under the Court Fees' Act should be regulated, and explaining what it is necessary that the Rules relating to process fees should provide for. The disposal of these papers was deferred until the passing of orders in the Revenue Department on the Rules framed by the Board of Revenue under Section 23 of the Act. These orders have now been received and are contained in the Proceedings of Government, Revenue Department, dated 13th March 1872, No. 446.

3. The schedule of process fees framed by the High Court having been framed before the receipt of the Financial Circular of the Government of India, No. 1379, dated 30th June last, was, of course, prepared without reference to the principles laid down in that Circular, according to which the fees are to be arranged so as to cover all the items of expenditure specified in the margin.

- (1.)—Peons and other officers employed in the service and execution of process, their pay and pensionary allowances.
- (2.)—The Nazir or other supervising officer, and the establishment employed in arranging, registering, and executing process and in controlling the establishment of peons; their pay and pensionary allowances.
- (3.)—Office contingencies and cost of stationery, peons' badges, and other miscellaneous expenditure in connexion with process-serving.
- (4.)—Travelling allowances, boat-hire, and other similar expenses incurred in performing the duties.

4. The Government of India have, however, remarked that "if fees calculated upon this basis seem, for any special reason, to be oppressive and burdensome to suitors, the Governor-General in Council will be prepared to accord sanction to the Rules without this condition being fulfilled." The Governor in Council is of opinion that the fees charged in the High Court Rules should be experimentally introduced for a given term as they stand at present. It appears to him that they are likely to cover the charges and to show a considerable surplus besides; but he would wish to have before him the results, after a limited period has elapsed, before making any enhancement in the rates, if enhancement is required, for the purposes contemplated by the Government of India.

5. The Rules proposed by the High Court are therefore, with the following exception, confirmed by the Governor in Council, and will be submitted for the sanction of the Government of India:—

EXCEPTION.—Section 27 of the Rules relating to processes issued by Civil and Revenue Courts, and the corresponding section (viz., Section 20) of the Rules relating to processes issued by the Criminal Courts, will be omitted, the Government of India having decided that impressed stamps shall not be used.

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5th April 1872.*

6. Ordered that the following letter be despatched to the Government of India:—

(Here enter letter dated 5th April 1872, No. 465.)

(True Extract.)

Acting Secretary to Government.

To the Honourable the Judges of the High Court,
with Revenue G. O. No. 446.
,, Revenue Department.

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*Proceedings of the Madras Government, Revenue Department,
13th March 1872.*

No. 163. Read the following letter from the Acting Secretary to the Board of Revenue, to the Acting Secretary to Government, Revenue Department, dated Madras, 15th August 1870, No. 5,300 :—

With reference to Government Order, 27th June 1870, No. 949, I am directed to submit draft rules framed under Sections 23 and 27 of the Court Fees Act (VII. of 1870).

2. The first six rules contain directions to Revenue-officers as to the entertainment of a Process-serving Establishment and the accounts to be kept under the Court Fees Act.

3. The Board learn that the High Court have drafted rules applicable to Magistrates, but they do not think it desirable that separate establishments should be entertained by the same officer for serving Magisterial and Revenue processes. It may, however, be necessary for administrative convenience that an officer should keep separate accounts for stamps filed before him in his Revenue and in his Magisterial capacity. These questions must be determined by Government.

4. A doubt has occurred to the Board as to whether *all* processes, issued by Collectors and their subordinates, are to be served under Chapter IV. of the Court Fees Act. The phrase used in the Act is "processes issued by a Revenue Court," but a Revenue-officer issuing processes is seldom acting as a Court. For one process issued under Regulation VI. of 1831, or Madras Act VIII. of 1865, for instance, there are at least a score issued under Madras Act III. of 1869. The Board have, however, assumed that the Court Fees Act applies to all Revenue processes, whether relating to judicial or administrative matters, and have accordingly used the phrase "Revenue-officers" instead of "Revenue Courts." Whether the law contemplates this arrangement or not, it does not forbid it, and it will be found convenient.

5. In Rule I., processes under Madras Act II. of 1864 have been expressly excluded, because they are all issued by and on behalf of Government, because Sections 53 and 54 of the Act provide specially for the service of processes under it, and because the practice at present is to conduct the service of such processes through village-officers.

6. Rule VI. prescribes the Registers to be kept. Forms E. and F. should, if Government approve of them, be adopted by all Courts. They are framed in accordance with paragraph 11 of the letter from the Government of India, recorded with Government Order, 6th April 1870, No. 453. No forms of this character are framed in the draft rules of the High Court, probably because this is considered a fit matter for the Revenue Department to determine.

7. Rules VII., VIII., and IX., refer to the supply of Court Fees Stamps. In Government Order, 27th June 1870, No. 947, Government have expressed an

GOVT. OF MADRAS.

JUDICIAL.

To
THE HON. THE JUDGES OF THE
HIGH COURT,
&c.,
&c.,
&c.

Dated April, 5th.

Recd.

Encl.

G. O., 5th April 1872, No. 464.

APRIL.
Nos. 43-49.

Confirming, with certain exception, the rules proposed by the High Court relating to processes issued by the Civil, Revenue, and Criminal Courts in this Presidency, and directing that the rules be submitted for the sanction of the Government of India.

opinion that one set of rules should be applicable to the sale of all stamps, whether under the General Stamp Act or the Court Fees Act. From the letter referred to above, it appears that the Government of India are in favour of sale by an officer of each Court (or his agent), remunerated (if at all) by a small fixed salary. Rules VII. and VIII. are framed so as to give Government the power to make either or both of these arrangements.

8. The Board are strongly of opinion that a mistake will be made, and that great inconvenience will be caused if Court Fees Stamps are not sold by vendors appointed under the General Stamp Act, of whom there is one at least in the immediate vicinity of every Civil Court. Some of the stamps, for instance, those on petitions, are not necessarily bought and used in the neighbourhood of the officer before whom they are to be filed; but, on the contrary, they are used in the remotest villages. Revenue-officers are always on the move, and there is no one in their over-worked establishments to whom the duty of selling stamps can be conveniently assigned. The Board prefer also that vendors should be remunerated by discount and not by fixed salaries. The Government of India point out that it is unnecessary, and, indeed, unadvisable to press the sale of Court Fees Stamps; but this does not prove that fixed salaries are preferable to discount. The discount can be fixed so that the remuneration of the vendor will be as small as the fixed salary could be made, and it will vary with his work and with the revenue derived.

9. The mention of the Madras Small Cause Court in Rule VII. and the provisions of Rule IX. are necessary, if the present system of refunds is to continue in that Court. The Government are aware that the Court issue orders for refunding half and full costs, and it has been considered necessary that the refunds should be made on the premises. Up to last year costs were collected in money, and refunds made by an officer of the Court; but it was deemed unadvisable that this practice should continue, and a stamp vendor was appointed, under orders from Government, last November on the agreement that he should have a monopoly of the sale of stamps used in the Court, and receive two per cent. discount on his sales, and, in return for these advantages, make refunds on the Court's order without delay, and conform to all the Court's instructions under a heavy penalty. The Court Fees Act does not provide for such a monopoly, but, on the other hand, it does not prohibit it; and the Board have no doubt that it can be sanctioned by the Governor-General in Council under the powers conferred by Section 27, if it is still deemed desirable to maintain it.

10. Rule X. refers to the manner in which the Process Service Stamps shall be filed and received. It is clear that the fee cannot be levied until the Court has decided that it will issue the processes. When this has been done, the fee can be levied either by requiring the petitioner to bring a number of stamps of different values corresponding to the number of processes, and letting some officer of the Court affix them to the processes, or by requiring the applicant to put in a written document stamped to the necessary amount. The Board believe the latter course will be found the more convenient to all parties concerned. There is something incongruous in requiring a Court to stamp its own orders, as is required by the Rule drafted by the High Court on this point.

11. The Schedule of Fees, referred to in Rule X., is to be framed by the High Court, subject to the confirmation of the Local Government and the sanction of the Governor-General in Council. The draft schedule which has been prepared by the High Court is not altogether what the Board think best suited for Revenue processes. Their views on the subject are given in paragraph 8 of their letter dated the 11th March 1870, No. 1,693. They would prefer that each process of the kind served by a Peon should be charged 8 Annas. The uncertainties which will be caused by varying the charge according to the number of the processes, the distance of the place where they are to be served, and the number of Peons employed as the High Court propose, will be aggravated by the frequent movements of Revenue-officers from place to place. With regard to processes served by Amins (attachment and sale of property), the Board have no objection to make to the draft schedule.

12. Rule XI. is framed on the model of Section 49 of the General Stamp Act.

13. Rule XII. relates to the renewal of damaged or spoiled stamps and to refunds of the value of stamps. It is framed on the model of Sections 45 and 46 of the General Stamp Act.

14. The case with regard to refunds is the same as that with regard to the monopoly referred to above. Refunds are not provided for by the Act (except in the special cases referred to in Sections 14 and 15), but, on the other hand, they are not prohibited; and the Board have no doubt that they can be sanctioned under the proper restrictions like any other payments of public money. If refunds are not allowed, the Board are convinced that the gravest injustice will be perpetrated. Considering the difficulty which has been experienced all through the Presidency in interpreting the Act, there can be no doubt but what Courts or their ministerial officers will often be in doubt what stamp a document should bear; and in such cases, they will naturally exact the highest of the values about which they are in doubt. As an instance, I am to mention that not long ago a petitioner presenting an application to the High Court was directed to stamp it to the value of Rs. 360, and did so, and that it was afterwards declared by the Court that the fee payable was only Rs. 2. If no refund is permitted in this case, the applicant will be fined Rs. 358 for a mistake in the Registrar's department.

RULES UNDER THE COURT FEES ACT (VII. OF 1870.)

I.—RULES FOR REVENUE-OFFICERS.

A SEPARATE establishment of Amins and Peons will be attached to all Revenue-officers for the service of all processes issued by them, with the exception of processes issued under the Madras Arrears of Revenue Recovery Act (II. of 1864). Warrants of attachment and sale will be executed by Amins; other processes will be served by Peons. No Amin or Peon will be employed on duties unconnected with the service of processes, except under special circumstances. The Rules of the High Court provide that Amins shall be paid Rupees 14 a month, and Peons not more than Rupees 7.

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13th March 1872.*

2. When convenience requires that processes issued by one officer shall be served by the Peons or Amins or another officer, they may be served accordingly.

3. The number of Amins and Peons attached to each officer shall be fixed, so that the cost of the establishment may be at least equalled by the amount of fees levied on the processes served by it. It shall be reported to the Board of Revenue in the first instance, and shall be altered from time to time as they may direct, and it shall not be increased without their sanction; but the Collector shall have power to transfer Peons or Amins from one officer to another within his jurisdiction as convenience may require.

4. No one shall be eligible for the office of Peon unless he can read and write, nor for the office of Amin unless he can read and write and keep accounts.

5. Peons shall wear a belt of the description ordinarily used in the Revenue Department, and a brass badge showing the designation of the officer under whom they serve, and a distinguishing number.

6. Registers in the forms A., B., C., D., E., F., shall be kept by all Revenue-officers.

Form A.—A book ruled in this manner is to be given to each Amin or Peon. The first two columns are to be filled up directly a process is entrusted to him, and the last three directly he returns.

Form B.—This is a Daily Register. It provides for the entry of all processes including those received or sent for service from or to another officer. If the process is received from another officer, the date or receipt of his letter must be entered in column 1, and, in this case, as the fees have not been collected by the officer keeping the Register, no entry will be made in column 4.

Form C.—This is a monthly abstract of processes issued. It includes processes sent to other officers for service, but not processes received from other officers. It is to be submitted through the officer in charge of the division to the Collector.

Form D.—This is an annual return which is to be compiled from the C. Registers by the Collector, and submitted to the Board as soon after the close of the official year as possible.

Forms E. and F.—These relate to stamps filed under Schedules 1 and 2 of the Court Fees Act. Directly a stamp is filed, it must be cancelled in accordance with the Act, and an entry must then be made in a rough book showing the amount of the stamp and the Schedule and Article under which it is levied. At the end of each day the total amount, collected under each Article, must be entered in its proper place in Form E. At the end of each month, the totals must be submitted in Form F. to the Collector. At the end of each official year, the totals for the whole year must be submitted by the Collector to the Board in a similar form.

A. { Amin
Peon }
Register of Processes entrusted to

Nature of Process.	Date of Receipt.	Date of Return.	Distance travelled.	Remarks.
1	2	3	4	5

B. Daily Register of Applications for Processes, Service of Processes, and Stamp Fees levied on Processes in the office of

Date of Application.	Designation of Application.	Number and nature of Processes.	Amount of fees collected by stamps filed and cancelled in the Court.	Date on which the Process is issued and delivered to an Amin or Peon or sent to another Court.	Name of Amin, Peon, or Court.	Date of Return.	Nature of Return.	Remarks.
1	2	3	4	5	6	7	8	9

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Nature of Processes.	Number of each description of Process issued.	Number of each description of Process to which a return has been made.	Number of each description of Process to which a return has not been made.	Amount of fees collected by stamps filed and cancelled in the Court.	Cost of Process Service Establishment during the month.	Remarks.
1.	2	3	4	5	6	7

1

Annual Abstract of Processes issued, Process Service Fees collected, and cost of Process-serving Establishment in the District of _____ for the official year _____

[illegible]

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April 1870.

Daily Register of Fees other than Process Service Fees filed by Stamps in the Office of

Daily Register of Fees other than Process Service Fees																																Remarks.		
Class.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Total.		
Schedule I., Article 1																																		
2																																		
3																																		
4																																		
5																																		
6																																		
7																																		
8																																		
9																																		
10																																		
11																																		
12																																		
Schedule II., Article 1																																		
2																																		
3																																		
4																																		
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17																																		

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Monthly } Abstract of Fees levied { by the
Annual } { in the district of
under Schedules 1 and 2 of the Court Fees Act for the { month }
{ year }

	Rs. A.
Schedule I., Article 1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
Schedule II., Article 1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
Total ...	

Proceedings of the Madras Government, Revenue Department,
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II.—RULES FOR THE SUPPLY OF STAMPS.

7. All Stamps required under the Court Fees Act, with the exception of those used in the Madras Court of Small Causes, shall be sold by the ex-officio and licensed vendors appointed to sell Stamps under the General Stamp Act (XVIII. of 1869), and by any other ex-officio or licensed vendors whom the Government may appoint.

8. All the rules promulgated under Section 48 of the General Stamp Act, with the exception of Rules I., II., and VI., shall be applicable to vendors under the Court Fees Act, and to the sale of Stamps by them, provided as follows :—

that the phrase " Stamps of Class 2" shall be held to include all Court Fees Stamps whether Adhesive or Impressed ;

that vendors shall not make an endorsement on the back of Adhesive Stamps ;
that the Government shall have power to declare Rules VII., VIII., and IX. inapplicable in the case of any particular vendor, and to direct that Stamps shall be supplied to him without requiring payment in ready money ; that he shall give sufficient security for the payment of any sum due by him to Government ; and that he shall be remunerated by a certain fixed salary.

9. The sale of the Court Fees Stamps in the Madras Court of Small Causes shall be conducted solely by a vendor specially appointed for that purpose. The Stamps will be specially marked, and no Stamps other than those so marked will be received in the said Court under the Court Fees Act.

III.—MISCELLANEOUS RULES.

10. The fees due for serving processes shall be collected by Stamps of the requisite value affixed to a written application for such processes.

This application must be specially prepared for the issue of the processes and nothing else, and it must not be written till the Court or officer has determined to issue the said processes. The amount of Stamp-duty will be ascertained by reference to the Schedule appended to these Rules, a copy of which will be kept open to public inspection in every Revenue-office.

11. The fee chargeable on any document shall be denoted by the smallest number of Stamps with which it is possible to denote it, provided that when such stamps are not procurable on application to a vendor, and the vendor shall give a certificate that out of the stock of Stamps in his hands the total amount of Stamp-duty cannot be represented with less than a certain number of Stamps, then the person requiring such Stamps may affix the number specified in the certificate to his document. In this case, the certificate must be affixed to the document and filed with it.

12. If any person possessing any Adhesive Stamp or stamped-paper which has been obtained under these Rules does not require the same for use,
or if the Stamp or stamped-paper so possessed becomes spoiled or unfit for use as hereinafter mentioned,

the Collector of the district in which the paper has been purchased may, upon application made to him, within one year after purchase, and upon delivery to him of such stamp or paper, refund the amount paid to Government for the same, whether by the applicant or any other person,

or in case the owner of the Stamp or stamped-paper so spoiled or unfit for use desires to be supplied with stamps or stamped-papers of similar or equal value, the Collector may cause such stamps or stamped-papers to be delivered to him or his agent upon payment (in the case of stamped-paper) of the value of the paper on which the new Stamp or Stamps shall be impressed. Adhesive Stamps or stamped-papers shall be held to be spoiled or unfit for use within the meaning of this rule when—

(1,) by accident happening to the same before they have been submitted to any Court or Public Officer they are rendered unfit for use ;
(2,) or when because of some error in the drawing up or copying of any writing to which the said stamps are affixed, the said writing is rendered of no avail ;

*Proceedings of the Madras Government, Revenue Department,
13th March 1872.*

(3,) or when any Stamp has been filed in any Court or before any public officer, and cancelled accordingly, and it is afterwards discovered that such Stamp has been required by mistake, and that a Stamp of less value ought to have been required, and a certificate to that effect is issued by the said Court or public officer; in this last case, the Collector may grant a refund even if application is made more than a year after the purchase of the Stamp.

No. 164.

ORDER THEREON, 13th March 1872, No. 446.

Miscellaneous.

SECTION 23 of the Court Fees Act VII. of 1870 provides that, under rules to be framed by the Chief Revenue

authority and approved by the Local and Supreme Governments, every officer performing the functions of a Collector of a district shall fix, and may from time to time alter, the number of Peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

2. Section 22 similarly provides for District Judges and Magistrates of districts determining the strength of the establishments of Process servers in their own and the subordinate Courts under rules to be framed by the High Court and approved as in the former case.

3. The Board of Revenue deem it undesirable that separate establishments should be maintained by the same officer for serving Magisterial and Revenue processes, but the Government believe that distinction must be maintained in the Roster, as the strength of the several establishments has to be regulated from time to time by the High Court and Board of Revenue respectively. The Government, however, so far agree with the Board that they would not allow any members of such establishments to consider themselves engaged for the one duty only, but they do not find that the Board's draft clearly guards against this.

4. In the rules framed by the High Court for Criminal and Magisterial processes, which are now before Government, it is provided (Rule X.) that "Peons appointed as aforesaid shall not be required to perform the duties of the regular establishment, but may be employed in serving or executing Civil or Revenue processes." The Government would similarly provide that Revenue process servers may be employed in serving Magisterial processes.

5. The Board in their rule note that the High Court rules provide "that Amins shall be paid Rs. 14 monthly," but the Government observe that under those rules the salary of an Amin in a District Munsif's Court is to be Rs. 12. The Government would provide that the Revenue Amins should receive not less than Rs. 12 nor more than Rs. 14.

6. With these remarks, the Government propose the following rules which will be communicated to the Board of Revenue for their remarks before forwarding them for the approval of the Government of India, as required by Section 27, Act VII. of 1870:—

RULES.

A separate establishment of Amins and Peons will be attached to all Revenue-officers for the service of all processes issued by them, with the exception of processes issued under the Madras Arrears of Revenue Recovery Act II. of 1864.

*Proceedings of the Madras Government, Revenue Department,
13th March 1872.*

Warrants of Attachment and sale will be executed by Amins; other processes will be served by Peons.

No Amin or Peon appointed under these rules will be employed on duties unconnected with the service and execution of processes, but they may be employed when necessary on the service and execution of Magisterial processes.

The salary of an Amin appointed under these rules shall in a Tahsildar's office be Rs. 12 monthly, and in any superior Office Rs. 14.

The salary of Peons appointed under these rules shall not exceed Rs. 7 in a Collector's Office, nor Rs. 6 in any other Office.

The number of Amins and Peons fixed by the District Collector for his own Office and the Offices subordinate to him shall be so fixed that the cost of the establishment may be at least covered by the amount of fees levied on the processes served and executed by them. It shall be reported to the Board of Revenue in the first instance for confirmation, and shall be altered from time to time as they may direct, and it shall not be increased without their sanction; but the Collector shall have power to transfer Amins or Peons from one Office to another within his jurisdiction as experience may dictate, and, when convenience requires that processes issued by one officer shall be served by the Amins or Peons attached to another, they may be served accordingly.

No one shall be eligible for the office of Peon under these rules unless he can read and write, nor for the office of Amin unless he can read and write and keep accounts.

Peons appointed under these rules shall wear a black leather belt and a brass badge showing their office, the designation of the officer, under whom they serve, and a distinguishing number.

7. The Board have annexed to their draft rules certain forms of Registers and Returns to be maintained in connection with the Court Fees Act. These seem well adapted to their purpose, and are approved by Government for adoption in the Revenue Department so far as they relate to Revenue Process Service, and generally so far as they relate to the subject-matter of Clause (d), Section 27 of the Court Fees Act.

8. It will be considered in the Judicial Department whether the adoption of the same forms of Registers and Returns of Process Service may not be recommended to the High Court in lieu of the slightly differing forms appended to the Court's Draft Rules relating to processes issued by Civil and Criminal and Revenue Courts.

(True Extract.)

[Signature]
Officiating Chief Secretary.

To the Board of Revenue.
.. the Judicial Department.

Exd. F. R. Bantleman.

Judicial Dept
Memorandum

Submitted for Secy's
perusal.

Letter from the Ag Registrar } Dated 22nd July 1870 No 1369.
of the High Court - Madras }
Letter from D. O. } " 5th Aug 1870 No 1455.
Circular letter from Govt. } " 30th June 1871 No 1377.
of India Financial Dept }
Letter from Govt. of India } " 18th Decr 1871 No 3121.
Financial Dept }
Proceedings of Govt. Rev. Dept. } " 13th March 1872 No 483.

In their Proceedings under date the 10th May 1870, the Government requested the Judges of the High Court to frame and submit, for the consideration of this Govt. and for the sanction of the Government of India, the Rules required to be made under Section 20 of the Court Fees Act, for the levy of fees for serving and executing process issued by the High Court in its appellate jurisdiction and by the other Civil, Revenue, and Criminal Courts established within the local limits of that jurisdiction, and for the remuneration of Pleas and all other persons

18th April 1872 No 483-57
22nd July 1870 No 1369-319
5th Aug 1870 No 1455-320

Govt. of 1872 No 483.
REVENUE. 22nd July
THE BOARD OF REVENUE,
117
No 483-57

Dated March 1872. 483
Recd - 16 - 3/1872
G. O, 13th March 1872, No. 413
1st 551
MARCH.
Nos. 163-164.

Govt. Res 445 - Rules proposed under Sections 23 and 27 regarding the number of Pleas required for serving and executing process issued by Revenue-officers, communicated to the Board of Revenue for remarks.

227/3
223/4

employed by leave of a Court in the service & execution of process; and also the Rules to be framed under section 22 of the Act for regulating the number of persons to be employed for the service & execution of process issued out of the District Courts & the Courts subordinate thereto. The Secy of Revenue were also called upon, at the same time, to submit, through the Revenue Department, the Rules required to be made by them, under section 23 of the Act, for determining the strength of the Establishments of Process servers to be employed in the Courts of Collectors of Districts and the Courts subordinate to the Collectors.

2. The first and second of the letters above referred give cover to the Rules submitted by the High Court in pursuance of this requisition. The second and third are communications received from the Government of India.

Blue pencil
see Note on
back of Memo.
submitted at High
Court in Aug 1872.

Sanctioned by the
Govt. of India
on 10th Dec 1872.

* Pay of Jazir, Pans & other officers
employed in serving & executing process,
and their pensionary allowances & other pay.
Office Contingencies, stationery, fuel,
badges &c.
Travelling allowances, local hire & other
similar expenses.

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India, setting forth the principles upon which the process fees chargeable under the Local Acts should be regulated, and explaining what is necessary that the Rules relating to process fees should provide for. The disposal of these papers was deferred until the framing of Orders in the Revenue Department in the Rules framed by the Board of Revenue under section 23 of the Act. These Orders have now been received and are contained in the Proceedings of Government Rev. Dept. dated 15th March 1872 No 446.

3. The Schedule of process fees framed by the High Court does not appear to have been prepared in accordance with the principles laid down by the Government of India, and if the fees are to be arranged, as desired by the Government, so as to cover all the items of expenditure specified in para 2 of

their Circular letter of the 30th June 1871, the Rules submitted by the High Court, and those prepared by the Board of Revenue & modified in the Revenue Department, will have to be revised, with special reference to the instructions conveyed in the two letters from the Government of India above referred to.

4. The Government of India have however, remarked that "if the Rules calculated upon this basis, seem, for any official reason, to be oppressive and burdensome to suitors, the Governor-General in Council will be prepared to accord sanction to the Rules without this condition being fulfilled." The Govt. of India.

5. Para 6, the concluding part of para 10, & para 11 of the letter from the Secretary to the Board of Revenue, recorded in Proceedings of Govt. Bd. 13th March 1872, require to be noticed and disposed of in this Department.

in the Govt. Bd. 13th March 1872, the Rules submitted by the High Court, and those prepared by the Board of Revenue & modified in the Revenue Department, will have to be revised, with special reference to the instructions conveyed in the two letters from the Government of India above referred to.

5. The Rules proposed by the Court are to be noticed and disposed of in this Department.

The remaining portions of that letter have been disposed of in the Revenue Department.

6. Rule 28 of the Rules relating to process issued by Civil & Revenue Courts and the corresponding Rule (Rule 21) in the Rules for the Criminal Courts, will require to be amended, with reference to the direction of the Govt. of India contained in para 3 of their letter of 18th Dec. 1871 No 3120. Forwarded recorded in G.O. Rev. Dept. 13th Feb. 1872. No 281.

Cliff. 2/3

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P. ...
P. ...

Handwritten notes and signatures at the top of the right page.

Judicial Department.

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PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter L.

From the Asst Registrar of the High Court Madras } Dated 22nd July 1870 No 1369
 D. S. S. } 5th Aug 1870 No 1455
 Circular letter from Govt of India, Financial Dept } 30th June 1871 No 1377
 Letter from Govt of India } 10th Decr 1871 No 3121
 Financial Dept }
 Proceedings of Govt R.D. } 13th March 1872 No 1416
 Order from 5th April 1872 No 1416

M.A.

In their Proceedings dated 15th Aug 1870 the Govt requested the Judges of the High Court to forward a submit for the confirmation of this Government & for the sanction of the Government of India, the Rules required to be made under section 20 of the Court's Act, for the levy of fees for serving & executing processes issued by the

High Court in its Appellate
jurisdiction & by the
other Civil, Revenue &
Criminal Courts estab-
lished within the local
limits of that jurisdic-
tion, and for the remun-
eration of persons and,
all other persons employed
by leave of a Court in the
service & execution of
processes, & also the
rules to be framed under
Section 22 of the Act
for regulating the
number of persons to be
employed for the service
& execution of processes
issued out of the Dis-
trict Courts & the
Courts subordinate
thereto. The Board of
Revenue must also
be called upon, at the
same time, to submit
through the Revenue
Dept., the rules re-
quired to be made
by

21/11/11
by them, under Section 23
of the Act, for deter-
mining the strength
of the establishments
of persons known to
be employed in the Courts
of Collectors of Districts
and the Courts subor-
dinate to the Collectors.
2. The first & second
of the letters above
mentioned given over to the
Board submitted by the
High Court in pursuance
of this requisition. The
third & fourth are com-
munications received
from the Govt of India,
setting forth the principle
upon which the process
fees chargeable under
the Court Fees Act
should be regulated,
and explaining what
it is necessary that
the Rules relating to
process fees should
provide for - (The

The disposal of these
papers was deferred
until the passing of
Orders in the Revenue
Department on the rules
framed by the Board
of Revenue under sec-
tion 23 of the Act.
These Orders have now
been received & are con-
tained in the Proceed-
ings of Government
Rev. Dept. dated 13th
March 1872 No 446.

3 The Schedule of
Process fees framed by the
High Court having been
framed before the re-
ceipt of the Financial
Circular of the Govt of
India No 1377 of 30th June
last, was of course
prepared without reference
to the principles laid
down in that Circular,
according to which the
fees are to be arranged
so as to cover all the
items

- 2351
- (1) Fees & other office items of expenditure
employed in the service
and execution of process, specified in the margin.
This fee & pensionary. 4. The Government
allowance.
- (2) To be taken in the shape of India House, however,
serving officer, & those
allowance employed in remarked that if fees
arranging, registering, calculated upon this
& executing process
in conducting the rule basis seem, for any
allowance of fees, the special reasons, to be
paid pensionary allowance.
- (3) Office contingencies, apprehensions, and burden-
some of ordinary, - down to students, the
fees of books, & other
miscellaneous expenditure. Government General in
Council will be prepared
in Council and process Council will be prepared
in Council.
- (4) Travelling allowance, to be used in connection
with the rule, & the similar to the rules without
expenses incurred in per-
forming the duties. This condition being
fulfilled. The Government
in Council is of opinion
that the fees charged
in the High Court
Rules should be expe-
rienced by introduction
for a given term as they
stand at present. It
appears to him that
they are likely to cover
the charges & show

Considerable surplus
besides: but he would
wish to have before
him the results after
a limited period has
elapsed, before making
any enhancement
in the rates, if enhan-
-ment is required,
for the purposes con-
templated by the Govt
of India.

5. The rules proposed
by the High Courts
are therefore, with
the following exception,
confirmed by the Gover-
-nor in Council, &
will be submitted for
the sanction of the
Government of India.

Exception.

Section 27 of the Rules relating
to Process issued by Civil
& Revenue Courts, and the
corresponding Section (viz. S. 20)
of the Rules relating to Process
issued

issued by the Criminal
Courts, will be omitted;
the Govt of India having
decided that impressed
stamps shall not be
used. —

6. Order that the
following letter be
despatched to the Govt
of India.

(New letter)

14/6/57

The Secretary to the Govt of India.
Home Dept (Judicial)

with Rec. Pro. No. 1466.

Sir, with reference to your
letter of the 23rd May 1857,
N.S.S., I am directed to
submit the Rules relating
to Process issued by the
Civil, Revenue & Criminal
Courts in this Presidency,
framed by the local
High Court in pursuance
of

Forward to the Judges of the High Ct. & the
Revenue Department.

done up with series
of Rec. Pro. 1466.

of Secs 20 & 22 of the
 Court Sec. Act, 1870, together
 with a copy of the Pro.
 of Govt. on the subject,
 And to request that His
 Excellency the Gov. General
 in Council will be pleased
 to accord his sanction
 to these Rules under
 the provisions of the
 enactment above
 quoted.

5/4/72

For the Secy.
 5 April 1872

Govt. of 1871 & 1872

Dated
 Recd.
 187, No.

Nos.

6/ 1873 Madras.
Judicial.

From the Judges of the
High Court

Date

Book

Page

G. O. 5. 1872, No. 464.
465

Nos. 43. 49.

Conforming with certain ap-
proving the rules proposed
by the High Court, relating
to the process issued in the
Civil, Revenue and Criminal
Courts in this Presidency, & there-
by that the rules be duly
sanctioned for the sanction
of the Court of Enquiry.