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MADRAS RECORD OFFICE

Government of Madras

Judicial DEPARTMENT

G.O. No. 1762 Press
~~B.P. No.~~ ~~Mis.~~

Dated 26th August 1881.

Original

Not to be folded or roughly handled

Petition Nominal Index.

ne.	District.	Current number.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

26th August 1881, No. 1762.

Acts.

Read again :—

G.O., 21st November 1879, *No.* 2925, *para.* 3.

ABSTRACT.—Requesting the Honorable the Judges of the High Court and the Board of Revenue to indicate the portion of the Legal Practitioners' Act, 1879, they would recommend to be extended to this Presidency.

Proceedings of the Board of Revenue, dated 15th January 1880, *Miscellaneous No.* 431 [*Current No.* 127].

Read G.O., Judicial Department, dated 21st November 1879, No. 2925.

ABSTRACT.—Inquiring what portions of the Legal Practitioners' Act (XVIII of 1879) might be extended by notification to this Province.

The provisions of Act XVIII of 1879 relating to Revenue Agents are substantially the same as those of the repealed Act XX of 1865 in regard to which the Board expressed the opinion concurred by Government that there was no practical necessity for its introduction (*vide* G.O., dated 7th June 1875, No. 1301). The Board see no reason to modify the opinion then expressed, and would leave matters alone.

(True Extract.)

(Signed) C. A. GALTON,
Acting Secretary.

To the Hon. Sir CHARLES A. TURNER, Kt, C.I.E., Chief Justice of the High Court of Judicature at Madras, dated 13th February 1880, *No.* 285.

ABSTRACT.—Requesting the Honorable the Judges of the High Court to transmit their views with reference to G.O., No. 2925 of 1879, respecting the introduction into this Presidency of the Legal Practitioners' Act XVIII of 1879.

To the Hon. Sir CHARLES A. TURNER, Kt, C.I.E., Chief Justice of the High Court of Judicature at Madras, dated Ootacamund, 9th August 1880, *No.* 1902.

Adverting to the correspondence marginaly noted, regarding the extension to this Presidency of Act XX of 1865 (the Pleaders, Mukhtears, and Revenue Agents Act) now superseded by Act XVIII of 1879 (the Legal Practitioners' Act), I am directed by His Grace the Governor in Council to inquire whether the Honorable the Judges of the High Court desire that the sections of the Act applicable to the Judicial Department be introduced into this Presidency, and if so, from what date.

From High Court, No. 749, dated 2nd April 1875.
To High Court, No. 1302, dated 7th June 1875.
From High Court, No. 2739, dated 25th November 1876.
Proceedings of Government, No. 836, dated 2nd April 1877.
From High Court, No. 2797, dated 4th December 1877.

(Signed) R. DAVIDSON,
Chief Secretary.

Read also the following paper :—

From LEWIS McIVER, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, dated 20th January 1881, No. 98.

With reference to your letter, dated 9th August 1880, No. 1902, regarding the extension to this Presidency of Act XVIII of 1879 (the Legal Practitioners' Act), I am directed to state that the High Court had strongly urged the introduction of the Act of 1865, and that it retains its opinion as to the desirability of introducing the present Act so far as it is applicable to the Judicial Courts of this Presidency.

2. The existing system which leaves to the District Judges the issue of sanads has, as the Government is aware, been in some cases exercised capriciously. In the result the public has enjoyed neither the freedom of selection which is incompatible with a professional monopoly nor the reasonable certainty that the practitioners admitted to the monopoly were possessed of certain qualifications—the one ground on which a monopoly is, in such cases, justified.

3. I am to point out that the terms of the second paragraph of Section 13 are so narrow as to exclude relations and friends of parties to litigation from instructing Pleaders in their behalf.

4. The object of this provision was to prevent the employment of the law-brokers who intercept clients on their way to Pleaders and carry them off to Pleaders who give the highest commission, irrespective of their professional ability. It will be for the Government to consider whether the penalty clauses on Section 36 will not sufficiently protect the public from this mischievous class. The Government cannot unfortunately in extending the Act add to its provision, for a slight amendment would cure the defect which has been noticed by the Court and at the same time enable the retention in the Act of a valuable provision. It will be noticed that the power conferred on the High Court is discretionary, and therefore if the Government thinks fit to extend the section intact, the Court would, in the exercise of its discretion, be careful to avoid enforcing the provisions of the law in any case which did not clearly fall within the scope of the Act.

5. If one of the objects of the Act is attained and professional law-brokers are as a class abolished, it may be necessary to introduce a class of Mukhtears who, being enrolled under the Act, would be under the control of the Courts. The High Court further thinks that such parts of the Act as are applicable to this Presidency should be introduced from the 1st of July 1881, and should the Government concur in this view, I am to ask that an early intimation may be given to the High Court, in order that the rules necessary for giving effect to the provisions of the Act may be prepared.

ORDER THEREON, 26th August 1881, No. 1762.

The Legal Practitioners' Act, 1879, was passed on the 29th October 1879, and came into force on the 1st January 1880.

2. The important provisions of the enactment are, in substance, as regards the ordinary Civil and Criminal Courts, the creation of a class of "Pleaders and Mukhtears" who are to be qualified and admitted, and whose qualifications are to be tested in accordance with rules framed by the High Court, and who when once enrolled—a condition precedent intended to secure the exercise of proper control over the Pleader by the Courts in which he practises—are thereupon to have the exclusive right, jointly with Advocates, of practising therein. The Act further declares their liability to dismissal or suspension, not only for unprofessional, fraudulent or criminal conduct, but also, on due inquiry, for taking instructions from others than the party, his business agent or servant; a defined procedure being provided for the due investigation of such misconduct.

3. As regards the Revenue Courts or "Offices," the "Revenue Agents," the class whose practice is restricted thereto, are placed under the control of the Board of Revenue, as "Pleaders" are under the High Court; their admission, enrolment, suspension, and dismissal being regulated by similar provisions.

4. It has been left to this Government to extend all or any of the provisions of the Act to the whole or any part of the territories under its administration; and the High Court and the Board of Revenue have been called on to state what portions should in their judgment be thus extended.

5. The High Court express a strong opinion in favor of the desirability of introducing the Act so far as it is applicable to the Judicial Courts of the Presidency. The Board of Revenue see no practical necessity for the introduction of the provisions regarding Revenue Agents, and would leave matters as they are.

The opinion of the High Court is accepted; and on full consideration the Government agree with the Board of Revenue that the Act, so far as it affects the Revenue Courts and Offices, and the right of any class of legal practitioners to appear and practise their vocation therein, should not be brought into operation; the present prevailing procedure being better suited to the circumstances of these Courts and to the proceedings and litigation carried on, and better adapted to the wants of the people.

6. The Governor in Council accordingly resolves to sanction the extension, from and after the 1st January 1882, of the Legal Practitioners' Act, 1879, to the ordinary Judicial Courts, Civil and Criminal, throughout the Presidency, excepting the Scheduled Districts, and directs that the subjoined notification be published in the *Fort St. George Gazette*.

7. With reference to Section 37, the High Court will be requested to favor Government with a draft of such rules as they would recommend, to regulate the conduct of examinations for ascertaining the qualifications of Pleaders and Mukhtears admitted under Section 6 of the Act.

NOTIFICATION.

In exercise of the power conferred by Section 1 of the Legal Practitioners' Act, 1879, the Governor in Council is hereby pleased to direct that, from and after the 1st January 1882, the provisions of the said enactment, so far as they relate to the Judicial Courts, Civil and Criminal, established or to be established in this Presidency, shall come into operation in all the territories (excepting the Scheduled Districts) administered by the Government of Fort St. George; but nothing in the said Act, in any manner affecting Revenue Offices, or the rights of Pleaders or Revenue Agents or others to practise therein, shall be deemed to be hereby extended to the said territories; and further the said enactment shall be read subject to the omission of the following words and clauses :—

Section 3; in the definition of "legal practitioner" the words "*or Revenue Agent.*"
Section 6 (*a*), omit "*and of the Revenue Offices.*"
Section 7, Clause 1, "*and in the case of a Pleader, also the Revenue Offices*" to be omitted.
Section 8, line 3, omit "*or Revenue Office.*"
" " 7, omit "*or the Chief Controlling Revenue Authority.*"
" " 11, omit "*or office,*" and "*or Revenue Office.*"
Section 10, omit Clause 2.
Section 14, line 2, omit "*or in any Revenue Office.*"
" " 3, omit "*or office.*"
" Clause 5, line 4, omit "*and any Revenue Authority*" down to "*subordinate to him*" from
" Clause 6 (*d*).

Chapter IV, "*Of Revenue Agents*" to be omitted.
Section 27, omit Clause 2 and Clause 4.
Sections 28, 30, 31, omit the words "*or Revenue Agent*" throughout.
Section 32, lines 1 and 2, omit "*or Revenue Office.*"
" line 3, omit "*or Section* 20."
" " 4, omit "*or the officer at the head of such office.*"
" " 7, omit "*or office.*"
Section 33, line 1, omit "*or Revenue Agent.*"
" " 4, omit "*Authority or officer,*" and "*or to whom.*"
Section 34, lines 1 and 5, omit "*or Revenue Agent.*"
" line 5, omit "*or Revenue Office.*"
" lines 6 and 7, omit "*or the officer at the head of such office.*"
Section 35, line 4, omit from "*and by the chief*" to the end of the section.
Section 37, omit "*and seventeen.*"
Section 39, omit "*and a certificate as a Revenue Agent under Section* 18."
Section 41 to be omitted.

(By order of the Honorable the Governor in Council.)

R. DAVIDSON,
Chief Secretary.

To the Honorable the Judges of the High Court, with covering letter.
" Revenue Department.
" Board of Revenue.

Exd. J. Wright.

Govt. of (1881) Madras.

JUDICIAL.

To

The Hon. the JUDGES of the
HIGH COURT,
&c., &c., &c.

Dated August 5, 1881.

Read

Read

G.O., 26th July 1881, No. 1702.

AUGUST.

Note.—The rates, as fixed after the 1st January 1882, of the Legal Practitioners' Act, 1879, in the ordinary Judicial Courts, Civil and Criminal, throughout the Presidency, except the Scheduled Districts, are as

Rev. Dept.

Mis. No. 431

Proceedings of the Board of Revenue.

Dated 1st January 1880.

Read G.O. Judicial Dept. dated 21st November 1879. No. 2925; inquiring whether there is any objection to the introduction into this Presidency of the provisions of the Dekkhan Agriculturists' Relief Act (XVII of 1879), and what portions of the Legal Practitioners' Act (XVIII of 1879) might be extended by Notification to this Province.

The provisions of Act XVII of 1879 relating to Revenue Agents

Agents are substantially the same as those of the repealed act XX of 1865 in regard to which the Board expressed the opinion concurred by Government that there was no practical necessity for its introduction – vide S.to. dated 7th June 1875, No. 1301.—
The Board see no reason to modify the opinion then expressed and would leave matters alone.

(True Extract)

Actg Secretary

To.
The Chief Secretary to Govt
Jud. Dept.

Sept 29/8.

Judicial Department.

No 1902.

To

The Hon: Sir Charles Tupper K.C.M.G.
&c &c &c.
Minister of the Right
Secretary of State for
Canada

Ottawa

Sir:

Adverting to
the correspondence mar-
ginally noted, regarding
the extension to Manitoba
of Act XX of
1865 (the Manitoba
Act) now superseded
by Act XVIII
of 1879 (the Manitoba Act)
I am
directed by His Excellency
the Governor in Council

From Registrar of Q.B. 2nd April 1875.
To Do. No 1752 of 7th June 1875.
From Do. No 2739, of 25th March 1876.
Rem. Papers, No 836, 2d. April 1877.
From Registrar No 2797, 9th August 1877.

substantially the same
as those of Act XXIII of '79. -

Judicial 1880 Deptt.
(Acts).

Rec'd 16 Jan 1880

Rec'd of the Bd
of Rev:
15 January 1880.

No 127

Stating with reference
to D.O. Judl Dept. Dr 21st
Nov. '79. No 2925. that
the Board see no reason
to modify the opinion once
expressed by them that there
was no practical necessity
for the introduction of Act XX
of 1865 whose provisions are
substo

1/1/1
8
135

to inquire whether the
Honble the Judges of the
High Court desire that
the Sections of the Act
applicable to the Judicial
Department be introduced
into this Presidency, and
if so, from what date.

(From Orders in Council)

Calcutta 3rd August 180

No 98 11

From

Lewis. Mc. Iver Esquire,

Acting Registrar of the High Court

of Judicature at Madras.

To

The Honorable R. Davidson, C.S.I.,

Chief Secretary to Government.

Honorable Sir,

With reference to your letter dated 9th August 1880, No 1902, regarding the extension to this Presidency of Act XVIII of 1879 (the Legal Practitioner's Act). I am directed to state that the High Court had strongly urged the introduction of the Act of 1865 and that it retains its opinion as to the desirability of introducing the present Act so far as it is applicable to the Judicial Courts of this Presidency.

2. The existing system which

DISPATCHED 08 AUG 1880 BY G.

leaves to the District Judges the
issue of Sanads has as the Government
is aware been in some cases exercised
capriciously. In the result the public
has enjoyed neither the freedom
of selection which is incompatible
with a professional monopoly
nor the reasonable certainty that
the practitioners admitted to the
monopoly were professed of certain
qualifications - the one ground on
which a monopoly is, in such
cases, justified.

3. Sam to point out that the terms of the second paragraph of section 13 are so narrow as to exclude relations and friends of parties to litigation from instructing Pleaders in their behalf.

4. The object of this provision was to prevent the employment of the Law-brokers who intercept

clients on their way to Pleaders and carry them off to Pleaders who give the highest commission irrespective of their professional ability. It will be for the Government to consider whether the penalty in clauses on Section 36 will not sufficiently protect the public from this mischievous class.

The Government cannot unfortunately in extending the act add to its provision, for a slight amendment would cure the defect which has been noticed by the Court and at the same time enable the retention in the act of a valuable provision. It will be noticed that the power conferred on the High Court is discretionary and therefore if the Government thinks fit to extend

the section intact, the Court would, in the exercise of its discretion, be careful to avoid enforcing the provisions of the law in any case which did not clearly fall within the scope of the act.

5. If one of the objects of the act is attained and professional Cambrokers are as a class abolished, it may be necessary to introduce a class of muktiars who, being enrolled under the act, would be under the control of the Courts. The High Court further thinks that such parts of the act as are applicable to this Presidency should be introduced from the 1st of July 1881, and should the Government concur in this view, I am to ask that an early intimation may be

be given to the High Court in order that the rules necessary for giving effect to the Provisions of the act may be prepared.

I have the honor to be,
Honorable Sir,
Your most obedient Servant,

Lewis D. Ster.
Acting Registrar,
Appellate Side.

High Court of Judicature, Madras,
20th January 1881.

Copied by M.T.
Gnd.
N. Lakshmanan

off fo 2974- 10-11-80
In fo 1902- 9-8-80 1 fo.
quoted.
fm fo 2204- 11-9-80
fo. 260-61- 6-2-81
-1201- 7-6-81
036- 2-4-81.

R
Judl

Judicial 1881 Department
Legal Practitioners
No 206

From
The Acting Registrar of the
High Court of Judicature
at Madras.

To The Chief Secretary
to Government.

Dated 20th January 1881
Received 10

No 206.

Conveying to him with reference to his letter dated 9th August 1880, No 1902 the observations of the High Court regarding the extension to this Presidency of Act XVIII of 1879 (the Legal Practitioners Act).

16 Revenue Board Office
Madras
21st February 1881

No 259

Official Memorandum

With reference to his letter dated 17th February 1881 No 324 the undersigned is directed to inform the Asst Secretary to Government Judicial Department that the Board have already replied to para 3 of G.O 21st Nov 1879 No 2925 in their Proceedings dated 15th January 1880 mis No 431 despatched to the address of the Chief Secretary on the same date. Another copy of the Proceedings is herewith sent.

(By order)

Secretary

To
The Asst Secretary to Govt Judicial Depart
with copy of Bds Procs 15th Jany 80 mis No 431

Mis: № 431

1) Revenue Department

Proceedings of the Board of Revenue

Dated 15th January 1880

Read G.O. Judicial Deptt dated 21st Novem-
-ber 1879 № 2925.-

"The provisions of Act XVIII of 1879 re-
-lating to Revenue agents are substantially
the same as those of the repealed Act XX of 1865
in regard to which the Board expressed the
opinion concurred in by Government that there
was no practical necessity for its introduction
Vide G.O dated 7th June 1865 № 1301. The Board
see no reason to modify the opinion then
expressed and would leave matters alone

(True Extract)

(Sd) C. A Galton
Offg Secretary

To

The Chief Secretary to Govt N.W.P.

(True copy)

Secretary

Enclosure in Board's
appl: Memorandum of the
Asst Secretary to Govt of W.
dated 21st February/81 No-25

Ex Jud: 507/81

Judicial 1881. Deptt

OFFICIAL MEMORANDUM

(Legal Practitioners' Act)

From

THE SECRETARY TO THE

BOARD OF REVENUE,

To THE ~~COLLECTOR OF~~ Asst Secretary to Govt Judicial Deptt

Dated 21st
Despatched
Received 24th } February 1881

Mis. No. 259 Encl

No: 601

SUBJECT.

Stating that the Board have already replied to para 6 of G.O. 21st Nov/79 No 2925 in their Proc: of 15th Jany/80 mis: No 431 & forwarding another copy of the Proc: of

18

Act XVIII/79 - "Practitioners' Act", has not, I believe, been extended ~~to this~~ Presy by us, either wholly or in part (Sect I. para 3) -

Please send me the correspondence wh led to the Act. about 3 years ago since this way -

The Govt address us to extend that Act - which

to leave out, as ~~decided~~ by G.O. ... because of certain words in ...

19

Ch. only is extended as a whole, to this Prey-

We declined (Hunt V.C. dissenting) because we didn't want to extend the Fourteenth Revenue Statutes.

To meet this decision, India repealed the Act of '05 - in favour of the prosecutors.

D.Z.K.

28

Observations

To advert to the suspensions in 4 & 5 Vict. regarding Act 27 & 28 Vict. now suspended by Act XVIII/79;

& to inquire whether the Ch. wish the determination of the Act applicable to those Cases to be introduced in this Bill;

Mr. Gunn's letter

Mr. Ch.

Jud. Department.

No. 256

From Under Secretary Registrar of the High Court

Madras, the 20th January 1880. No. 98.

Stating that the High Court are of opinion that the Legal Practitioners Act of 1879 should be extended to the Province of Sind, and that a Bill for that purpose should be introduced into the Council of the Governor General before the 1st July 1880.

FOR ORDERS.

Perhaps the whole Act does not apply to Sind

Act. Ch 41

The High Ct. don't care about Clause IV, Revenue Agents, as it does not concern them

Notwithstanding the Act, everything about Rev. Agents must be omitted, unless it is wished that Rev. Agents should practise

Mr. Ch. to state what they wish to leave out, & also to give extracts of certain Acts,

Jud. calendar the Ch.

Notice & report their opinion. Be sure already done

Mr. Gunn's letter

Mr. Ch.

Mr. Gunn's letter

Mr. Ch.

Mr. Gunn's letter

Mr. Ch.

by the Commissioners for taking the Rec.d of Land Revenue for Income Tax

Will either extend to affect Rec.d of Rev. Offices & Clerks but the Lords Comm.rs of Treasury

Nor under the provisions of Act 20. will the Collectors &c. of any Land Revenue in a Rev. Office be barred from acting under this Act from the principal.

And whereas doubts have arisen whether Persons having Offices or Employments in the Collection of the Revenue of Land Tax, Assessed Taxes, Duties on Offices, Pensions, Salaries, Profits arising from Offices or Employments, Duties on Personal Estates, Duties on Houses, Windows, Lights, Inhabited Duties, Duties on Servants, Duties on Horses, Duties on Carriages, Duties on Hackney Carriages, Duties on Game Certificates, Duties on Legacies and Successions to Personal Estates, Duties on Probates of Wills and Letters of Administration, Duties on Bonds, Duties on Deeds, Duties on Newspapers, Duties on Advertisements, Duties on Receipts, Duties on Bills of Exchange, Duties on Bills of Lading, Duties on Policies of Insurance, Duties on Licences, Duties on Hawkers and Pedlars, Duties on Auctioneers, Duties on Sales of Estates by Auction, Duties on Sales of Goods by Auction, Duties on Sales of Stock by Auction, Duties on Sales of Ships by Auction, Duties on Sales of Shares in Ships by Auction, Duties on Sales of Shares in Companies by Auction, Duties on Sales of Shares in Banks by Auction, Duties on Sales of Shares in Insurance Companies by Auction, Duties on Sales of Shares in Canal Companies by Auction, Duties on Sales of Shares in Railway Companies by Auction, Duties on Sales of Shares in Turnpike Companies by Auction, Duties on Sales of Shares in Bridge Companies by Auction, Duties on Sales of Shares in Ferry Companies by Auction, Duties on Sales of Shares in Harbour Companies by Auction, Duties on Sales of Shares in Dock Companies by Auction, Duties on Sales of Shares in Pier Companies by Auction, Duties on Sales of Shares in Quay Companies by Auction, Duties on Sales of Shares in Wharf Companies by Auction, Duties on Sales of Shares in Warehouse Companies by Auction, Duties on Sales of Shares in Gas Companies by Auction, Duties on Sales of Shares in Water Companies by Auction, Duties on Sales of Shares in Electric Companies by Auction, Duties on Sales of Shares in Telegraph Companies by Auction, Duties on Sales of Shares in Telephone Companies by Auction, Duties on Sales of Shares in Insurance Companies by Auction, Duties on Sales of Shares in Banking Companies by Auction, Duties on Sales of Shares in Trading Companies by Auction, Duties on Sales of Shares in Manufacturing Companies by Auction, Duties on Sales of Shares in Mining Companies by Auction, Duties on Sales of Shares in Quarrying Companies by Auction, Duties on Sales of Shares in Agricultural Companies by Auction, Duties on Sales of Shares in Horticultural Companies by Auction, Duties on Sales of Shares in Forestry Companies by Auction, Duties on Sales of Shares in Fishing Companies by Auction, Duties on Sales of Shares in Hunting Companies by Auction, Duties on Sales of Shares in Shooting

FOR ORDERS

DEPARTMENT.

No.

From Bd of Rev. d. 21 Feb 80

re Legal Practitioners Act, 1879

FOR ORDERS.

It appears the Board of Revenue replied to G.O. 29 Nov 1879 no 2925 in Pro. no 431 dated 15 Jan 1880 (overlooked through having been put away with a reminder to H. Ct in Feb 80). The Board adhere to the opinion expressed by them in Pro. 14 May 1875 no 1295 (printed in G.O. 7 June 75, no 1301) that "there is no practical necessity for the introduction of the Act

Govt in order the Govt Solr Genl. letting certain Govt the Queens Advocate is consulted that this is contemplation as regards Govt. Govt accepted in this Office have no Comments. Note specially Reference to Sec. 20.

Begin by analysing

so far as the Rev. Dept is concerned."

But by appropriate rule framed under cl. 2, sec 20 the old Madras practice may still be retained & a principal allowed to employ his relative, servant, dependant, or his own business agent to act in his behalf before Collectors & other Revenue Officials. The Local Govt may empower all Colrs & Divisional Officers & Tahsildars to permit parties to appear by such relatives &c when duly authorized by Va Rules & Orders.

The object of the Act is to prevent a class of persons from acting as ~~[illegible]~~ agents generally, not to hinder a party from employing his own servant.

If the whole Act be extended to the Presidency, the following classes of persons will be entitled to appear for in Revenue Offices

(1) Advocates & of High Court

(2) Pleaders enrolled & qualified under Ch III (ss 18 & 28)

(N.B Mukhtars in no circumstances have right of audience in Rev. Offices)

(3) Revenue Agents qualified & admitted under Ch IV

(4) Agents appearing for their principals with the sanction of the Officer empowered to allow them appearance).

If however only so much of the Act as refers to Judicial Courts be extended to this Presidency, it seems unnecessary to excise the parts in Ch. III relating to such pleaders practising in Rev. Offices. For the Act will make no material alteration in the existing

[illegible] Govt that chapter III is devised [illegible] of the present system of pleaders - the plaintiff being that parties in such cases [illegible] Talukdars & other Zemindars or any recognized agents conducting such cases under the Act by Civil Courts.

[illegible] of the Civil & Revenue Courts &c.

C.B.
28/3/80

[illegible] Govt that chapter III as regards Civil & Criminal Courts —

— — — — —

and do Revenue Courts —

— — —

Govt desire that the Orders [illegible] form [illegible] in Madras [illegible]

Rev. Dept are of opinion that parties may be allowed by Civil Courts. But the Govt think that it will [illegible] parties [illegible] from the Courts [illegible] Civil Courts. But on [illegible] the Govt appears

cuctoms, which is that all pleaders holding the Certificate of the Dist: Ct: (& who are now entirely under the control of the High Court) are admitted in all the Subordinate Courts of the district including the Revenue Offices, without prejudice to the privileges or rights of other Vakeels or Agents.

Indeed the present law (vide Sec. 8) will give the Rev. Authorities a voice in the matter they had not before. This the Board of Revenue will no doubt Re-object to a simple order directing the recognition of all Pleaders holding the High Courts certificate.

The word "Court" in sec 10 evidently excludes Revenue Offices; throughout the Act the word "office" is expressed wherever a revenue Court is intended, Cf. sec. 3, cf. sec. 14 &c. This may also be inferred from sec 20 which makes provision for revenue offices just as sec. 10 does for judicial Courts. Nor would sec. 10 bar the fundamental rule that a principal may appear for himself in any Court of whatever jurisdiction. The words are "practise as a pleader".

There is a verbal difficulty in extending the by notifies directing the omission of words Act, to judicial Courts only; in doing this the words "or Revenue Agent" in Chaps V. VI &c will generally have to be erased leaving the preceding words "Pleader, Mukhtar" without an intervening conjunction; & the notification must

simply be to the effect
that Chaps V, VI VII & VIII
are extended except so
far as they relate to
Revenue agents.
The Notification will further
direct the omission of
the words "or Revenue Agent"
in the defn. of Legal Practitioner
in s. 3., as also the omission
of Chap. IV.

Orders are therefore requested
whether the Stamp Act is
to be extended, or whether in ac-
cordance with the wish
of the Board of Rev. and the
law relating to Rev. Agents
is to be omitted.
The High Court desire
the introduction so far as
applicable to judicial Offrs
to take effect from 1 July

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

READ ~~the following letter~~

agnl GO. 21 Nov 1879, no 2925 para 3 requesting the Hble the Judges of the High Court & the Board of Revenue to state what portions of the Legal Practitioners Act 1879 they would suggest might be extended to the Pondicherry

Read Rev. Board's Rev. d 15 Jan 1880
To High Court d. 13 Feb 1880
To High Court d. 9 Aug 1880 no 1982
From High Court d. 20 Jan 1881 no 98

Order thereon

The Legal Practitioners Act 1879 became law on the 29th Oct 1879, & came into force on the 1st Jan 1880

2. The important provisions of the Act are, in substance, as regards the ordinary Civil & Criminal

Wm. Wt. Carmichael Esq This

Courts to the creation of a class of "Pleaders & Muktears" who are to be qualified & admitted & whose qualifications are to be tested in accordance with rules framed by the High Court, and who when once enrolled — as condition precedent enacted to secure the exercise of proper control by the Court over the pleaders — are thereupon to have the exclusive right, jointly with Advocates, of practising in these Courts. The Act further declares their liability to dismissal or suspension for professional, criminal or fraudulent conduct, but only upon due enquiry for taking instructions from ~~[illegible]~~ their client the party, his business agent, or servants. and it provides a defined

procedure for the due investigation of such charges

3 As regards the Revenue Courts & "offices", the Revenue Agents, the class of legal practitioners whose practice is restricted thereto, are placed under the control of the Board of Revenue. "Pleaders" are not as "Pleaders" are under the High Court, then admission, enrolment, suspension & dismissal being regulated by provisions similar in nearly every respect. Their right of audience is however shared not only a fortiori with the higher classes of Advocates & Pleaders, but provision is made for sanctioning

allowed to duly authorized
agents appearing for their
principals. In the House of Commons

4. As the Act cannot
not take effect in any
part of the Madras Presidency
till extended thereto by
notification of the Govt. the
High Court & the Board of
Revenue were called upon to
report what portions of the
enactment they would
suggest might be thus ex-
cluded.

5. The High Court desire
that the Act so far as applicable
to the Judicial Courts shall
be introduced with effect
from 1st July 1881. The Rev.
Board are of opinion
that matters may be left
as they now are. But the
Government observe that
it will be introduced
complication to exclude

Copy of Letter from Madras.

Dated
Rec'd. —

To

Nos. G.O. 24 Nov 79 No 2925

from the notification the
provisions affecting Revenue
Courts. It has always been
the policy in this Presidency to
allow a litigant in Revenue
suits to appear and plead
in person or
by his relative, servant or
dependant: and Govt think
fully recognize the
inexpediency of attempting to draw hard
& fast lines to draw about
as to the eligibility of parties
to appear in
these cases. On careful
examination of the Act,
however, it appears to
Govt that all
desirable to retain of the
present system of procedure
can be fully maintained
under the present enactment.
The Act is aimed at pre-
senting an unrecognized
and uncontrolled class of

persons from acting generally as legal practitioners, but under the powers of sec 20 the relation dependant, or agent of any party to a ~~Revenue~~ case in a Revenue Court will not be debarred from acting under authority from his principal with the sanction of the presiding Officer. With a view to the issue of a notification in pursuance of the terms of the proviso, the Board of Revenue will report what classes of Revenue officers they would desire to be invested with the power of sanction referred to.

7th. The Rt. Hon'ble the Governor in Council accordingly is pleased to sanction the extension of the Legal Practitioners Act XVIII of 1879 to the whole of the

6 Or rules being framed under secs 6 & 17 & the authorities concerned to be with powers as under sec 37

Madras Presidency with the exception of the Scheduled Districts.

The following Notification will be published in the Fort St George Gazette

Notification

In exercise of the power conferred by sec 1 of the Legal Practitioners Act 1879 the Rt Hon'ble the Gov- in C is pleased to direct that the said Act shall take effect from and after the 1st July 1881 in the whole of the Madras Presidency with the exception of the Scheduled Districts

B.R. 1873 Mrs. M

1865 - The Regns of 1816 give the parties leave to employ "a relative, a servant or a dependant". The Rent Recovery Act adds to these "any authorised agent".

So far so good - but thanks of the numberless other cases in a Rev. Office, for wh. no such law exists.

III. It has indeed been suggested that the power to S. 20 gives full powers to a pleader in any proceeding to employ (inter the presiding officer's discretion) any Agent he likes.

I am confident nothing of the kind is intended - the proviso applies merely to a landholder who, like a Vizagapatam, has estates in three dists, or to an Abkari renter like Nundun who works two dists - or to a mining company, operating wherever Gold is to be found.

H.T. 2/7/1

N.T. I don't know if there is any thing denoting regular continuous action in the word "practise" wh. would admit of our allowing a non-professional to take up an occasional case.

Va 16.3
K 16.3

I see that "Revenue Office" includes - not means - all Courts under the Rent Recovery Act.

When a man pays as Pleader, the K. Ct may authorise him to practise in any Revenue Office it pleases, except, by law, the Board's Office - i.e. his status Pleader, may practise his vocation in any proceeding in a Rev. Office. Is this wanted? will it not be very troublesome?

(Illegible)

(b) When you get to a Rev. Agent, your examples, you can define what functions, powers & duties he is to have - but I doubt if any such powers in the case of a Pleader. Eg., how Pleaders will prove a great nuisance & drag to Collrs & Tahsildars & [illegible]

II. Sect 20, para 1. keeps alive all laws in force regarding restrictions in Rev. offices. Then only laws on this subject regard Village judicial trials, and suits under Act VIII of

Judicial DEPARTMENT.

No.

From

Legal Practitioners Act 1879

The Govt shd see my note - as shd the Hon'ble Mr Sullivan -

My first objection is that, once you introduce this Act into the Rev dept - every Pleader may practise in any proceeding in a Rev. Office in the Mofussil : & this will be an intolerable nuisance.

My second is that, except where Madras Law already allows it - as in Rent Recovery Act - the good old Madras custom of allowing you to employ a "relative, servant or any agent you authorised" to appear & act for you - will be disallowed - I do not consider this privilege is saved at all by the proviso to Sect 20 of the Act. H.T. 3/8/1

Although there is something to be said in favor of the qualifications of persons desiring to practise in the Rev. Courts being tested before they are allowed to do so, I am inclined to think with the hon'ble Mr Carmichael of the Rev. that in this Presidency & Rev. that in this Presidency there is no present necessity for the creation of such a class as Revenue Agents and that all requirements are met by the existing system of Procedure. As this, we have so many

FOR ORDERS.

With reference to the Hon. Mr Carmichael's note on the import of the word "practise", the recent case of Kali Kumar Roy v. Nobin Chandra Chakerbarty VI Cal. 585, as put up, throws light upon the interpretation which the Courts are disposed to attach to the term.

The proviso to sec. 20 does not seem to allow any Agent to appear, but only a person who

is the principal's agent in matters independent of the particular legal business in hand — & implies, it is submitted, fairly includes the "servant, relative, or dependant" of the old Regulations.

legal harpies scattered about the country and I do not think it desirable that there any more. Armed with a certificate these fellows will prowl about the districts and persuade the unsophisticated ryots that his business however simple can be transacted in the Cutcherries of the Tahsildar or the Collector except through the agency. It will of course be their interest to make work for themselves and the Revenue Peons, already overburdened, will have their business considerably enhanced and the spirit of litigation will be fostered to the great disadvantage of the agricultural classes. Ordinary cases before the Cutcherries the people can transact themselves or through the agency of their friends relatives or servants & when there is any complication the Court vakils come & the front whatever the saving powers of the proviso at Sec 20 may be, it may be certain that the Revenue Agents will not enlighten the ryots regarding them.

A "Revenue Peon" is not distinctly defined and it seems to me, (but I am open to correction) that if the Act is extended (Madras the hitherto sacred precincts of the Board of Revenue will be violated and any certificated pleader may claim to be heard on behalf of his client. This would be more than a nuisance. it would bring work to a stand still. H.S.

If the proviso Sec. 20 will not meet the objections taken by my Hon. Colleagues I do not see how the latter part of the last limb of the section as stated in these words - "or if the in relation of the framers" can be in any case beside the mark.

The opinion of the Judges will enable us to decide the action of Govt in the matter. But the only difficulty which will remain will be for this Council to consider whether we could not safely adopt the section in its entirety. i.e. the absence of

42

Royal Courts

Act

forming an order
for application of
Clause Extended
only to the Judicial
Dist. as was originally
proposed by Hon.
Mr. Carmichael.

12/8/87

FOR ORDERS.

C 13-7-87
R 18-8-87

43

Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

READ the following letter

Agam Gr. 21 Apr 79 No 2925, para 3 requesting the
Board to indicate the portions of the Legal Practitioners Act
1879 they would recommend to be extended to the
Provinces

Rec Pro. Bd Rev. d 15 Jan 80 No 431 Hon.
to High Court d 13 Feb 80
" " 9 Augt 80 No 1982
From High Court d 28 Jan 81 No 98

60

Order thereon 26 Aug 1881 No 1762

The Legal Practitioners Act
1879 be was passed on the
29 th Oct 1879, & came into
force on the 1st Jan 1880

2. The important provisions
of the enactment are, in
substance, as regards the

ordinary Civil & Criminal Courts; the creation of a class of "Pleaders & Mukhtears" who are to be qualified & admitted, whose qualifications are to be tested in accordance with rules framed by the High Court, and who when once enrolled – a condition precedent intended to ensure the exercise of proper control over the Pleader by the Courts in which he practises, – are thereupon to have the exclusive right, jointly with Advocates, of practising therein. The Act further declares their liability to dismissal or suspension, not only for unprofessional, fraudulent or criminal conduct, but also on due enquiry, for taking instructions from

others than the party, his business agent, or servant; and a defined procedure being provided for the due investigation of such misconduct.

3. As regards the Revenue Courts or "offices", the "Revenue Agents", the class whose practice is restricted thereto, are placed under the control of the Board of Revenue, as "Pleaders" are under the High Court; their admission, enrolment, suspension & dismissal being regulated by similar provisions.

4. It has been open to the Govt. to extend all or any of the provisions of the Act to the whole or any part of the territories under the administration of the Board of Revenue, but this has not been done.

Whom to state what portion of the enactment should in their judgment be thus extended.

5. The High Court express strong opinion in favor of the desirability of introducing the Act so far as it is applicable to the Judicial Courts of the Presidency. The Board of Revenue see no practical necessity for the introduction of the provisions regarding Revenue Agents, & would leave matters as they are.

6. The Govt on consideration agree with the Board of Revenue that the Act, so far as it affects the Revenue Courts & Offices, & the right of any class of legal practitioners to appear & practise therein, should not be brought into operation: the present prevailing procedure being better suited to the circumstances of these

Govt. of {188} Madras.

To _____

Dated
Recd. } 188, No.

Nos.

The opinion of the High Court is accepted & on full consideration the Govt approve of the High Ct's proposal & on full consideration the Govt

Courts & to the proceedings & litigation carried on, & better adapted to the wants of the people.

6. The Govt will accordingly resolve to sanction the extension, from & after the 1st Jan. 1882, of the Legal Practitioners Act of 1879, to the ordinary Judicial Civil & Criminal Courts throughout the Presidency, excepting the Scheduled Districts, and directs that the subjoined Notification be published in the next Fort St George Gazette

7. With reference &c.

8. The High Court will be requested to favor Govt with a draft of such rules as they would recommend to regulate the conduct of examinations for ascertaining the qualification of Pleaders & Mukhtars & admitted under S. 6 of the Act

To the Hon'ble the Judges of the High Court Civil Dept.

" Rev. Dept.

" Bd. of Rev.

Notification

In exercise of the power conferred by section one of the Legal Practitioners Act, 1879, the Governor is hereby pleased to direct that, from & after the 1st January 1882, the provisions of the said enactment, so far as they relate to the Judicial Courts, Civil & Criminal, established or to be established in this Presidency, shall come into operation in all the territories (excepting the Scheduled Districts) administered by the Govt of Fort St George: but nothing in the said Act, in any manner affecting Revenue Offices, or the rights of Pleaders or Revenue Agents or others to practise therein, shall be deemed to be

A

* This general exception will apply where portions cannot be omitted, without destroying the sense in sec 28, 29 & 31 it has however been thought best to expressly except "or Revenue Agent" as they relate to Revenue matters. So

~~long as the exception of clear the Courts will always read exception as to Revenue Agents.~~

It does not seem necessary to omit def: of "Rev Offr" - it is the same definition

Nor Chap II which merely declares the rights of Advocates & Offrs of Court to practice in Rev. Courts

hereby extended to the said Territories; and further the said enactment shall be read subject to the omission of the following words and clauses.

Sec 3: in the definition of "Legal practitioner" the words "or Revenue Agent"

Sec. 6 (a) omit "and of the Revenue Offices"

Sec 7 clause 1. "and in the case of a Pleader also the Revenue Offices" to be omitted

Sec 8, line 3, omit "or Revenue Office";
line 7, omit "or the Chief Controlling Revenue Authority";
line 11, omit "or Office", and "or Revenue Office".

Sec. 10, omit clause 2.

Sec. 14, line 2, omit "or in any Revenue Office";
line 3, omit, "or Office"

Clause 5 line 4, omit "and any Revenue Authority" down to "Enforcement to him"

Clause 6(d)

Chap IV "Of Revenue Agents" to be omitted

Sec. 27, omit clause 2, & clause 4.

Sec. 28, 30, 31, - omit the words "or Revenue Agent" throughout

Sec. 32 - line 1, omit "or Revenue Office"; line 3, omit "or sec. 20"; line 4, omit "or the officer at the head of such office"; line 7, omit "or office"

Sec. 33 - line 1, omit "or Revenue Agent"; line 4, omit "Authority or officer"; and "or to whom"

Sec. 34 - line 1, omit "or Revenue Agent"; line 5, omit "or Revenue Office"; lines 6 & 7 omit "or the officer at the head of such office":

Sec. 35 - line 4 and omit from "and by the Chief" to the end of the section.

Sec 37 - omit "and seventeen"

Sec 39 - omit "and a certificate

51 + 10

Sections to be omitted

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Govt. of 1884 Madras.

Jud. C

DISPOSED OF

26 AUG 84

BY G.O. No. 1762

No. 188 , No.

Nos.

Ext. The extension from and after the 1st January 1884 of the Legal Practitioners Act 1879, to the ordinary Judicial Courts and Limits of Jurisdiction of the Presidency of Fort St. George