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MADRAS RECORD OFFICE.

Government of Madras.

Judicial

DEPARTMENT.

G.O. No. 1166

Press
Mis.

Original

Dated 17.5

1894.

Not to be folded or roughly handled

or Equity in England or Ireland, shall be admitted to practise as an Attorney of this Court without proof that he has attained the age of 21 years.

17. Unless the Court shall otherwise order, no person who shall have been adjudicated an insolvent shall be admitted to the examination prescribed by these rules, or shall be admitted to practise as an Attorney of this Court.

18. Every person on being admitted and enrolled as an Attorney of this Court may, on payment of a fee of five rupees, obtain a certificate of admission under the signature of the Registrar and the seal of the Court.

19. Any Attorney of this Court may, on the payment of a fee of Rs. 5, to be paid by means of Court-fees stamps, obtain a certificate under the signature of the Registrar and the seal of the Court, that his name is borne on the roll of Attorneys of this Court, and, if such be the case, that he is a practising Attorney of this Court.

20. The Registrar of this Court on the Original Side shall be the proper officer for receiving and filing all such affidavits and documents as are required to be produced and filed under these rules, and shall have the custody and care of the rolls or books wherein persons are at present enrolled as Attorneys, and shall enrol the name of every person who shall be admitted an Attorney, with the date of his admission, in alphabetical order, in a roll or book to be kept by him for that purpose, to which roll or book all persons shall have free access without fee or reward.

21. The Judge or Senior Judge of the Court for the time being exercising ordinary Original Civil Jurisdiction shall hear all applications the hearing of which is not otherwise provided for and shall exercise all the powers of the Court under these rules, unless the Chief Justice shall otherwise specially direct.

22. A petition in writing appealing from any order made under the last preceding rule may be presented to the Chief Justice within one month from the date of such order. Such appeal shall be heard by any two or more Judges whom the Chief Justice shall appoint for that purpose.

23. These rules shall take effect from the 1st day of July 1885, and except as to all matters and things previously done in virtue thereof, all former rules for the admission of Attorneys are hereby repealed: Provided that no Articled Clerk or Attorney who has not or who may not in due time become duly entitled to the benefit of the Colonial Attorney's Relief Act shall, by reason of anything contained herein, have or be considered to have a claim to such benefit in the event of that Act being extended to this Presidency.

30th April 1885.

APPENDIX XII.

OFFICIAL TRUSTEE'S OFFICE.

High Court of Madras.

It is hereby notified that the following Rules have been made by the Honourable the Chief Justice of Her Majesty's High Court of Judicature at Madras, under the power given by Act XVII of 1864* (section 20), entitled an Act to constitute an office of Official Trustee, to take effect from 1st January 1882, in supersession of the Rules made on the 9th January 1865.

1. The Official Trustee shall keep the following books of account:—

(1) A Register of Trusts in which shall be entered—

- (a) a summary of all Trusts vested in the Official Trustee on the 1st January 1882 and of all Trusts which shall become vested in him thereafter, numbered with consecutive numbers;
- (b) the date of each order of Court or deed of trust appointing the Official Trustee;
- (c) a statement of the securities from time to time received and the disposal thereof;
- (d) the names of the persons entitled to the income and capital of each estate;
- (e) the rate of commission chargeable to each estate.

(2) A Cash Book showing in separate columns every receipt and payment through the office and every receipt and payment through the Bank of Madras, the dates of receipt and payment, and the number of vouchers for each payment as well as the particular amount of Government securities, &c., to be balanced daily.

(3) A Ledger which shall contain a separate account with each Trust Estate. All receipts to appear on the creditor side and all payments on the debtor side. The dates of receipts and payment, the amount of Government and other securities, and of the cash transactions, shall appear in separate columns, and each account in the ledger shall be balanced on the 31st of December in every year.

(4) A Register of all Government securities, Bank shares, and other securities deposited in the Bank of Madras showing the realization of interest and dividends half-yearly.

(5) A Rent Book in which shall be entered each house under the management of the Official Trustee, the name of the Trustee Estate to which it belongs, the name of the tenant;

* Act XVII of 1864 has been amended by Act No. 11 of 1870 and Act No. 29 of 1891. The appointment of Official Trustee now, however, is not, however, apparently affected by the amending Act, and the rules also given in the Act are presumed, continue to be in force. See section 2 of amending Act.

the arrears of rent if any due; the amount due for the current month; the date of realization and the amount realized.

(6) A Receipt Book containing skeleton forms of receipts with counterfoils numbered consecutively in print. These forms shall be used for all receipts given for cash and Government or other securities.

(7) A Commission Book showing the sums received and invested on account of each Trust Estate with the amount of commission payable to the Official Trustee.

2. Whenever, owing to doubts or disputes as to the person or persons beneficially entitled or for any other cause, there shall remain in the hands of the Official Trustee a cash balance of Rs. 100 belonging to any Trust Estate, he shall without delay invest the same in Government securities.

3. The Official Trustee shall procure all Government and other securities which may be issued or given to him on account of any Trust Estate, and every transfer of the same, whether by endorsement or otherwise, to be made in his name of office.

4. The Official Trustee shall not at any time retain in his keeping a larger sum in cash than Rs. 300. All sums received by him shall from time to time be lodged in the Bank of Madras to credit of a separate and a distinct account to be kept by him as Official Trustee with the said Bank, and shall be drawn against when necessary in his name of office.

5. All Government securities and Bank, Railway or other shares coming into the Official Trustee's charge shall forthwith be lodged by him in his name of office as Official Trustee in the Bank of Madras and be there kept for safe custody, except when it may be necessary for the Official Trustee to retain such securities or shares for a temporary purpose.

6. The Official Trustee shall make all remittances on account of persons in Europe to the India Office, London, by means of Bills of Exchange.

7. Any person seeking to inspect the books and accounts of the Official Trustee, or to inspect and make copies or extracts of his annual schedule filed in the High Court must apply for an order of the Chief Justice through the Judges' Clerk, and such application shall be by a short petition stating the particular trust estate in which the applicant is interested, the nature of his interest, and the ground upon which he makes the application.

8. The accounts of the Official Trustee shall be audited once in every year by the auditors appointed under Act XVII of 1861, and in order to the timely preparation of the schedule which is provided for by S. 22 of that Act, the said accounts shall be closed yearly up to the 31st December.

9. The expenses of audit, &c., shall be divided among the whole of the Trustees under the management of the Official Trustee by a percentage rate on the amount of the annual income of such estates, omitting, in such calculations, all incomes or parts of incomes being less than Rs. 100.

INSOLVENT JURISDICTION.

Rules and Orders of the Court for the Relief of Insolvent Debtors at Madras.

I.—All summonses, precepts, rules, orders and other process to be issued by the Court for the Relief of Insolvent Debtors at Madras shall be prepared, made out, and signed by the principal officer of the said Court, who shall be called the Chief Clerk; and all petitions, affidavits, and other proceedings shall be filed by the said Chief Clerk of record. The office of the said Chief Clerk shall be open every Monday and Thursday between the hours of ten in the forenoon and four in the afternoon, and on such other days and at such hours as the Court shall hereafter direct; and the office of the Official Assignee shall be open every day (Sunday and Public Holidays excepted) from twelve till two.

II.—In every case the Attorney shall personally, and not by his clerk or any other person, accept the retainer of a prisoner, and the prisoner shall sign the retainer, and at the same time the Attorney shall sign his acceptance thereof. Provided that in case of the illness of such Attorney or of his absence from Madras, such retainer may be received and accepted for him by some other Attorney of the Court personally, the cause thereof being stated in such acceptance.

III.—The Attorney of every prisoner, and all opposing creditors whose costs are ordered to be paid by the insolvent or out of the insolvent's estate, and all other persons requiring their bills of costs to be taxed, shall cause their respective bills to be taxed by the Master of the Supreme Court.

IV.—No Attorney shall directly or indirectly employ the Gaoler, Deputy Gaoler, or any prisoner, or other person confined or residing within the said goal, as clerk or agent to solicit retainers or to transact any business whatever relating to proceedings in the said Court touching the relief or discharge of any prisoner, and no Attorney shall continue to practise in the said Court for the Relief of Insolvent Debtors while he shall himself be a prisoner.

V.—In all cases the bills of the insolvent shall be filed with a statement from the Gaoler of the day or days and cause or causes of detention.

VI.—The Chief Clerk, or the Clerk in the office of the schedule of the debts and effects of any insolvent, shall cause a copy of each part thereof as

contain the particulars of the insolvent's estate and effects and of the debts stated to be owing to him to be made out and delivered to the Official Assignee.

VII.—Notice of the filing of every petition and schedule and of every adjudication of an act of insolvency, where an adjudication has been pronounced, and of the time and place appointed for the hearing of the matters of the insolvency, [and that an order has been made by the Court for vesting the estate and effects of such insolvent in the Official Assignee. Per Ord. Cur., 9th September 1853] shall be given to creditors and persons claiming to be creditors, whether such debts are admitted or disputed in the schedule, in the following manner. In cases where the creditors or persons claiming to be creditors are resident within the local limits of Madras, such notice shall be served personally upon such creditors or persons claiming to be creditors, and also upon the Attorney of every detaining creditor suing by Attorney twenty-one days at least before the day of hearing. In cases where the creditors or persons claiming to be creditors reside beyond those limits in any part of territories of the East India Company, such notice shall be sent by the ordinary post. And in all cases notice to the like effect shall be published [in two successive numbers of the *Fort St. George Gazette*, which shall be published next after the making of the vesting order of the appointment of the day for hearing. Per Ord. Cur., 9th September 1853] unless in any case the Court shall otherwise direct. [All affidavits of the service of such notices as are required by this Rule shall be prepared and left with the Chief Clerk one week before the day of hearing. Ord. Cur., 9th March 1849].

VIII.—Where a vesting order of the estate of a prisoner has been made on the petition of a creditor, notice thereof, together with an order to file a schedule, shall forthwith be given to such prisoner by service of a copy of the same, and delivery to Gaoler shall be deemed good service of such notice and order upon the prisoner in such case.

IX.—The appearance at the hearing of any creditor or other person entitled to notice shall be deemed a waiver by him, her, or them, of such notice when there shall have been none, or of any defect or irregularity in the form or service thereof, unless the Court shall otherwise direct.

X.—The proof of notices published in the *Gazette* of the Presidency shall be by the production of the said *Gazette* without other proof, and the proof of other notices shall be ordinarily by affidavit, unless the Court shall think fit to call for *viva voce* testimony, in which case the deposition of the witness shall be taken in writing by the Chief Clerk of the Court.

XI.—No creditor shall be allowed at the hearing to oppose the discharge of a prisoner, unless he shall have served the prisoner with notice of his intention to oppose him, stating in such notice the specific grounds of his opposition three clear days before the day of hearing, and also shall have left a like notice at the Office of the Chief Clerk before the day of hearing. [Provided always that the Court in its discretion may allow other grounds of opposition to be gone into. Per Ord. Cur., 9th September 1853.]

XII.—At the hearing, the examination of the prisoner by the Court shall be taken down in writing by the Chief Clerk, and shall be signed by the prisoner and filed in Court.

XIII.—In all cases of opposition to the discharge of an insolvent, where the insolvent's petition shall be dismissed, the Court shall, if it think fit, order the costs of the opposing creditor or creditors to be paid by the insolvent.

XIV.—The Official Assignee shall be entitled to five per cent. commission on the principal sum forming the proceeds of each estate distributable as dividends; and if such commission shall not, in the course of the year, produce on an average Rupees two hundred a month, his remuneration shall be made up to this amount by taking the sum required for that purpose out of the interest of the Government Securities in which his collections are invested (Ord. Cur., 4th May 1849; Ord. Cur., 5th October 1855). This rule now stands as originally printed and passed on 22nd December 1848.

XV.—The Official Assignee, and every person who shall hereafter be appointed to that office previously to his admission thereto, shall give good and sufficient security by bond to the Chief Justice for the payment of such sum of money as the Court shall direct, with two or more able sureties to be approved by the Master, which bond shall be conditioned for his duly accounting for and administering all estates committed to his charge as Official Assignee, and the same shall be deposited with and kept by the Accountant-General, subject to the order of the Court.

XVI.—The Official Assignee shall proceed with all diligence to collect and get in the estate and effects of insolvent persons committed to his charge, and shall pay in or deposit the same in the Honorable Company's Treasury with the privity of the Accountant-General, retaining in his hands from time to time such sums only as may be necessary for immediate purposes: Provided nevertheless that the Official Assignee shall at no time retain in his hands a larger sum than two thousand Rupees on the whole without the order of the Court.

XVII.—Whenever it shall become necessary for the Official Assignee to obtain any money, bonds, or other securities out of the Honorable Company's Treasury for the purpose of distributing the same amongst the creditors entitled thereto, the mode of obtaining such money, bonds and securities shall be by order of the Court for the Relief of Insolvent Debtors, signed by the Chief Clerk, and countersigned by one of the Judges, for the payment and delivery of the said money, bonds, and securities to the Official Assignee, which order shall be by him presented to the Accountant-General and Treasurer in the same manner as any order of the Supreme Court of Madras for the payment out of the Treasury of money, effects, or securities of the suitors of the Supreme Court under order of the said Court.

XVIII.—The Official Assignee shall enter into a book to be kept by him for that purpose separate and distinct accounts of each estate under his charge, and of all such sums of money, bonds, and other securities for money, goods, effects, and things as shall come to his hands or to the hands of any persons employed by him, or in trust for him as such Official Assignee, and likewise of all payments made by him for and on account of the said estate, specifying the dates of such receipts and payments respectively.

XIX.—The Official Assignee shall twice in every year, that is, on the 1st day of January and the 1st day of July, or on the first day after those days on which the Court for Relief of Insolvent Debtors shall be sitting, exhibit and deliver in open Court a true and perfect schedule of all sums of money, bonds, and other securities received on account of each estate remaining under his charge, together with the payments made thereout during the preceding half-year, and the balance; and also of all estates wherein dividends shall have been ordered to be paid and shall have been paid over to persons entitled to the same during the preceding half-year, specifying the amount of such dividends, which schedule shall, on and after the 1st day of January 1849, be in the form following:—

Part 1st.—Containing the particulars of all estates committed to his charge since the period of exhibiting his last preceding schedule.

Part 2nd.—Containing the particulars of all estates committed to his charge prior to such last-mentioned period, on account of which he shall have received any money, bonds, or other securities subsequently to such last-mentioned period.

Part 3rd.—Containing all estates wherein dividends shall have been paid over to the parties entitled thereto since the period of exhibiting his last preceding schedule, specifying the amount paid and the amount remaining unpaid.

XX.—Previous to the Official Assignee exhibiting and delivering in open Court his schedule in pursuance of the preceding rule, he shall lay the same, together with the accounts of each estate and the vouchers relating thereto, before the Master, in order that such schedule may be examined and the several vouchers compared with the accounts of the estates therein described.

XXI.—In all cases where the Court shall direct that the estate and effects of any insolvent shall be received by the Official Assignee and any Special Assignee or Assignees jointly, all moneys, jewels, and securities for money belonging to each estate shall, within seven days after the receipt thereof, be paid or delivered and be kept in deposit in the Bank of Madras; and no part thereof shall be withdrawn therefrom but upon the order in writing of all such Assignees, or of any two of them, of whom the Official Assignee shall be one.

XXII.—The Chief Clerk shall, immediately after the hearing of any insolvent upon his petition, and after adjudication of the Court thereon, deliver over to the Official Assignee the schedule of the insolvent, which shall be thereafter kept in the Office of the Official Assignee. Provided that, if the schedule be required by the Chief Clerk for any temporary purpose, it shall be delivered out to him as often as may be necessary, and shall be restored to the custody of the Official Assignee as soon as such purpose has been fulfilled.

The following Rule was passed by the Supreme Court on the 2nd March 1849.

XXII (A). The interest due, or which shall become due, upon any moneys or securities now or hereafter paid into, or deposited in the Treasury to the credit of the Official Assignee on account of collections of insolvent estates, shall be received by, or with the privity of the Accountant-General, and be by him, or with his privity, and with the privity and consent of the Official Assignee, forthwith, or as soon as conveniently may be laid out and invested in securities of the Honorable Company, and deposited to the credit of the same account; and the Accountant-General shall, at the end of every year, certify to the Official Assignee the amount of interest drawn by, or with the privity of him, the Accountant-General, during that year, together with the numbers, date, and amounts of all Government Securities purchased and deposited by him during the same period.

Additional Rules for regulating the Proceedings in the Court for the Relief of Insolvent Debtors at Madras, made and passed by the Supreme Court of Judicature and read in Court on the 9th day of September 1853.

That henceforth the following Rule be substituted for Rule VII. Notice of the filing of every petition and schedule and every adjudication of an act of insolvency where an adjudication has been pronounced, and of the time and place appointed for the hearing of the matters of the insolvency, and that an order has been made by the Court for vesting the estate and effects of such insolvent in the Official Assignee, shall be given to creditors and persons claiming to be creditors, whether such debts are admitted or disputed in the schedule in the following manner. In cases where the creditors or persons claiming to be creditors reside within the local limits of Madras, such notice shall be served personally upon such creditors or persons claiming to be creditors and also upon the Attorney of any detaining creditors suing by Attorney twenty-one days at least before the day of hearing. In cases where the creditors or persons claiming to be creditors reside in any part of the territories of the East India Company, such notice shall be sent by the ordinary post. And in all cases notice

to the like effect shall be published in two successive numbers of the *Fort St. George Gazette*, which shall be published next after the making of the vesting order or of the appointment of the day for hearing, unless in any case the Court shall otherwise direct.

Provided to be added to Rule XI.

Provided always that the Court in its discretion may allow other grounds of opposition to be gone into.

XXIII.—That every insolvent shall file with his schedule a general balance sheet of his receipts and expenditure, which account shall in no case commence later than twelve calendar months before the filing of the schedule. But if at any time subsequent to the date of the earliest debt in the schedule any property shall have gone from the insolvent by sale, assignment, mortgage, distress, execution, or by any means other than the ordinary course of trade or living, the account shall commence so as to include all such transactions, and every insolvent shall also state in the said general balance sheet the cause of his present insolvency and the amount of debts, if any, still due by him under any prior insolvency.

XXIV.—That no dividend shall be reserved for any disputed claim or debt (that shall not have been substantiated before or at the sitting of the Court at which the dividend shall be declared, unless the Court shall direct such reservation to be made.

XXV.—That the Court in its discretion, and if it think fit to award any costs, may do so against, or to any Assignee, any Insolvent finally discharged, any petitioner for revocation of adjudication, any creditor or any person interested in an insolvent estate applying, opposing, or appearing on any application, and either out of the estate or out of the private moneys of any such person or party, and may direct to what amount, how, when and in what manner, and by whom the same shall be paid, recovered, or retained.

XXVI.—That the Official Assignee shall be at liberty to apply to the Supreme Court or to the Insolvent Court to permit him to proceed in Equity or at Law, or in the Ecclesiastical or Admiralty Jurisdiction, or to defend any suit or action, or take or defend any proceedings without the payment of any fees of office to the officers of the Supreme Court or Insolvent Court in respect of any demand, claim, or right against or belonging to any insolvent estate wherein no assets have been received, and wherein there are no assets expected or recoverable except such as shall be the subject of such suit or action; Provided always that such fees shall be a primary charge on and payable out of the assets recovered therein.

TABLE OF FEES.—From and after this date the folio in the Table of Fees shall be deemed to consist of ninety words instead of seventy-two, and all charges by the folio shall be made at the rate of 5 annas per folio instead of 8 annas as heretofore.

THE TABLE OF FEES OF THE COURT FOR THE RELIEF OF INSOLVENT DEBTORS.

The folio in this Table shall be deemed to consist of ninety words, and four figures shall be calculated as equal to one word.

22nd December 1848.

ATTORNEYS.

	RS.	A.	P.
1. For Retainer	1	4	0
2. For every necessary letter	1	2	0
3. For every attendance in prison or at client's house, or elsewhere out of their own office, at the client's request	3	8	0
4. If necessarily detained beyond an hour, for each additional hour	3	8	0
5. For every attendance at their own offices	1	12	0
6. For every attendance on the Chief Clerk or Official Assignee or other Officer at their offices in the Court-house on matters of course	1	0	0
7. For attending Court on motions	2	0	0
8. For attending Court on hearing	5	0	0
9. For attending in Court each day the case is in the paper and not called on	3	8	0
10. For attending Master to tax costs, each hour	1	8	0
11. For attending any officer of the Court on matters referred to him, for every hour	3	8	0
12. For every necessary attendance not otherwise provided for	1	8	0
13. For drawing every petition, schedule and every other proceeding, matter, or thing not otherwise provided for, the first folio	1	0	0
14. For every other folio	0	5	0
15. For engrossment or fair copy, per folio	0	5	0
16. For notices including copy and service within the Black Town and Fort	1	0	0
17. For every mile beyond the Black Town and Fort	0	8	0
18. For all copies not otherwise provided for	0	8	0
19. For perusing papers preparatory to examining witnesses, &c., as instructions for brief, subject to be done in ordinary cases	2	0	0
20. For short instructions to counsel to move	0	12	0

From

Joseph Stevenson Esq^r
Registrar, High Court, Original Side,
and Chief Clerk of the Court for
the Relief of Insolvent Debtors,
Madras.

To

The Chief Secretary
to the Government of Madras,
with the Governor,
Stonehouse Hill.

Honorable Sir,

With reference to the proceedings of
the Madras Government N^o 604 dated 12th March 1894,
para. II, I have the honor to inform you that the
Rules of the Insolvent Court republished in the
supplement of the Fort Saint George Gazette of
the 16th June 1891, are those passed under 11 and 12
Victoria, Chap. 21 in 1848.

2.

Amendments appear to have been
made on 2nd March 1849, 4th May 1849, 9th September
1853, 4th October 1855, 6th February 1858, 12th February
1875 and 21st January 1884.

Rule

3. Rule XXII A particularly referred to
seems to have been republished as passed on 2nd
March 1849.

4. I have been unable to trace the
authority for the earlier rules but am directed to
say that it may be fairly presumed that all
was done in strict accordance with law under
the superintendence of such careful lawyers as the
Honorable Sir Colley Scotland, C.J. and Sirs
Adam Bittleson.

5. The new rules and amendments of
1875 and 1884 were certainly made and sanctioned
in due course of law as will appear by reference to

Ly. O. 12th February 1875. No 220.

Ly. O. 2nd June 1875. No 1267.

Ly. O. 9th March 1883. No 700.

Ly. O. 5th February 1884. No 326.

Ly. O. 2nd July 1884. No 1615.

I have the honor to be,
Honorable Sir,
Your obedient servant.

Joseph Shearman
Registrar

Registrar's Office
High Court of Admiralty
Original Side
13th April 1894
H.A.

CURRENT

Judicial

To 604/5: 12.3.94 new
+ papers quoted in it
+ record papers

From
Joseph Stearns Esq.
Registrar, High Court Original
Side, and Chief Clerk of
the Court for the Relief of
Insolvent Debtors, Madras.

To
The Chief Secretary
to the Government of Madras
with the Governor
Stonehouse Hill.

Dated 13th April } 1894
Received 16th do }

Informing that the Rules of the
Insolvent Court republished in
the Supplement of the Fort-Saint
George Gazette of the 16th June
1891 are those passed under
11 and 12. Victoria, Cap 21
1848.

N.
Order D 17: May 1894, No. 1166.
misc
Recorded with the
remark that the ~~information~~
all particulars now
supplied will be inserted
in the List of Notifications
having the force of law.

by
16 May
Latter from the C.S. with C.D.
22 MAY 94
IN P.S.
act. 17.

Appu Chetty
Insert the final G.O.
containing sanction of
the Magistrate if they
can be found. If not print
of it stands "in ink"; it
you note see. 3; it
should be "sections 3
and 15".

by

CHIEF SECRETARY

19/4

ORDINARY, MS.

Journal DEPARTMENT.
G.O., DATED 17-5-94
No. 1166

INDEXED.

When given for copying. 19/5

[Despatch Abstract.]

Recording letter from the Registrar
High Court, Original side, informing
that the Rules of the Insolvent
Court republished in the Supplement
of the Port St. George Gazette of 1
16 June 1891 are those passed under
11 and 12 Victoria Chap. 21 in 18
with the remark that the particulars
more supplied will be inserted in
list of Notifications having the force
of law.

5-12-00

30-9-18

27-2-18

27-2-25 B V ✓