

(1) Number of pages 26
(2) Date of repair 22. 11. 47
(3) Initials of the Reference

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. <u>2483</u>	Press Mic.
Dated <u>18th October</u> 18 <u>77</u> .	

*Original*Not to be folded or roughly handled

No. 1391.

FROM

ARTHUR HOWELL, Esq.,

Offg. Secretary to the Govt. of India,

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS.

Home Dept.
Judicial.

SIMLA, the 11 September 1877.

SIR,

I AM directed to acknowledge your letter No. 1563, dated the 3rd July last, submitting, for the sanction of the Governor General in Council, a notification under clause (a), section 3, Act XIV of 1874, declaring that the enactments entered in the list appended to it are in force in the scheduled taluqs of Bhadrachalam and Rakapilli, and in the Rampá country of the Godavari District.

2. In reply, I am to say that when in the exercise of the powers conferred by sections 3 and 5 of the Act notifications are issued, it is convenient that they should follow the terms of the draft notifications appended to this letter. I am to request therefore the favour of your submitting fresh notifications in accordance with these forms, after consideration has been given to the remarks which follow.

3. It seems that the list appended to your notification A is an exhaustive one and so includes Acts which are already clearly in force in the Bhadrachalam and Rakapilli taluqs, and in the Rampá country. The Government of India do not consider it necessary or desirable to notify under sections 3 or 5 of the Scheduled Districts Act enactments which clearly must be in force. In notifications under those sections only such laws need be dealt with regarding which some doubt exists, or which clearly do not apply. It may be contended that section 3 (a) of the Scheduled Districts Act contemplates the issue of an exhaustive list; but taking Sections 3 and 4 together, the Government of India do not think that this is what was meant, and it would be somewhat inconvenient if it were meant. If any reason can be shown for doubting whether any of the enactments in question are in force in the taluqs and in the country under reference, the matter will be reconsidered; but if it is only necessary for the information of the local officers to point out that these enactments are in force, this can be done by a circular from the Local Government.

4. There seems to be some mistake in the description of some of the Acts in the list submitted with your letter. Act XXXVI of 1837 is described as "Malversation by public servants." It should apparently be "Criminal jurisdiction of Collectors." Act VII of 1839 seems an Act regarding tahsildars and not for the "Sale of distrained property." Regulation III of 1832 seems an Act for the limitation of suits against orders of revenue authorities under Madras Regulation VII of 1828, and not for "Malversation by public servants." To avoid any misprints or mistakes I am to ask that before submission the lists may be very carefully revised.

*As per letter
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(2)

5. In conclusion, I am to say that it is not clear whether the Government of Fort St. George have consulted the Advocate General, Madras, on the whole question. If not, I am to suggest that his opinion may be taken. It is the practice of the Government of India always to obtain legal advice on such matters, and I am to recommend the same course to the notice of the Madras Government.

I have the honour to be,

S I R,

Your most obedient Servant,

Arthur Hume

Offg. Secretary to the Govt. of India.

(3)

NOTIFICATION.

IN exercise of the power conferred by Section 3 of the Scheduled Districts Act, 1874, His Grace the Governor of Fort St. George in Council is pleased, with the sanction of the Governor General in Council, to declare that so much of each enactment mentioned in the Schedule hereto annexed as is in force in those parts of the Presidency of Fort St. George which are not included in any Scheduled District is in force likewise in the Taluqs of Bhadrachalam and Rakapilli, and in the country of Rampá in the Godavari District.

2. His Grace the Governor of Fort St. George in Council is further pleased, in exercise of the power conferred by Section 6 of the said Act, to direct that the jurisdiction, powers and duties incident to the operation of the said enactments, so far as such jurisdiction, powers and duties are referred to in the third column of the said Schedule, shall be exercised and performed by the authorities mentioned in that column.

LIST.

1	2	3
Number and year of Regulation or Act.	Subject.	Jurisdiction, powers and duties how to be exercised and performed.

NOTIFICATION.

IN exercise of the power conferred by Section 5 of the Scheduled Districts Act, 1874, His Grace the Governor of Fort St. George in Council is pleased, with the sanction of the Governor General in Council, to extend to the Taluqs of Bhadrachalam and Rakapilli, and in the country of Rampá in the Godavari District, so much of each enactment mentioned in the Schedule hereto annexed as is in force in those parts of the Presidency of Fort St. George which are not included in any Scheduled District.

2. His Grace the Governor of Fort St. George in Council is further pleased, in exercise of the power conferred by Section 6 of the said Act, to direct that the jurisdiction, powers and duties incident to the operation of the said enactments, so far as such jurisdiction, powers and duties are referred to in the third column of the said Schedule, shall be exercised and performed by the authorities mentioned in that column.

LIST.

1	2	3
Number and year of Regulation or Act.	Subject.	Jurisdiction, powers and duties how to be exercised and performed.

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Post (1877) DEPARTMENT.

From The Govt of India
Home Department
Judicial
No. 1391

No. 2443/99

Dated 11th Sept. 1877.
Received 19th

G.P.C.

No. 2888 papers

W. Schuchardt

Forwarding observations
on the letter from the
submitting Notification
for sanction of Jail
in prison, under the Scheduled
Districts Act, in reference to the
Scheduled Districts of
Bundachallam, K. K. Kapilla
& Rampr, & requesting
that fresh notification be
submitted with reference to these
observations.

In a letter from
Lodge of the
District dated 11-4-77
1878 No 7

The Chief Clerk
to Government
at Santiago

Schedule II

Regulations and
to be in force in the
Chachellam, Belk
and Cumpachaco

1681-01-81
3876

Act IX of 1872	Contract Law	Collector and District Judge. Belur District	Do Do Do
" X of 1872	Criminal Procedure	Same as above Penal Code.	
" XI of 1872	Extraordinary	District Magistrate of Bangalore	
" XIV of 1872	Summing Evidence		
" XIX of 1872	Definition of "Pen"		
" XX of 1872	Penal Code		
" XX of 1873	Judicial acts	Same as Evidence Act.	
" XX of 1874	Summing Evidence		
" XX of 1875	Majority	Same as Penal Act.	
" XX of 1875	Law Reports	Do Do	
" XX of 1877	Limitation	Same as Evidence Act.	
" XXIV of 1859	Police Act		

22nd 32nd Clasp Magistrate of Bangalore
1st Clasp (Junt) Magistrate of Bangalore

Belur District	Collector and District Judge	Rajahmundry and 22nd Clasp Magistrate of Rajahmundry.
Judiciary District	Signed / D. S. Foster	
Collector of Bangalore Office	Collector Bangalore	
Secured 11th February 1878	Place	
	Assistant Collector	

Report to the
Home Office
1823

1823

Reg. Act	Administration of Estates	Collo.	of the Godavari District.
" I of 1804	Const. of Bonds	Same as for Andhra. Civil Code.	Do
" I of 1805	Salt		
" IV of 1806	Village Brunnings	Potals. Same as for Andhra. Civil Code.	Brunnings
" I of 1806		Privateers (Ransoms)	Brunnings
" IV of 1806		Collectors (District Judges)	Collectors (District Judges)
" I of 1806		Collectors of Brunnings (Brunnings)	Deputy Collectors of Brunnings (Brunnings)
" I of 1806	Village Brunnings	Same as Regulation. II of 1810.	Brunnings
" I of 1806	Acres of Villages	Brunnings	Brunnings
" I of 1806	Refugees of Claims regarding	Potals & Salt and Collectors	Brunnings, Deputy Collectors of Brunnings
" I of 1806	Law & Justice Villages &	Brunnings, District Brunnings	Collectors & Salt Brunnings
" I of 1806	District Brunnings	and Collectors respectively	Collectors of Brunnings
" III of 1817	Charitable Endowments	Collectors of Godavari District.	Collectors of Godavari District.
" II of 1819	Share Brunnings		Brunnings
" IV of 1821	Petty thefts		Brunnings
" IX of 1822	Subordinate Brunnings		Brunnings
" III of 1823	Servants & Malicious		Brunnings
" I of 1823	in various matters		Brunnings
" I of 1823	Current Brunnings		Brunnings

Report to the

Government

Act of 1831 Powers of Subordinate

and of Subordinate Tahsildars of Bhadrachalam Sub Tahsildars of Rajahmundry and of Sub Tahsildars of Godavari

Act of 1831 Powers of Subordinate

Collector of Godavari

Act of 1832 Limitation

Act of 1832 Limitation

Collector of Godavari

General Code

Act of 1863 Powers of Subordinate

Same Act of 1863 of 1859

Act of 1864 Recovery of Arrears

Collector of Godavari District Sub Tahsildars of Bhadrachalam

Act of 1864 Arrears

As for Criminal Penalties, see Act of 1864

Act of 1865 Recovery of Rent

Same Act of 1865 of 1864. Sub Tahsildars of Bhadrachalam to receive the duties of the Tahsildars of Godavari District and the Collector of the District. As for Criminal Penalties, see Act of 1865.

Act of 1865 Powers

See Act of 1859

Act of 1867 General Clauses
Act of 1869 Empowering Revenue Officers to remove

Tahsildars of Bhadrachalam

Deputy Tahsildars of Godavari

Act of 1871 Recovery of Rent
Act of 1872 Powers

See Act of 1865
See Act of 1859

Godavari District
Collector of Bhadrachalam
Collector of Bhadrachalam

(Signed) W. J. Foster
Collector of Bhadrachalam
Collector of Bhadrachalam

XLV of 1860 Indian Penal Code

Original

17

W

9

4. VI of 1864. Shipping Act.

XIV of 1866 Post Office

" I of 1868 General Canales

VIII of 1869 Stamp duties

The Colic.

The Collect. 'tany exercise the powers of the District Magistrate.
and Sessions Judge, &c. &c. &c.

The ~~Salmon~~ of ~~Blas~~ ~~Salmon~~

The Sub. Comr of Pt. Barre, Calcutta. He Sub. Collector of Gorum Boree.
Received Clap, Magistrate's power. the power of a sub. Magistrate is.

Increased Clap, Magnetic power - the power of a single Magnet is

The. Sub. Tahsildar of Bharsachalan Change of a Division of a District.

to exercise 3rd class Prerogative powers the Deputy Solicitor of the Exchequer

W.C.C.C.

13. 11-22 Clap.

Do— 3^d Class Fragments (Grach.

Voluntary Receipt

Same as for Penal Code

Mr. Postmaster General, New

Directors and Deputy Platin

ducks, geese
to them by

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As far as the Criminal Courts

The Collector of Land Revenue

ad Paychmaway, To Thiloms

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10 Ind. Sept.

Pro: of the Madras Govt.

Read the following letter,
From the Off^r Secy, Govt of India, Home Dept, Ind.
11 Sept^r 1877, No. 2288-1391.

18th Oct^r 77. No 2683.

The Govt of India de-
sire in the foregoing letter that
the Notifications and List of
Enactments proposed by the
Govt in connection with the
scheduled tracks of Badrachel-
lurn, Nukapilli, and Rumpah
in the Godavari district, be
revised in communication
with the Advocate General,
in accordance with the terms
of the two forms of Notifica-
tion appended to their letter.
2. In para 3 the Govt of
India express their opinion that
it is not desirable to notify,
under sections 3 or 5 of the Scheduled
Districts Act, enactments which
must clearly be in force, referring

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A letter from the
Collector of the Godavari
District dated 11th July
1878 No 7
The Chief Secretary
to Government
Mr. S. S. George
S. S. George
A letter to be in force in
the 13th and 14th
of the 13th and 14th
of the 13th and 14th

no doubt to such enactments as the Criminal Procedure Code, the Penal Code, the Stamp Act, the Court Fees Act, the Contract Act, &c.; but that only such laws need be dealt with regarding which some doubt exists or which clearly do not apply. They further suggest that, if it is only necessary for the information of the local officers to perambulate the enactments in force, the object could be effected by a circular from the local Govt. This Govt, however, have grave doubts whether in the uncertain state of affairs that has prevailed, any mere executive order of theirs can clear up difficulties and enable the Courts to accept the laws thus declared.

3. Owing to the transfer of the Bachchellam & Rakapalli taluks from the Govt of the Central Provinces, unaccompanied by a corresponding transfer of the superior officers who formerly administered the laws in these

taluks, and the different state of administration prevailing in the Godavari district to which they were transferred, it was by no means clear what laws were applicable to the newly acquired territory, & what not. The only officer transferred was the Sub-Judge, who exercised the powers of a District Judge in suits up to 100 Rs, and the powers of a Magistrate of the 3^d class in criminal cases. No superior officer possessed of higher and appellate powers was transferred; and yet, by not forming part of the ordinary area of the Godavari district, it was not clear whether the transferred taluks came within the jurisdiction of the regular Magisterial and Judicial Courts of the district. Writing to the Board of Revenue on the subject of the administration of these taluks in May 1875, Mr. Foster, Collector of the Godavari district, remarked, "there have therefore been, strictly speaking, in these taluks neither the Session Court, nor District nor

From Colr. Godavari, to Revenue Board, 28 May 75, No. 230.
Rev. Board's Pro: 21 June 75, No. 1703.
G.O. Rev. Sept. 17 July 75, No. 1074.

Divisional Magistrate; neither District, nor Subordinate, nor Munsiff's Court; no District Registrar, nor Supt. of Police; so that, though there has been law in force for some time, there have not been officers legally to carry it out. And further, now since the passing of the Laws Local Extent Act of 1874, as these tasks are mentioned in the 5th schedule, the Code of Civil Procedure & several laws relating to civil justice are no longer in force; so that there is now neither Court nor procedure for the disposal of civil suits." Again, in para 8 of that letter, Mr. Foster remarked - "I am well aware that I have no power to exercise any jurisdiction whatever; but I must take measures to prevent and punish crime, and to prevent people feeling themselves aggrieved taking the law into their own hands." In April following, the Govt learnt that on two Police Constables appealing to the District Judge against the sentence of one year's rigorous imprisonment passed upon them

From Ag. Coln, Godavari, 5 April/76, P.B.
G.O. No. 1233, 15 July/76.

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by the District Magistrate, the Judge refused to entertain the appeal on the ground that he had no jurisdiction. The Judge followed this up by a letter to the Collector and District Magistrate, in which he wrote as follows: "You are, I believe, perfectly aware how matters stand at present, & are personally anxious that the present anomalous state of things should be corrected. I will only, therefore, say that at present it does not appear what authority the Magistrate of the Godavari District, as such, has to proceed under the Code of Criminal Procedure and the usual Code, or otherwise, in the case of persons charged with offences in these tracts; that it has been held that no appeal lies to this Court from such convictions; that as District Judge I consider that I have no civil jurisdiction in these tracts; and respectfully submit that it does not appear that you, or any one else, is legally empowered to exercise jurisdiction in civil matters either in this tract."

4. As it appeared from the papers before Govt. that the High Court also entertained the opinion that the Ridge of the Godavari district had no jurisdiction within the transferred tracks, the subject was referred to the Advocate Genl; the Govt. stating that it was their intention eventually to construct these tracks into a special agency like the hill tracks of Sangam & Vizagapatnam, and that it was their view that the territory in question, as forming part of the Godavari district by its former transfer, was subject to all the laws & procedure applicable to the Presidency of Madras in ordinary.

5. In reply to this reference, the Honble Mr. Cunningham, then Advocate Genl, stated it as his opinion that the proper course was for the Govt. to issue a Notification under section 3 of the Scheduled Districts Act, 1874, declaring the laws in force in the Badrachellam & Rakapilli taluks, and to direct, under section 6c,

x vide opinion recorded in
G.O. 26 Aug 76, No 1757.

by what authority any jurisdiction is incident to the operation of any enactment so declared to be in force shall be exercised, and he added - "If it is the intention to allow these two taluks to form an ordinary portion of the Godavari district, the Notification may declare all the Acts & Regulations mentioned in the first and second Schedules to the Laws Local Extent Act, 1874, & all the Acts passed since that date & in force in the Presidency of Fort St. George, to be in force in the two taluks." Upon this opinion, but still keeping in view the intention to constitute these taluks an Agency tract, the Collector of the Godavari district was called upon to state what laws he proposed to be declared to be in force, or not in force, in the Badrachellam and Rakapilli taluks and in the Chimpah country, promising that the Govt. considered all laws generally operative throughout British India to be at present in force there, unless suspended by the operation of Act XV of 1874, or especially requiring to be specially

applied. He was also requested to propose such modification of the Agency Rules of Vizagapatnam as would be suitable to the administration of the tracts in question.

5. Meanwhile, Mr. Cunningham (Advocate Genl) laid before Govt, with his opinion, a note of the observations of Full Bench of the Judges of the High Court on the appeal preferred to the Sec. in Judge, Godavari, of a prisoner belonging to the Bairachellam and Rakapalle taluks, from which it appeared that they questioned the rights of the Collector & Magistrate to exercise either civil or criminal jurisdiction in those tracts. In doing so, Mr. Cunningham decided that he was informed by the Govt Pleader that there had been instances of serious crime in the said taluks which rendered it imperative that the doubt as to the jurisdiction of the Criminal Courts should be cleared up with "least delay," and he advised that this might be done by a Notification, under Sections 3 and 6

* See Opinion of Adv. Genl recorded in G.O. 3^d July/77, N^o 1562

of Section 1374, declaring the Penal Code and the Criminal Procedure Code (with the amending Acts in each instance) to be in force, and appointing the Officers by whom the functions of Session Judge & Magistrate are to be exercised." Acting upon this advice, and revising the list of Acts & Code of Rules proposed by the Collector & Magistrate of the Godavari district, the Govt drew the Notifications A and B appended to their Proceedings in this Dept dated 3^d July/77, N^o 1562; the one enacting the several enactments, and the other incorporating the Rules, which they proposed to introduce into the tracts in question for the purposes of their civil, criminal and general administration. The Govt of India take exception to the descriptive title given to these enactments in the said list, and suggest others

The titles suggested are those given in the 2^d Schedule appended to the Laws Local Extent Act of 1874. These titles do not in all instances appear to be complete; e.g., Act VII of 1839 is simply entitled in the Schedule (7) "Tahsildars", whereas it relates to the powers of Tahsildars to sell distressed property. As the Govt of India, however, prefer the description given in the Laws Local Extent Act, the list of Acts proposed to be introduced will be revised accordingly.

8. Agreeably to the suggestion of the Govt of India, His Grace the Govt in Council resolves to communicate their letter above recorded, with copy of the papers quoted in these Proceedings, to the Acting Advocate General, in view to his considering the whole question and giving his advice & opinion in respect to the form & terms of the Notifications to be published, the laws

80. to be declared to be in force, and have the jurisdiction powers and duties incident to their operation are to be exercised & performed.
W.S.

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The Ag. Adv. General
(thru the Govt Solicitor).
with Rev. G.O. 17 July 1875. No 1074.
" 15 " 1876. No 1433.
" 26 Aug " " No 1757.
" 3^d July 1877. No 1562.
8.10.77
Def. 23/1/77



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Vol. of {1877} Madras.

2006

no copy

Oct. 1871, No. 248.

Nos. 102-103.

...Kollmann & Kollmann...

papers sent to the
various parts in view
of considering the whole
of the transfer of
ships to this fleet &
as a decision requested
to the same end
the letters to be
sent, viz.