

(1) Number of pages 66
(2) Date of repair 8-5-41
(3) Initials of the Referencer g

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1912	Press ~~Mis.~~
Dated	21-9-1893.	

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Government {1893} of Madras.
JUDICIAL.

MISCELLANEOUS.

Recd.

Regd.

} 1893.

Enclosures

Spare copies

G.O., No. 1912, 21st September 1893.

SEPTEMBER.

Process Service in Civil Courts.

Passing orders on the High Court's proposal for making certain reductions in the scale of—.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following papers:—

G.O., No. 1970, Judicial, dated 21st September 1891.

„ „ 1073 „ „ 8th June 1892.

READ—also the following paper:—

From H. W. FOSTER, Esq., Registrar of the High Court of Judicature (Appellate Side), to the Chief Secretary to Government, dated Madras, 13th February 1893, No. 334.

I am directed to reply to G.O., No. 1073, Judicial, dated 8th June 1892, regarding the High Court's proposal to make certain reductions in the scale of process-service fees in Civil Courts framed under the Court-Fees Act, and to your letter No. 1970, dated 21st September 1891, dealing with the cognate subject of the possibility of reducing the strength and cost of process-service establishments attached to Mufassal Courts.

2. It will tend to a clear understanding of the questions for decision to give a brief summary of the correspondence which has taken place in the matter. The High Court's proposals to modify the schedule of fees were first formulated in my predecessor's letter No. 59, dated 10th January 1890. Four changes were proposed, namely, (1) a reduction in the rates of poundage so as to bring them into correspondence with the rates levied under the rules framed by the Calcutta High Court, (2) an extension of the period allowed for the execution of warrants without levy of an additional fee, (3) the application of article I of the schedule to all notices, some of which are now charged for under the less favourable article IV, and (4) the reduction of the rates prescribed for District and Sub Courts to that prescribed for District Munsifs' and Small Cause Courts.

3. The reasons for these proposals are fully set out in Mr. Horsfall's letter, and I am to ask special attention to the first paragraph thereof, dealing with poundage, for the purpose of correcting a misapprehension disclosed in the Government's latest recommendation in this matter. The principle that the rates of fees should be regulated so as not to impose upon the suitor a charge greatly in excess of what is required to maintain the necessary establishment is one which, as the Government is aware, the High Court considers should always be kept in view, and the Judges note with satisfaction the Government's expression, in the second order quoted at the head of this letter, of its readiness to give full effect to this principle by consenting to such a reduction of the fees as will annihilate the existing surplus altogether. But it was not solely in a desire to equate receipts with charges that the proposal to reduce the poundage fees originated, but in the conviction that the present rates are so oppressive as to form a positive check to the execution of decrees for small sums.

4. In originally submitting the proposals the High Court was not in a position to give exact information as to the financial effect of the changes, but in G.O., No. 90, dated 18th February 1890, the Government intimated its desire to have certain definite information on this aspect of the matter before passing final orders.

5. The High Court thereupon proceeded to collect the necessary information and make the required examination of the statistics, and the result was reported in my

letter No. 1329, dated 25th April 1892, wherein it was shown that the introduction of all the changes proposed would leave a surplus of not less than Rs. 22,000.

6. In reference to this letter the Government in its Proceedings, No. 1073, Judicial, dated 8th June 1892, now under reply, expresses its inability at present, owing to its financial circumstances, to accord sanction in full to the suggested changes, involving, as they are estimated to do, an annual loss of Rs. 96,000. His Excellency in Council intimates his readiness to accept the third and fourth of the proposed alterations, but considers that a mere desire to bring receipts and charges into equilibrium is not sufficient to justify him in assenting to the surrender of revenue the other two changes would entail. As already pointed out, this was not the sole reason by which the Judges were actuated in proposing these changes, in support of which there are other independent arguments based upon the oppressive effect of the operation of the rules. The Government, however, has deferred final consideration of the matter till placed in possession of the High Court's views on the subject of the second proceedings under reply, in which the Government suggests the possibility of reducing the strength of the process-service establishments and announces its willingness to assent to such reduction of the process-service fees as will annihilate the surplus now yielded.

7. The Government has been led to the conclusion that the strength of the process-service establishment is excessive on a review of the statistics of process work done in the years 1888 and 1889 and especially upon consideration of the diversity in the quantity of work done by each process officer in different districts and jurisdictions and upon comparison with the average quantity of work done by each process officer in the Bombay Presidency. On receipt of the proceedings in question the High Court called upon all District Judges to report, after consultation with their subordinates and careful examination of the requirements of each Court, what reductions are possible, and drew their particular attention to the special circumstances dwelt upon by the Government. From the replies that the High Court has received it would appear that the majority of the district officers have been at a considerable amount of pains to ascertain exactly what economy might be effected without loss of efficiency, and after considering the subject in the light of the information and opinions that have been collected the Judges regret to find themselves unable to propose any such sweeping measure of reduction as the Government would seem to suggest.

8. There is a slight error in the computation of the averages on which the Government's criticisms are based, owing apparently to an omission to make allowance for the amins employed in process writing, and not in actual execution of processes, and for the peons (three to each court-house) employed as court-keepers and watchmen. A corrected scale prepared in the High Court is appended. The error is too trifling to materially affect the matter, and as it enters in about equal proportion into all the figures the correction does not greatly alter the comparisons instituted. This is a defect only in detail, but in its examination of the figures the Government has adopted a standard of comparison which appears to the Judges erroneous in principle. It seems misleading to estimate the work of process officers, and in particular of process peons, with reference to the *average area* to be served by each. No doubt the labour of process-servers can be economized to some extent by the careful distribution of processes in such a way that all processes for service at one time in any particular quarter of the jurisdiction are entrusted to the same officer. It is part of the duty of nazirs to see that a system of this sort is carefully carried out, and the Judges have no reason to suppose that the duty is neglected. But seeing that the distribution of processes must be made daily, the system could only be of great practical advantage if the posting of suits were arranged with reference to the locality from which they come, and such an arrangement is obviously impracticable. The dates for hearing of suits must be fixed without any reference to such considerations, and as the order in which processes are applied for and issued usually approximates to that of the hearing book the scope for saving time by such a means is necessarily very limited. That being so, it seems to the High Court that the area of the whole jurisdiction alone can be taken as a standard of any value in comparing the work in different

Courts, and that any conclusions drawn from consideration of the average area to each peon must be fallacious.

9. The High Court recognizes that the diversity shown by these results in the quantity of work done in different Courts and districts is so great as naturally to attract notice and excite remark, but in considering the significance of these differences it is necessary to bear in mind the varieties in the natural features and the facilities of communication in the several jurisdictions and also the differences between the prevalent classes of suits and the manner of litigating. It is to be noted that the number of processes per suit (including appeals) served by peons in the year 1891 varied between the wide limits of 3.4 in North Malabar and 10 in South Canara and it is clear that this is an important consideration in comparing the average work done in different districts, since a number of processes issued in one suit have as a rule to be served in a much smaller area, and can therefore be served in less time than the same number issued in several disconnected suits.

10. These and similar causes must necessarily be allowed for in comparing the quantity of work done by process servers in different jurisdictions, but it is difficult, if not impossible, to estimate their precise effects, and for this reason the High Court feels bound to rely largely upon the experience and knowledge of the local officers. It is true that the Judges of all Mufassal Courts have so much work of a more pressing and important character to attend to that the supervision of process establishments is not in every case as close as could be desired, but the High Court is not prepared to admit that such supervision is altogether wanting or that it is so defective as to deprive the opinions of the local officers as to the requirements of their Courts of all value. In case of amins, as the High Court has before pointed out, it is hardly possible to fix a hard and fast minimum average of work which is not so low as rather to encourage the undue increase of establishments which its object would be to prevent. The work of these officers is of such varying degrees of complexity and difficulty that no one but an officer on the spot can say whether due expedition is being used or not, and there is no resource but to trust to the local officers to keep the establishments at the lowest limits consistent with efficiency, and though a numerical standard can with greater appropriateness be applied to the work of peons even here it is necessary to leave a considerable discretion with the local supervising staff.

11. Regarding the *minima* prescribed in the Bombay Presidency, quoted in paragraph 10 of your letter No. 1970, of 21st September 1891, I am to refer you to paragraph 5 of my predecessor's letter No. 95, dated 16th January 1890, where the Judges intimated their inability to understand, in the absence of statistics of area and population of the jurisdictions and of information as to the system of service, how the figures could be attained. Under the system in vogue in this Presidency such results as the service of 1,000 processes *per annum* by each process-server must be altogether incapable of realization. I am to invite the attention of the Government to rule 8 printed at page 139 of the Civil Rules of Practice, 1891, in which the duty of a process-server in execution of process is described. If the injunctions therein laid down are duly observed, the Judges, I am to say, have no hesitation in asserting that in this Presidency it would be impossible to realize an average of 400 processes *per annum* in any district. This clearly appears from the reports of the several District Judges in answer to the High Court's requisition for an investigation into the possibility of effecting reductions. In three districts (Kistna, South Arcot and Chingleput), where there has been a large increase of work in late years (necessitating the recent establishment of new Munsif's Courts) without any corresponding addition to the process establishments, the average number of processes served by peons considerably exceeds the prescribed minimum, but there have been many complaints in these cases that the physical capacity of the peons is being taxed beyond reasonable measure, and Mr. Mackenzie, District Judge of Kistna, in particular, represents that the result of the excessive burden thrown upon the peons of his district is making itself apparent in the increased frequency with which objections are successfully taken on the score of imperfect or insufficient service. The High Court has postponed its decision upon the requests for an increase of process establishments in these districts till the general question should have been finally disposed of, but the Judges have come to the

conclusion that some increase of the staff is required. In the Kistna, South Malabar, Chingleput and South Canara districts too an addition to the number of amins is necessary.

12. One District Judge, Mr. Weir, considers that the *minimum* required of peons might be put at 320 *per annum* in the central nazarat alone—the figure 300 is proposed for certain other jurisdictions in this and in some other districts—but all District Judges are agreed that no greater increase than this over the present *minimum* (250 in most districts) could be secured, that no material reduction in the number of amins is possible and that it would not be expedient to prescribe a minimum standard for these officers.

13. All the District Judges have reported in some detail upon the requirements of their districts, and after considering these reports the High Court has come to the conclusion that a minimum average of 300 processes *per annum* may be prescribed

Districts.	Courts.	Minimum.
Coimbatore	Nilgiris	250
	Gudalur	250
	Kollegal	250
	Markapur	250
Karnool	Krishnagiri	250
Salem	Pavatturam	250
Vizagapatam	Vayittiri	150
Malabar		

for peons in each district throughout the Presidency with certain special exceptions (noted in the margin) where the peculiarities of the jurisdictions necessitate some slight reduction. The average will be calculated on the work of the whole district (excluding the exceptional Courts), a discretion being left to the District Judge to distribute the peons and fix the separate averages of the several jurisdictions as their varying circumstances may require.

As regards amins though the Judges have some hesitation in adopting such a course, they will, in deference to the views of the Government, fix a minimum of 120 processes *per annum* in all Courts except those noted in the margin, where it appears possible to prescribe a slightly higher average. More than this cannot

be done, and the only additional precaution that can be taken is to impress upon the Judges and Munsifs in charge of nazarat establishments the importance of carefully examining the diaries kept by these officers regarding which the High Court will issue detailed instructions.

14. A statement is enclosed from which the financial effect of these alterations in the present rules can be estimated. It will be seen that in most districts the sanctioned strength of the process establishments is in excess of what is necessary to secure the minima now proposed, and that judging from the figures for the years 1889—1891 the introduction of the new scale would enable reductions to be made to the extent of 740 peons and 84 amins, which would produce a total annual saving amounting to Rs. 75,420. It is to be noted, however, that the establishments in several districts are at present below the full sanctioned strength and the actual saving would therefore be slightly below this sum. Exact details as to the extent of the deficiency are not available, but it may safely be taken that the total saving would be not less than Rs. 70,000 annually.

15. It seems to the Judges, however, that it is not necessary to effect the reductions immediately by abolition of offices. In every district litigation is on the increase, and if all establishments were at once reduced to the strict requirements of these *minima* it would soon become necessary to employ new hands. Under these circumstances it would be a very unfair and harsh measure to deprive a large number of these inferior servants of their means of livelihood simultaneously, and the Judges propose to effect the reductions gradually by leaving unfilled vacancies that occur in the ordinary course. The whole saving therefore will become available only by degrees.

16. Taking this into account and bearing in mind the financial exigencies to which the Government has referred, I am to say that the High Court will not for the present press for the introduction of the whole scheme of reduction in process fees originally proposed. The Government has expressed its willingness to accept the proposals to

extend article I to all notices and to assimilate the rates in all classes of Courts—changes which will afford relief to litigants to the extent of Rs. 37,000 annually. The more favourable rule regarding detention batta was shown to entail a reduction in receipts amounting to Rs. 14,736 annually. It is doubtful however whether the loss would really be so great as this, and the High Court hopes that, with the prospect of savings in establishments now held out, the Government will see its way to accepting this change also. As to the poundage rates, since the Government is still unwilling to accept the rates proposed, which I am to note are the rates prevailing in the Bengal Presidency, the Judges will be content if the rate on sales is reduced for the first 350 rupees from 1 anna to $\frac{1}{2}$ anna in the rupee, so as to make the rate up to Rupees 1,000 uniform.

17. In my letter No. 1329, dated 25th April 1892, it was calculated that the amount realized annually at the higher rate of poundage chargeable up to Rs. 350 at 1 anna in the rupee was Rs. 57,708. The loss resulting from substituting $\frac{1}{2}$ anna would therefore be Rs. 28,854. Thus, under the proposals now made, the total loss annually will be (about)—

	Rs.
On poundage	28,854
On detention batta	14,736
By extension of article I	4,227
By assimilation of scales	33,462
Total ..	81,279

or, if the Government should defer the change in the matter of detention batta, a total of Rs. 66,543.

18. This is a sum less than the amount which it is anticipated will eventually be saved by reduction of establishments, and I am to request therefore that these modified proposals may be accepted and sanctioned.

ENCLOSURES.

Schedule.

Nature of process. Amount leviable.
RS. A. P.

I. For each summons or notice—

- (a) To a single party or witness in a suit, appeal or ordinary miscellaneous proceedings 0 8 0
- (b) To every additional party or witness residing in the same village if the processes be applied for at the same time 0 4 0

II. For every warrant—

- (a) Of arrest in respect of every person to be arrested
- (b) Of attachment in respect of every such warrant
- (c) Of sale in respect of every such warrant 1 0 0
- (d) Of delivery of possession in respect of every such warrant

With an additional fee for the services of every officer entrusted with the warrant for each day after the fifth day, beginning with the day on which the warrant was issued—

- (e) If such officer is an amin 0 6 0
- (f) If such officer is a peon 0 4 0

III. For every process in execution of a village munsif's decree 0 4 0

IV. For proclamation, injunction or order and every process not otherwise provided for 1 0 0

An additional fee being leviable after the third day.

V. In respect of sales, a fee by way of poundage on the purchase money calculated at $\frac{1}{2}$ anna in the rupee on the first 1,000 rupees and $\frac{1}{4}$ anna in the rupee on any additional sum above 1,000 rupees.

Note 1.—Any party may deposit the cost of proceeding by railway or any public conveyance, where such is available, and in such case the process-server shall be bound to proceed by such railway or public conveyance, and the cost so deposited shall be part of the costs of the cause.

Note 2.—For processes applied for and ordered to be executed as emergent, the fee will be the ordinary fee and half as much again; but for emergent processes issued by central nazirs for service beyond the ordinary limits of the division in which their establishments work, double the ordinary rate.

STATEMENT showing the number of processes per month executed by peons and amins who actually did such work in the years 1888 and 1889.

Name of Court.	Number of processes per month executed by each peon on the average of the two years 1888 and 1889.	Number of processes per month executed by each amin on the average of the two years 1888 and 1889.
Arcot (North)—		
Chittoor	18	12
Vellore	31	13
Arni	10	8
Sholinghur	29	17
Tirupati	17	9
Arcot (South)—		
Central Nazarat, Cuddalore	34	8
Chidambaram	29	8
Villupuram	25	9
Tirukkóvilúr	28	7
Vriddhachalan	28	7
Bellary—		
Bellary	18	11
Gooty	17	13
Náráyanadévarakéri	17	12
Penukonda	16	9
Canara (South)—		
Central Nazarat, Mangalore	21	10
Kasaragod	24	20
Udipi	28	11
Coondapoor	19	12
Puttúr	19	13
Kárkala	27	15
Chingleput—		
Central Nazarat, Chingleput	25	9
Poonamallee	28	23
Tiruvallúr	24	16
Small Cause Court, St. Thomas' Mount	19	9
Coimbatore—		
Sub-Court, Nilgiris	52	51
Coimbatore	36	8
Udamalpet	30	5
Erode	27	8
Karúr	25	7
Kollegal	28	16
Gúdalúr	18	3
Cuddapah—		
Central Nazarat, Cuddapah	16	15
Proddatur	19	15
Nandalúru	18	13
Madanapalle	17	10
Ganjám—		
Berhampur	26	9
Aska	10	5
Sompéta	16	6
Chicacole	36	11

Name of Court.	Number of processes per month executed by each pona on the average of the two years 1888 and 1889.	Number of processes per month executed by each amin on the average of the two years 1888 and 1889.
Gódvári—		
Rajahmundry	19	7
Cocanada	23	9
Peddápuram	20	11
Amalápuram	20	11
Narsapur	19	5
Ellore	21	9
Tanuku	23	7
Kistna—		
Masulipatam	36	12
Bezwada	40	24
Guntúr	20	7
Bápatla	27	8
Karempudi (Narasaraopet)	25	20
Kurnool—		
Kurnool	17	7
Nandyal	19	8
Markapur	18	7
Madura—		
Central Nazarat, Madura	17	10
Sivaganga	24	11
Paramagudi	13	12
Dindigul	22	11
Additional Munsif, Sivaganga	18	..
Malabar (North)—		
Central Nazarat, Tellicherry	18	10
Caananore	24	10
Karai	20	14
Karai	15	11
Badagara	20	13
Painad	15	8
Nadapuram	..	..
Malabar (South)—		
Central Nazarat, Calicut	14	8
Sub-Court, Cochin	12	4
Central Nazarat, Palghat	17	15
Chávakát	21	30
Ernad	16	19
Shermad	18	16
Belatnad	12	12
Kutnad	29	15
Nedunganad	27	15
Angadipuram	16	14
Temelpuram	16	12
Anjengo	3	..
Vayittiri	17	16
Nellore—		
Nellore	20	8
Kávali	29	19
Ongole	15	11
Salem—		
Central Nazarat, Salem	20	13
Námakkal	26	11
Tirupattúr	22	17
Krishnagiri	19	8
Tanjore—		
Central Nazarat, Tanjore	18	13
Do. Kumbakonam	32	15
Do. Negapatam	25	10
Tiruvádi	30	12
Mannargudi	24	11

Name of Court.	Number of processes per month executed by each pona on the average of the two years 1888 and 1889.	Number of processes per month executed by each amin on the average of the two years 1888 and 1889.
Tanjore—cont.		
Pattukkóttai	18	7
Máyavaram	18	10
Shiyali	25	12
Tiruválur	29	11
Tirutturaippóndi	23	11
Tinnevelly—		
Central Nazarat, Tinnevelly	15	4
Srivilliputtúr	20	6
Ambásamudram	24	4
Srivaikuntam	28	9
Tuticorin	20	6
Trichinopoly—		
Central Nazarat, Trichinopoly	24	7
Ariyalur	23	12
Kulitalai	17	8
Vizagapatam—		
Central Nazarat, Vizagapatam	17	6
Yellamanchili	19	7
Chódavaramu	21	8
Vizianagram	21	9
Razam	26	13
Párvatipuram	17	12

STATEMENT showing the number of Amins required to execute processes at the rate of 120 per annum in each district.

District.	Number of processes per annum executed by amins on the average of the three years 1889-91.	Number of amins required to execute processes at 120 per annum.	Additional number of amins required as process writers.	Total number of amins required.	Total number now sanctioned.	Difference.	Approximate annual saving.
Aroot, North	5,203	43	11	54	51	+	3
Do. South	5,193	43	12	55	70	+	15
Bullary	4,053	34	9	43	48	+	5
Canara, South	5,308	44	15	59	51	+	8
Chingleput	4,457	37	5	42	27	+	15
Coimbatore	3,377	28	10	38	44	+	6
Cuddapah	3,469	29	6	35	33	+	2
Ganjám	4,176	35	9	44	66	+	22
Gódvári	13,120	109	23	132	157	+	25
Kistna	10,088	84	12	96	79	+	17
Kurnool	1,586	13	5	18	22	+	4
Madura	7,268	61	16	77	78	+	1
Malabar, North	7,459	53	15	68	75	+	7
Do. South	13,859	99	34	133	111	+	22
Nellore	4,804	40	7	47	64	+	17
Salem	3,174	26	5	31	31	+	0
Tanjore	14,623	104	29	133	154	+	21
Tinnevelly	5,829	49	17	66	96	+	30
Trichinopoly	8,415	28	9	37	43	+	6
Vizagapatam	6,006	50	13	63	77	+	14
Total	..	1,009	262	1,271	1,355	+	84
							13,404

Note.—Pay calculated according to Rule III (e) of the Process Service Rules.
 * At 140 processes per annum.

STATEMENT showing the number of Peons required to execute processes at the rate of 300 per annum in each district.

District.	Number of processes per annum executed by peons on the average of the three years 1889-91.	Number of peons required to execute processes at 300 per annum.	Additional number of peons required as court guards.	Total number of peons required.	Total number now sanctioned.	Difference.	Approximate annual saving.
Arcoot, North	51,045	170	18	188	225	- 37	Rs. + 3,096
Do. South	59,337	198	21	219	182	+ 37	- 3,096
Bellary	39,209	131	18	149	215	- 66	+ 5,538
Canara, South	53,715	179	24	203	230	- 27	+ 2,256
Chingleput	35,591	119	15	134	122	+ 12	- 996
Coimbatore	44,848	149	18	167	166	+ 1	- 78
Cuddapah	20,982	90	15	105	163	- 58	+ 4,860
Ganjām	26,308	88	15	103	130	- 27	+ 2,256
Gōdāvari	80,281	268	30	298	365	- 67	+ 5,616
Kistna	66,865	223	21	244	197	+ 47	- 3,936
Kurnool	22,020	73	12	85	108	- 23	+ 1,920
Madura	73,750	246	27	273	877	- 104	+ 8,718
Malabar, North	56,452	188	27	215	286	- 71	+ 5,958
Do. South	109,544	365	45	410	587	- 177	+ 14,856
Nellore	46,285	154	15	169	169	- ..	- ..
Salem	42,612	142	15	157	171	- 14	+ 1,158
Tanjore	142,498	475	45	520	552	- 32	+ 2,676
Tinnevely	68,391	228	27	255	308	- 53	+ 4,440
Trichinopoly	39,832	133	15	148	190	- 42	+ 3,516
Vizagapatam	43,755	146	21	167	206	- 39	+ 3,258
Total	—	3,765	444	4,209	4,949	- 740	62,016

Note.—Pay calculated according to Rule III (d) of the Process Service Rules.

ORDER—No. 1912, Judicial, dated 21st September 1893.

The Government has deferred passing orders upon the High Court's letter of the 13th February last, No. 334, until now, with the object of ascertaining the prospects of the stamp revenue during the current year, and, after consideration of the information now available, is satisfied that no inconvenience is likely to result from the acceptance of some of the High Court's proposals.

2. The High Court has cordially co-operated with Government in the investigation of the conditions of the Process-service establishment and, although His Excellency in Council is unable to accept as altogether conclusive the arguments adduced to prove that no sweeping measure of reduction is possible, he observes with pleasure that the Honourable the Judges are willing to reduce the establishment of peons and amins to a considerable extent. The Honourable the Judges will be requested to furnish proposition statements embodying the proposed reductions, and to issue instructions that no vacancies shall be filled up until the reduced scale is attained, and that every opportunity of effecting reduction by transfers to the pension list should be availed of.

3. The saving which will result from the alteration in the strength of the establishment will, however, accrue gradually and, in view of this circumstance and of the fact that the finances are still in a somewhat unfavourable condition, the Government considers it expedient to defer sanctioning the extension of the period after which detention-batta is payable from three to five days until a substantial reduction of establishment has been effected.

4. The other proposals contained in Mr. Foster's letter of February last are estimated to involve a probable loss of something over Rs. 66,000 per annum and this the Government is prepared to accept. The Honourable the Judges will observe that not only the schedule of process fees but also Rule XXII of the Process Service

Rules will require amendment, and they will be requested to prepare and forward for formal approval and submission to the Government of India draft notifications prepared under sections 20 (i) and 22 of the Court Fees Act, 1870.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Honourable the Chief Justice (with C.I.).

JUDICIAL DEPARTMENT.

NOTES CONNECTED WITH G.O., MIS. No. 1912, JUDICIAL, DATED
21st SEPTEMBER 1893.

[SUBJECT.—*Reduction of Process Service Establishment in Civil Courts.*]

From the Registrar, High Court, dated 12th February 1893, No. 629.

For the Chief Secretary—

In a letter dated 21st September 1891, No. 1970, Judicial, the Government addressed the High Court on the subject of reducing the process-serving establishments of amins and peons attached to civil courts; the Government suggested reduction of establishment and declared its readiness to consent to such reduction of the rates for process-service as to annihilate the apparent surplus accruing from process-service if the High Court would consent to reduce establishments.

2. Subsequently certain proposals of the High Court in respect of process-fees came under the consideration of Government. These proposals were, briefly, as follows:—

(a) that the rates of poundage payable under article V of the schedule printed on page 162 of Weir's Civil Digest should be reduced to 2 per cent. on sums up to Rs. 1,000 and to 1 per cent. on larger sums; this proposal was calculated to entail a loss of Rs. 26,737 annually;

(b) that the period after which detention-batta is leviable under article II (d) of the said schedule should be extended from three to five days; this was calculated to entail a loss of Rs. 14,736 annually;

(c) that article I of the said schedule should be so modified as to bring under it notices to plaintiffs and appellants and processes issued in miscellaneous proceedings which now pay the higher rates of fee provided in article IV of the schedule; this proposal was estimated to entail an annual loss of Rs. 4,227;

(d) that the rates of fees leviable in District and Sub-Judges' Courts should be reduced to the rates prevailing in lower courts; this change, it was estimated, would result in an annual loss of Rs. 33,462.

The total loss resulting from the adoption of these four proposals would therefore be Rs. 96,318, and the High Court estimated that even after allowing for this loss the receipts from process-fees will exceed the charges on account of process-service by Rs. 22,000 *per annum*.

The above proposals were dealt with in G.O., No. 1073, Judicial, dated 8th June 1892, wherein the Government remarked that—

(a) the proposals were mainly made with the sole object of equating the receipts and charges on account of process-service;

(b) there were, however, other reasons which rendered it advisable to carry out the third and fourth proposals;

(c) the Government was not in a position to abandon any revenue without very careful consideration and consequently it would await the High Court's reply to G.O., No. 1970, Judicial, dated 21st September 1891, before passing any final orders.

3. The High Court has now replied to G.Os., Nos. 1970, Judicial, dated 21st September 1891, and 1073, Judicial, dated 8th June 1892. The High Court reports that—

(a) it is convinced, after consulting with local officers, that no sweeping reduction in process-serving establishment is possible;

(b) it is however prepared to raise the minimum number of processes required by Rule XXII of the Process Service Rules to be served by each peon from 250 to 300 *per annum* (except in the case of seven courts);

(c) at present no minimum number of processes to be executed is laid down by the rules in the case of amins; but, in future, a minimum of 120 *per annum* may be fixed except in the case of Tanjore and Malabar where it may be put at 140.

By making the above changes the High Court calculates that the establishment of peons can be reduced from 4,949 to 4,209 and that of amins from 1,355 to 1,271, and the saving resulting therefrom is calculated at a figure which will certainly not be less than Rs. 70,000 *per annum*.

The Judges do not however propose that the reduction of establishment shall take place at once; they would carry it out by degrees as vacancies occur so that the full effects of the change will not be felt for some years.

In view of the above facts and the financial exigencies of the Government, the High Court has modified the proposals dealt with in G.O., No. 1073, Judicial, dated 8th June 1892.

The third and fourth of these proposals the High Court does not propose to modify and it asks Government to sanction them at once; they entail a loss of over Rs. 37,000 *per annum*.

The proposal to charge detention-batta after the fifth instead of after the third day may also, the High Court urges, be approved; it will entail a loss of something under Rs. 14,736 probably.

The proposal to alter the poundage rates has been modified. The present rates are—

6½ per cent. up to Rs. 350.
3½ " " " 1,000.
1½ " " over " 1,000.

The rates previously proposed were—

2 per cent. up to Rs. 1,000.
1 " " over " 1,000.

The rates now proposed are—

3½ per cent. up to Rs. 1,000.
1½ " " over " 1,000.

As now revised the proposal to amend the poundage rates is calculated to result in a loss of Rs. 28,854.

The total loss on the revised proposals is Rs. 81,279 instead of Rs. 96,318, the loss on the original proposals.

The High Court urges Government to accept these proposals or, at all events, those relating to poundage, extension of article I and assimilation of scales which imply a loss of Rs. 66,543.

4. If these proposals are approved the High Court should be told to submit for confirmation draft notifications amending the Process Service Rules.

H.M. and Hon'ble Mr. Garstin, C.S.I.—

A. BUTTERWORTH.
26-2-93.

J. F. PRICE.

I have kept these papers to see how the stamp revenue for the year should progress, and how far the financial position should improve. The stamp revenue will largely exceed the estimates, and the state of the season and other circumstances show that the financial results of the year will be such that no inconvenience need be anticipated from the concessions proposed by the High Court.

The High Court's arguments against the alleged excessiveness of the process-serving establishment do not seem to me altogether conclusive, but it is something to have got out of them a promise to increase the minimum number of processes per peon from 250 to 300, to prescribe a minimum per amin, and to effect a reduction of more than 840 men, or nearly a sixth of the present establishment, involving an ultimate saving of some Rs. 70,000. I would therefore sanction the first, third and fourth proposals—poundage, miscellaneous processes and assimilation of scales—leaving the detention-batta proposal (which seems to me of less consequence) to be carried out hereafter when the measures for reduction of establishment take effect.

It is not necessary to call upon the High Court to submit fresh notifications, as a

Only a draft of a new schedule.

J. H. G[ARSTIN].

draft will be found in G.O., No. 1073, Judicial, dated 8th June 1892. All that is necessary is to correct Article V in the

poundage scale (page 23, Supplement to Weir's Civil Digest) so as to make ¼ anna per rupee the rate up to Rs. 1,000, instead of the scale suggested in the High Court's draft.

H. E. S[TOXRS].

28-8-93.

I would accept all four of the High Court's proposals, including the one relating to detention-batta, which only involves a possible loss of Rs. 14,736, according to their estimate and is probably not likely to be so great. I note that in the High Court's letter of 10th January 1890, No. 59, with which the schedule (alluded to by my honourable colleague above) was forwarded, the alteration of the rule regarding detention-batta, though recommended, was by some oversight not inserted, i.e., the word *fifth* should have been written for *third* in Rule IV in that schedule, but was not so written.

The High Court, in their present letter, express a hope that Government will accept their proposal, and in their letter of 1890 (above quoted by me) they say there is a general consensus of opinion among the Judges that a longer time than three days is needed for executing a warrant, and therefore they propose five days, as the levy of detention-batta under the three days' rule had become so frequent as to constitute a serious hardship. The rule, therefore, clearly needs alteration. I also concur with the Under Secretary that the High Court should send us notifications to confirm and publish, as I can find no notification at all in the file.

J. H. G[ARSTIN].

29-8-93.

Submitted to His Excellency the Governor.

The Honourable Members disagree as to accepting the High Court's proposals regarding detention-batta; also as to whether a formal draft notification should be called for from the High Court.

A. BUTTERWORTH.

31-8-93.

J. F. PRICE.

1-9-93.

Considering that the saving looked for by the proposed reduction of process-servers and amins will be only gradual, and some time must elapse before any economy can be effected, I think the alteration from three days to five for detention-batta might, for financial reasons, be deferred. This year promises well, but next year may be bad, and I think at present we can hardly afford to go the length of agreeing to all the High Court's proposals. I would accept them all except the detention-batta. As to the notification, I can only find a draft schedule. If this is not sufficient, it would be a simple matter to ask the High Court to send up a draft notification.

W[ENLOCK].

4-9-93.

Schedule.

q^r Nature of Proceed

Amount
levable
Rs. 10. 00.

I

For each summons or notice -

(a) For single party or witnesses in a suit, ap-
peal or ordinary miscellaneous proceedings } 0-8-0

(b) For every additional party or witness re-
siding in the same village, if the process
be applied for at the same time. } 0-4-0

II

For every ^{q^r} warrant -

(a) Of arrest, in respect of every person to
be arrested

(b) Of attachment, in respect of every such
warrant } 1-0-0

(c) Of sale, in respect of every such warrant

(d) Of delivery of possession, in respect of every
such warrant

with an additional fee, for the services of
every officer entrusted with the warrant
for each day after the fifth day beginning
with the day on which the warrant was
issued.

(e) if such officer is an amin 0-6-0

(f) if such officer is a peon 0-4-0

III

For every process in execution of a village Muz
dift decree 0-4-0

IV

For proclamation, signature or order and
every process not otherwise provided for - } 1-0-0
an additional fee being levable after the third day

V In respect of sales, a fee by way of poundage on the purchase money calculated at $\frac{1}{2}$ anna in the Rupee on the first 1000 Rupees and $\frac{1}{4}$ anna in the Rupee on any additional sum above 1000 Rupees.

Note 1- Any party may deposit the cost of proceeding by railway or any public conveyance, where such is available, and in such case the process-server shall be bound to proceed by such railway or public conveyance, and the cost so deposited shall be part of the Costs of the Cause.

Note 2- For processes applied for and ordered to be executed as urgent, the fee will be the ordinary fee and half as much again; but for urgent processes issued by Central Magistrate for service beyond the ordinary limits of the division in which their establishments work, double the ordinary rate.

High Court of Judicature,
Appellate Side,
Madras, 13th February 1893.

Ch. Ann
Registrar

Enclosure I to the High
Court's letter dated 13th
February 1893, No. 334.

Statement shewing the number of processes per month
executed by peons and amins who actually did such work,
in the years 1888 and 1889. 11 2 5

District	Name of Court	Number of processes per month executed by each peon on the average of the 2 years 1888 and 1889.	Number of processes per month executed by each amin on the average of the 2 years 1888 and 1889
Arrot (North)	Chittoor	18	12
	Vellore	3	13
	Arni	12	8
	Sholinghur	29	17
	Tirupati	17	9
Arrot (South)	Central Nazarat, Cuddalore	34	8
	Chidambaram.	29	8
	Viluppuram.	25	9
	Tirukoilur	25	7
	Epiddhashalam.	25	7
Bellary	Bellary	18	11
	Gooty	17	13
	Taraindeverikerai	17	12
	Perumbonda	16	9
Kannara (South)	Central Nazarat, Mangalore	21	10
	Kasaragod	24	20
	Udipi	28	11
	Kundapur	19	12
	Puttur.	19	13
	Karkal.	27	15
Chingle- put.	Central Nazarat, Chingle- put.	25	9
	Poomamallee	28	23
	Tiruvallur.	24	16
	Small Cause Court, St. Thomas Mount.	19	9
Coimbatore.	Sub-Court, Nilgiris	52	51
	Coimbatore	36	8
	Udumalpet	30	5
	Erode.	27	8
	Karur	25	7
	Kollegal	28	16
	Gudalur.	18	3
Cuddalore	Central Nazarat, Cuddalore	16	15
	Proddutur.	19	15
	Tandalur.	18	13
	Madanapalle.	17	10

1897

Proc. Dept.
Encls. No. 4
To
C. No.

District	Name of Court.	Number of processes per month executed by each person on the average of the 2 years 1888 and 1889.	Number of processes per month executed by each amir on the average of the 2 years 1888 and 1889.
Ganjam	Berhampore	26	9
	Aska	10	5
	Sompelt	16	6
	Chicacoll	36	11
Godavari	Rajahmundry	19	7
	Coanada	23	9
	Poddapuram.	20	11
	Amalapuram	20	11
	Narsapur	19	5
	Ellore.	21	9
	Tamuku	23	7
Kistna.	Inasulipatam.	36	12
	Bezavada	40	24
	Guntur	20	7
	Bapatla	27	8
	Karempudi (Karacaraspet)	25	20
Kurnool.	Kurnool	17	7
	Kandyal	19	8
	Markapur.	18	7
Madura	Central Nazarat, Madura.	17	10
	Sivaganga.	24	11
	Paramakudi	13	12
	Dindigul.	22	11
	Additional Munsif, Sivaganga.	18	-
Malabar (North).	Central Nazarat, Tellicherry.	18	10
	Cannanore.	24	10
	Kavai	26	14
	Badagara.	15	11
	Painad.	20	13
	Kadapuram.	15	8

District	Name of Court	Number of processes per month executed by each person on the average of the 2 years 1888 and 1889.	Number of processes per month executed by each amir on the average of the 2 years 1888 and 1889.
Malabar (South)	Central Nazarat, Calicut.	14	8
	Sub Court, Cochin	12	4
	Central Nazarat, Palghat	27	15
	Chavakkad	21	30
	Emad	16	19
	Shernad	18	16
	Betutnad	12	12
	Kutnad	29	15
	Kedunjanad	27	15
	Angadipuram	16	14
	Temelpuram	16	12
	Angengo	3	-
	Vayitiri	17	16
Nellore	Nellore	20	8
	Kavali	29	19
	Onjole	15	11
Salem	Central Nazarat, Salem	20	13
	Kamakal	26	11
	Tirupatur	22	17
	Krishnagiri	19	8
Tanjore	Central Nazarat, Tanjore	18	13
	— D ^o — Kumbakonam	32	15
	— D ^o — Nagapatam	25	10
	Tiruvadi	30	12
	Inannargudi	24	11
	Patukota	18	7
	Inayavarann	18	10
	Thiyali	25	12
	Tiruvalur	29	11
	Tiruturaiyundi	28	11

District	Name of Court	Number of processes per month executed by each person on the average of the 2 years 1888 and 1889	Number of processes per month executed by each amir on the average of the 2 years 1888 and 1889
Tinnevely	Central Kazaat, Tinnevely	15	4
	Srivilliputtur	20	6
	Ambasamudram	24	4
	Srivaidantham	28	9
	Tuticorin	20	6
Tichinopoly	Central Kazaat, Tichinopoly	24	7
	Arigalur	23	12
	Kulitalai	17	8
Vizagapatnam	Central Kazaat, Vizagapatnam	17	6
	Pellamanchili	19	7
	Chodavaram	21	8
	Vizianagrum	21	9
	Razam	26	13
	Parvatipur	17	12

High Court of Judicature,
Appellate Side, Madras,
13 February 1893.

(Signature)
Registrar

Enclosure II to the High
Court's letter dated 13th
February 1893, No. 334.

1891
Encl. No.
To
C. No.

Statement showing the number of amins required to execute processes at the rate of 120 per annum in each District.

District	Number of processes per annum entered by amins on the average of the 3 years 1889-91.	Number of amins required to execute processes at 120 per annum.	Additional number of amins required as process writers.	Total number of amins required	Total number now sanctioned	Difference	Approximate annual saving	Remarks.
Arrot (North)	5,203	43	11	54	51	+3	-468	Pay calculated according to Rule III (c) of the Process Service Rules.
Be (South)	5,193	43	12	55	50	-15	+2,410	
Bellary	4,053	34	9	43	48	-5	+756	
Canara (South)	5,303	44	15	59	51	+8	-1,224	
Chingleput	4,457	37	5	42	27	+15	-2,400	
Coimbatore	3,377	28	10	38	44	-6	+936	
Cuddapah	3,469	29	6	35	33	+2	-288	
Gangam	4,176	35	9	44	56	-12	+1,932	
Godavari	13,120	109	23	132	157	-25	+4,008	
Histna	10,086	84	12	96	79	+17	-2,688	
Kurnool	15,84	13	5	18	22	-4	+612	
Madura	7,268	61	16	77	76	+1	-144	

Malabar (North)	7,459	53	15	68	75	-7	+1,080	At 140 processes per annum. x — 82 —
— Do — (South)	13,859	99 ^x	34	133	111	+22	-3,480	
Nellore	4,804	40	7	47	54	-7	+1,080	
Talcm.	3,174	26	5	31	31	—	—	
Tanjore	14,623	104 ^x	29	133	154	-21	+3,336	x — 82 —
Tinnevely	5,829	49	17	66	96	-30	+4,800	
Trichinopoly	3,415	28	9	37	43	-6	+936	
Vijayapattam	6,006	50	13	63	77	-14	+2,220	
Total	—	1,009	262	1,271	1,355	-84	13,404	

High Court of Judicature,
Appellate Side, Madras,
13th February 1893.

(Signature)

13 Registrar

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Statement showing the number of persons required to execute processes at the rate of 300 per annum in each District.

District	Number of processes per annum executed by persons on the average of the 3 years 1889-91.	Number of persons required to execute processes at 300 per annum	Additional number of persons required as Court guards.	Total number of persons required.	Total number now sanctioned	Difference	Approximate annual saving	Remarks.
Arrot (North)	51,045	170	18	188	225	-37	+ 3096	Re.
— Do — (South)	59,337	198	21	219	182	+37	- 3096	
Bellary	39,209	131	18	149	215	-66	+ 5538	
Banara (South)	53,715	179	24	203	230	-27	+ 2256	Pay
Chingleput	35,591	119	15	134	122	+12	- 996	calculated according to Rule III (d)
Cimbatore	44,848	149	18	167	166	+1	- 78	of the Process Service Rules.
Cuddapah	26,982	90	15	105	163	-58	+ 4860	
Ganjam	26,308	88	15	103	130	-27	+ 2256	
Godavari	80,281	268	30	298	365	-67	+ 5616	
Kistna	66,865	223	21	244	197	+47	- 3936	
Kurnool	22,020	73	12	85	108	-23	+ 1920	
Madura	73,750	246	27	273	377	-104	+ 8718	

— Do — (South)	109,544	365	45	410	587	-177	+ 14,856	
Nellore	46,285	154	15	169	169	-	-	
Salem	42,612	142	15	157	171	-14	+ 1158	
Tanjore	142,496	475	45	520	552	-32	+ 2676	
Tinnevely	68,391	228	27	255	308	-53	+ 4440	
Tiruchinopoly	39,832	133	15	148	190	-42	+ 3516	
Vijayanpattam	43,755	146	21	167	206	-39	+ 3258	
Total	-	3765	444	4209	4949	-740	62016	

High Court of Judicature,
Appellate Side, Madras,
13th February 1893.

W. S. S.

Registrar.

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Enclosure III to the High
Court's letter dated 13th
February/33 No. 334.

1899

Secy Dept.
Serial No. 2
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No. 127

Enclosure IV to the High
Court's letter dated 13th
February 1893 No. 334.

1893
Case No. 1073
From: A. Galton
To: The Registrar of the High Court of Judicature, Madras

17 High Court of Judicature,
Madras, 13 February 1893.
CURRENT NO. 1073
From H. W. Foster Esquire,
Registrar of the High Court
of Judicature, Appellate Side,
Madras.

To
The Honorable A. Galton,
As: Chief Secretary to Government,
Fort Saint George.

Sir,

I am directed to reply to G. O.
No. 1073, Judicial, dated 8th June 1892, regard-
-ing the High Court's proposal to make
certain reductions in the scale of process
service fees in civil courts framed under
the Court Fees Act, and to your letter No. 197
dated 21st September 1891 dealing with the
cognate subject of the possibility of reducing
the strength and cost of Process Service Estab-
-lishments attached to summary courts.

2. It will tend to a clear understand-
-ing of the questions for decision to give a
brief summary of the correspondence
which has taken place in the matter.

The

The High Court's proposals to modify the schedule of fees were first formulated in my predecessor's letter No. 59, dated 10th January 1890. Four changes were proposed, namely,

- (1) a reduction in the rates of poundage so as to bring them into correspondence with the rates levied under the rules framed by the Calcutta High Court, (2) an extension of the period allowed for the execution of warrants without levy of an additional fee, (3) the application of Article I of the Schedule to all notices, some of which are now charged for under the less favorable Article IV and (4) the reduction of the rates prescribed for District and Sub Courts to that prescribed for District Munsifs and Small Cause Courts.

3. The reasons for these proposals are fully set out in Mr Horsfall's letter and I am to ask special attention to the first paragraph thereof, dealing with poundage for the purpose of correcting a misapprehension disclosed in the Government's latest reference on the subject as to the grounds on which the High Court rests its recommendation in this matter. The principle that the rates of fees should be regulated

19 21st 1890
regulated so as not to impose upon the suitor a charge greatly in excess of what is required to maintain the necessary establishment is one which, as the Government is aware, the High Court considers should always be kept in view and the Judges note with satisfaction the Government's expression, in the second order quoted at the head of this letter, of its readiness to give full effect to this principle by consenting to such a reduction of the fees as will annihilate the existing surplus altogether.

But it was not solely in a desire to equate receipts with charges that the proposal to reduce the poundage fees originated but in the conviction that the present rates are so oppressive as to form a positive check to the execution of decrees for small sums.

4. In originally submitting the proposals the High Court was not in a position to give exact information as to the financial effect of the changes, but in G.O. No. 90, dated 18th February 1890 the Government intimated its desire to have certain definite information on this aspect of the matter before passing final orders.

5. The High Court thereupon proceeded to collect the necessary information and make the required examination of the statistics and the result was reported in my letter No. 1329, dated 25th April 1892, wherein it was shown that the introduction of all the changes proposed would leave a surplus of not less than Rs. 22,000.

6. In reference to this letter the Government in its Proceedings No. 1073, Judicial dated 8th June 1892, now under reply, expresses its inability at present, owing to its financial circumstances, to accord sanction in full to the suggested changes, involving as they are estimated to do, an annual loss of Rs. 96,000. His Excellency in Council intimates his readiness to accept the third and fourth of the proposed alterations, but considers that a mere desire to bring receipts and charges into equilibrium is not sufficient to justify him in assenting to the surrender of revenue the other two changes would entail. As already pointed out this was not the sole reason by which the Judges were actuated in proposing these changes in support of which there are other independent arguments based upon the oppressive effect of the operation

of

21 22-30 30

of the rules. The Government however has deferred final consideration of the matter till placed in possession of the High Court's views on the subject of the second proceedings under reply, in which the Government suggests the possibility of reducing the strength of the process service establishments and announces its willingness to assent to such reduction of the process service fees as will annihilate the surplus now yielded.

7. The Government has been led to the conclusion that the strength of the process service establishment is excessive on a review of the statistics of process work done in the years 1888 and 1889 and especially upon consideration of the diversity in the quantity of work done by each process officer in different districts and jurisdictions and upon comparison with the average quantity of work done by each process officer in the Bombay presidency. On receipt of the proceedings in question the High Court called upon all District Judges to report after consultation with their subordinates and careful examination of the requirements of

each

each Court what reductions are possible, and drew their particular attention to the special circumstances dwelt upon by the Government. From the replies that the High Court has received it would appear that the majority of the District officers have been at a considerable amount of pains to ascertain exactly what economy might be effected without loss of efficiency, and after considering the subject in the light of the information and opinions that have been collected the Judges regret to find themselves unable to propose any such sweeping measure of reduction as the Government would seem to suggest.

8. There is a slight error in the computation of the averages on which the Government's criticisms are based, owing apparently to an omission to make allowance for the amins employed in process writing, and not in actual execution of processes, and for the peons, (three to each Court-house) employed as Court keepers and watchmen. A corrected scale prepared in the High Court

is

23 25^a 43

is appended. The error is too trifling to materially affect the matter, and as it enters in about equal proportion into all the figures the correction does not greatly alter the comparisons instituted. This is a defect only in detail, but in its examination of the figures the Government has adopted a standard of comparison which appears to the Judges erroneous in principle. It seems misleading to estimate the work of process officers, and in particular of process peons with reference to the average area to be served by each. No doubt the labour of process servers can be economized to some extent by the careful distribution of processes in such a way that all processes for service at one time in any particular quarter of the jurisdiction are entrusted to the same officer. It is part of the duty of Nazirs to see that a system of this sort is carefully carried out, and the Judges have no reason to suppose that the duty is neglected. But seeing that the distribution of processes must be made daily

the

the system could only be of great practical advantage if the posting of suits were arranged with reference to the locality from which they come, and such an arrangement is obviously altogether impracticable.

The dates for hearing of suits must be fixed without any reference to such considerations, and as the order in which processes are applied for and issued usually approximates to that of the hearing book the scope for saving time by such a means is necessarily very limited. That being so, it seems to the High Court that the area of the whole jurisdiction alone can be taken as a standard of any value in comparing the work in different Courts, and that any conclusions drawn from consideration of the average area to each person must be fallacious.

9. The High Court recognises that the diversity shown by these results in the quantity of work done in different Courts and districts is so great as naturally to attract notice and excite remark, but

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25 24th 58
in considering the significance of these differences it is necessary to bear in mind the varieties in the natural features and the facilities of communication in the several jurisdictions and also the differences between the prevalent classes of suits and the manner of litigating. It is to be noted that the number of processes per suit (including appeals) served by persons in the year 1891 varied between the wide limits of 3.4 in North Malabar and 10 in South Canara and it is clear that this is an important consideration in comparing the average work done in different Districts, since a number of processes issued in one suit have as a rule to be served in a much smaller area, and can therefore be served in less time than the same number issued in several disconnected suits.

10. These and similar causes must necessarily be allowed for in comparing the quantity of work done by process servers in different jurisdictions,

but

but it is difficult if not impossible to estimate their precise effects and for this reason the High Court feels bound to rely largely upon the experience and knowledge of the local officers. It is true that the Judges of all summary Courts have so much work of a more pressing and important character to attend to that the supervision of process establishments is not in every case as close as could be desired, but the High Court is not prepared to admit that such supervision is altogether wanting or that it is so defective as to deprive the opinions of the local officers as to the requirements of their Courts of all value. In case of amins, as the High Court has before pointed out, it is hardly possible to fix a hard and fast minimum average of work which is not so low as rather to encourage the undue increase of establishments which its object would be to prevent. The work of these officers is
of

27 254 68
of such varying degrees of complexity and difficulty that no one but an officer on the spot can say whether due expedition is being used or not, and there is no resource but to trust to the local officers to keep the establishments at the lowest limits consistent with efficiency - and though a numerical standard can with greater appropriateness be applied to the work of peons even here it is necessary to leave a considerable discretion with the local supervising staff.

II. Regarding the minima prescribed in the Bombay Presidency, quoted in para. 10 of your letter No. 1970 of 21st

H September 1891, I am to refer you to para. 5 of my predecessor's letter No. 95,

I ¹⁰¹⁸_{14.6.91} dated 16th January 1890 where the Judges intimated their inability to understand in the absence of statistics of area and population of the jurisdictions and of information as to the system of service how

how the figures could be attained. Under the system in vogue in this Presidency such results as the service of 1,000 processes per annum by each process server must be altogether incapable of realization. I am to invite the attention of the Government to Rule 8 printed at page 139 of the Civil Rules of Practice, 1891, in which the duty of a process server in execution of process is described. If the injunctions therein laid down are duly observed, the Judges, I am to say, have no hesitation in asserting that in this Presidency it would be impossible to realize an average of 400 processes per mensem in any District.

This clearly appears from the reports of the several District Judges in answer to the High Court's requisition for an investigation into the possibility of effecting reductions. In three Districts Kistna, South Arcot and Chingleput where there

400
Court only 2
1891
the report

has

29 1/2 78
has been a large increase of work in late years (necessitating the recent establishment of new Munsifs' Courts) without any corresponding addition to the process establishments, the average number of processes served by peons considerably exceeds the prescribed minimum, but there have been many complaints in these cases that the physical capacity of the peons is being taxed beyond reasonable measure and Mr Mackenzie, District Judge of Kistna in particular represents that the result of the excessive burden thrown upon the peons of his District is making itself apparent in the increased frequency with which objections are successfully taken on the score of imperfect or insufficient service. The High Court has postponed its decision upon the requests for an increase of process establishments in these Districts till the general question should have been

been finally disposed of. but the judges have come to the conclusion that some increase of the staff is required. In the Kistna, South Malabar, Chingleput and South Canara Districts too an addition to the number of amins is necessary.

12. One District Judge, Mr. Weir considers that the minimum required of peons might be put at 320 per annum in the Central Nazarat alone - the figure 300 is proposed for certain other jurisdictions in this and in some other Districts, but all District Judges are agreed that no greater increase than this over the present minimum (250 in most districts) could be secured, that no material reduction in the number of amins is possible and that it would not be expedient to prescribe a minimum standard for these officers.

13. All the District Judges have reported in some detail upon the requirements of their districts and after considering these reports the

High

31/11/68

High Court has come to the conclusion that a minimum average of 300 processes per annum may be prescribed for peons

Districts	Courts	Minimum.
Coimbatore	Nilgiris	250
	Gudalur	250
	Kollegal	250
Kurnool	Markapur	250
Salem	Krishnagiri	250
Vizagapatam	Parvatipur	250
Malabar	Vayitiri	150

in each district throughout the Presidency with certain special exceptions (noted in the margin) where the peculiarities of the jurisdictions necessitate some slight reduction. The average will be cal-

-culated on the work of the whole district (excluding the exceptional courts), a discretion being left to the District Judge to distribute the peons, and fix the separate averages of the several jurisdictions as their varying circumstances may require. As regards amins though the Judges have some hesitation in adopting such a course, they will, in deference to the views of the

Government, fix a minimum of 120 processes per annum in all courts except those

Tanjore North Malabar South Malabar	All Courts	140 per annum.
---	------------	----------------

noted in the margin, where it appears possible to prescribe

a slightly higher average. More than this cannot

cannot be done, and the only additional precaution that can be taken is to impress upon the Judges and Munsifs in charge of Nazarat establishments the importance of carefully examining the diaries kept by these officers regarding which the High Court will issue detailed instructions.

14. A statement is enclosed from which the financial effect of those alterations in the present rules can be estimated. It will be seen that in most Districts the sanctioned strength of the Process establishments is in excess of what is necessary to secure the minima now proposed, and that, judging from the figures for the years 1889-91 the introduction of the new scale would enable reductions to be made to the extent of 740 peons and 84 amins, which would produce a total annual saving amounting to Rs. 75,420. It is to be noted however that the establishments in several Districts are at present below the full sanctioned strength and the actual saving would therefore be slightly below this sum. Exact details as to the extent of the

33 250 90
the deficiency are not available but it may safely be taken that the total saving would be not less than Rs. 70,000 annually.

15. It seems to the Judges however that it is not necessary to effect the reductions immediately, by abolition of offices. In every district litigation is on the increase, and if all establishments were at once reduced to the strict requirements of these minima it would soon become necessary to employ new hands. Under these circumstances it would be a very unfair and harsh measure to deprive a large number of these inferior servants of their means of livelihood simultaneously, and the Judges propose to effect the reductions gradually by leaving unfilled vacancies that occur in the ordinary course. The whole saving therefore will become available only by degrees.

16. Taking this into account and bearing in mind the financial exigencies to which the Government has referred

referred I am to say that the High Court will not for the present press for the introduction of the whole scheme of reduction in process fees originally proposed. The Government has expressed its willingness to accept the proposals to extend article I to all notices, and to assimilate the rates in all classes of courts - changes which will afford relief to litigants to the extent of Rs 37,000 annually. The more favorable rule regarding detention batta was shown to entail a reduction in receipts amounting to Rs 14,736 annually. It is doubtful however whether the loss would really be so great as this, and the High Court hopes that with the prospect of savings in establishments now held out the Government will see its way to accepting this change also. As to the poundage rates since the Government is still unwilling to accept the rates proposed, which I am to note are the rates prevailing in the Bengal Presidency, the Judges will be content if the

judges

Q $\frac{1073}{8682}$

the rate on sales is reduced for the first 350 Rupees from one anna to $\frac{1}{2}$ anna in the rupee, so as to make the rate up to Rs 1,000 uniform.

17. In my letter No. 1329 dated 25 April 1892 it was calculated that the amount realized annually at the higher rate of poundage chargeable up to Rs 350 at 1 anna in the rupee was Rs 57,708. The loss resulting from substituting $\frac{1}{2}$ anna would therefore be Rs 28,854. Thus under the proposals now made the total loss annually will be (about)

On Poundage.....	Rs 28,854.
On detention batta.....	14,736.
By extension of article I.....	4,227
By assimilation of scales.....	33,462

Total 81,279.

or if the Government should defer the change in the matter of detention batta, a total of Rs 66,543.

18. This is a sum less than
the amount which it is anticipated
will eventually be saved by reduction
of establishments, and I am to request
therefore that these modified proposals
may be accepted and sanctioned.

I have the honor to be,

Sir,

Your most obedient servant,

W. M. M.

Registrar.

CURRENT NO.

Judicial {1893} Department.

No.

FROM

THE REGISTRAR OF THE HIGH COURT
OF JUDICATURE AT MADRAS,
APPELLATE SIDE.

Dated

Received

13th February 1893.

No. 334.

Enc. 1

Replying to G.O. 878th
June 1892 no. 1073 Judl. regard-
ing the High Court's proposal
to make certain reductions
in the scale of process service
fees in Civil Courts.

Sp. 1073: 8-6-92 mis
2587: 23-12-91
1970: 21-9-91
1392: 21-8-90
1142: 11-7-90
1018/9: 14-6-90
519/20: 13-5-90
115: 27-1-90
39: 15-1-90
1935: 13-11-89
1851: 1-11-89
* 1725 A: 8-10-89
1471/2: 16-8-89
1175/9: 9-7-89
474/5: 18-5-89
873: 18-5-89
340: 2-5-89
179: 31-1-89
* 1567/8: 24-7-88
1089: 8-5-88
763: 31-3-88
papers etc.

From

Dated

12 Feb.

1893

FOR ORDERS.

I have kept them papers to see how the
Stamp Revenue for the year should progress.
How far the financial position should
improve. The Stamp Revenue will largely
exceed the estimate, and the state of the season
other circumstances show that the financial
results of the year will be such that no in-
convenience must be anticipated from the concession
proposed by the High Court.

The High Court's arguments against the alleged
excessiveness of the process serving establishment
do not seem to me altogether conclusive, but
it is something to have got out of them a promise
to increase the minimum number of process
serving men from 250 to 300, to fix a minimum
for amins, to effect a reduction of more than
870 men, or nearly a sixth of the present
establishment, involving an ultimate saving of
about 700000 Rs.

I would therefore sanction the first, third & fourth
proposals - poundage, miscellaneous process
& assimilation of scales - leaving the objection
to the proposal (which seems to me of less consequence)
to be carried out hereafter when the measures
for reduction of establishment take effect.

It is not necessary to call upon the High
Court to transmit fresh notifications as a
draft will be forwarded in G.O. 8 June 92 & 7073.
All that is necessary is to look correct and V.
in the poundage scale (p. 23 Supp. to
Winn's Civil Digest) so as to make 1/2 anna
per paper the rate up to Rs. 1000 - instead of
the scale suggested in the H.C. Draft.

202

W.H.

I have accepted 4 of the High Court
proposals including the new scale.

In a letter of 21 Sept. 1891, No. 1979, the
Gt. addressed the High Court
on the subject of reducing the
process serving establishments
of amins & peons attached to
Civil Courts; the Gt. suggested
reduction of establishment
& declared its readiness to
consent to such reduction of
the rate for process service
as to annihilate the apparent
surplus accruing from process
service if the High Court would
consent to reduce establishments.

2. Subsequently certain proposals of
the High Court in respect of process
fees came under the consideration
of Gt. These proposals were, briefly,
as follows: -
(a) that the rate of poundage payable
under Art. V of the Schedule printed
on page 162 of Winn's Civil Digest
should be reduced to 2 per cent.
on sums up to Rs. 1000 & to 1/2
on larger sums; this proposal
was calculated to entail a loss
of Rs. 28,737 annually;
(b) that the period after which
detention-batta is leviable under
Art. II (d) of the said Schedule
should be extended from 3 to
5 days; this was calculated to

to determine better, 24. of which a
month or so ago, to their interest
x 14736 P. answered to their interest
we probably not likely to have
a. ~~but~~ in

first. I took the
the the letter of Jan 10th / 91. 59,
into the schedule (alluded to by
Mr. Colquhoun above) was forwarded
the attention of the committee regarding
detention letter, through some means,
was by some oversight not inserted -
i.e. the end of the 50th. Has been written
for this in Part II in the schedule, but
has not been written.
In the letter in their present letter copy in
the H.C. with except this
hope that for with except this
before, in their letter of 1890
there is

imposed, (see) they are
 (above sister of us) they are
 agreed concerning of opinion and
 the justice not a longer time than 3
 days is needed. Presently we are
 before the present 5 days, as the
~~and present~~ very of detention better
 under the 3 days, who had known
 present to exist the action
 The rule before

hand but - attraction -
 change needs attraction -
 comes with the bit that the big
 C's do send me for verification
 to ~~publish~~ confirm & publish - a
 Jan. has his verification at
 in the file.

29/7/93 L.H.f.

Considering that the saving looked for by the
 proposed reduction of processions and
 annies will be only 2 1/2 million

must elapse before any economy can be effected. I think the allocation from 3 days to 5 for detention batta might for financial reasons be deflected. This year promises well for a

year may be had, and I think at present we
can hardly afford to go the length of agreeing
to all the High Court's proposals. I would
accept them all except the delinquent matter
as to the rest.

as to the notification, I am only fixed in
draft schedule. If this is not sufficient, it
would be a simple matter to ask the High
Court to send up a draft notification.

100

29/7/93

4

23

3. The High Court has now replied to G.O. of 21 Sept. 1871, N^o 1970, & G.O. of 8 June 1872, N^o 1073, L^o 1. The High Court reports that

(b) it is however prepared to raise the minimum number of processes required by Rule XXII of the Process Service Rules to be served by each person from 250 to 300 per annum (except in the case of seven Courts).

By making the above changes the High Court calculates that the establishment of persons can be reduced from 4,949 to ^{3,209} 4,209 + that of animals from 1,355 to 1,271. The saving resulting therefrom is calculated at a figure which will certainly not be less than Rs 70,000 per annum.

The Judges do not however propose that the reduction of establishment shall take place at once; they would carry it out by degrees as vacancies occur so that the full effects of the change will not be felt.

The Hon the Judge was requested to furnish propositions, statements embodying the proposed resolutions, & to issue instructions that vacancies shall be filled up until the Quorum is attained, & that every opportunity be given to the members to be in full session.

from the alterations in the
 strength of the establishment
 & however, accrue gradually
 & in view of the circumstances
 & of the fact that ^{the} finances
 are still in a somewhat
 unfavorable condition, the
 Govt. considers it expedient
 to defer sanctioning the
 extension of the period after
 which detention-batta is payable
 from 3 to 5 days until a substantial
 reduction of establishment has been effected.
 4. The other proposals contained
 in Mr. Foster's letter of Feb.
 last ^{as estimated to} involve a probable loss
 of something over Rs. 66,000
 per annum & thus the Govt.
 is prepared to ^{grant} ~~face~~. The Hon.
 the Judges will observe that not
 only the Schedule of Process Fees
 but also Rule XXII of the
 Process Service Rules will re-
 quire amendment & they will
 be requested to prepare &
 forward for formal approval
 & submission to the G. of I. Draft
 notifications prepared under
 sections 20(i) & 22 of the Court
 Act, 1870.

(For orders)

12/8/93
 11 Sept.
 in the C. J. with C. L.
 DESPATCHED
 27 SEP 93
 16 46

Received
 12/8/93

12/8/93

(7/11/93)

Note
 The Hon. Mr. J. L. Stokes ^{will}
 perhaps not object ^{to this}.
 As not only the Schedule but
 also Process Service Rule XXII
 have to be amended it seems
 better to leave it to the H.C.
 to prepare the Notification. The
 Law vests the power of
 making the rules in the H.C.
 & the Judges might object
 to Govt. framing revised rules
 even in general accordance
 with their own suggestion.

Very well
 12/8/93
 13/8/93