

L. & M. 7
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Local & Munl. (1897) Department.

MISCELLANEOUS.

G.O., No. 15542

DATED 7-8-99

INDEXED.

[Despatch Abstract.]

Enactments in force in the Ganjam and
Vijagapatam Agencies. Recording G.O.
J.D. passing orders on letter from the Govt
of India on the subject of the ———.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government (1899) of Madras. JUDICIAL.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 2104 R.

Recd. 25th July } 1899.
Regd. 25th July }

Enclosures

Spare copies 6.

G.O., No. 1134, 17th July 1899.

in Order No. 1534 *hms*
7. 8-99

Recorded

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Enactments in force in the Ganjam and Vizagapatam Agencies.
Passing orders on letter from the Government of India on the subject of the —.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following papers:—

G.O., Nos. 379, 380, Judicial, dated 2nd March 1899.

Read—the following papers:—

From W. O. HORNE, Esq., Agent to the Governor, Vizagapatam, to the Chief Secretary to Government, dated 2nd November 1898, R.C. No. 1303-Agy.

With reference to G.O., No. 1546, Judicial, dated 30th September 1898, I have the honour to report that the marginally-noted five Acts have in practice been treated as in force in the Agency tracts.

India Acts.

XIII of 1859 (Workman's Breach of Contract Act).

I of 1871 (Cattle Trespass Act).

I of 1872 (Indian Evidence Act).

IX of 1872 (Indian Contract Act).

Madras Act.

III of 1864 (Abkari Act).

2. India Act VIII of 1851 (Indian Tolls Act) has not been so treated, but I consider that its extension to the Agency is desirable. I have in my letter, R.C. No. 236, dated 22nd April 1898, recommended such extension.

3. India Act IX of 1874 (European Vagrancy Act) and Madras Acts IV of 1862 (Enfranchised Inams Act) and VIII of 1869 (Inam Title Deeds) are not in force in the Agency and are not wanted.

From H. D. TAYLOR, Esq., I.C.S., Acting Agent and Collector of Ganjam, to the Chief Secretary to Government, dated Chatrapur, 9th January 1899, Dis. No. 1-R-Ag.

With reference to G.O., No. 1546, Judicial, dated 30th September 1898, calling for a report as to whether, in view of finally notifying certain Acts to be in force in the Agency tracts of this district, such Acts (a) have actually been acted upon as being in force, (b) may be desirably treated as in force, in the Agency tracts of this district, I have the honour to state as follows.

4. *Act VIII of 1851* (The Indian Tolls Act) has never as yet been acted upon. The question of collection of tolls in the Agency tracts has more than once been raised, but no tolls have hitherto been collected. As communications are opened up at Government expense, I think that some contribution might be levied on the chief routes from traders who use those routes: the Act may therefore be declared to be in force.

6. *Act XIII of 1859*.—No specific instances are adduced in which this Act has been applied. It is, however, a very necessary Act. It is a common thing for people to take advances and enter into contracts for specific work on labour and then to abscond without performing the same. This is specially the case in regard to skilled workmen imported from the low country at great expense.

Indian Evidence Act, I of 1872, and Indian Contract Act, IX of 1872, have been treated as in force and must remain so.

11. * * * The Cattle Trespass Act, I of 1871, has been recognised as in force and may be continued.

14. * * * Act IX of 1874 (European Vagrancy Act) has not been hitherto treated as in force and is unnecessary.

16. *Madras Acts*.—Acts IV of 1862 and VIII of 1869 appear to be necessary. There are inams in Chokapad and the question of the enfranchisement of the Bissoyees' inams in Parlakimedi Maliahs has been discussed before now. There are also two enfranchised inams in Parlakimedi Maliahs. Act III of 1864 is the Abkari Act in force under which the abkari of the Agency is worked. It is necessary until the Act I of 1886 is introduced either wholly or in part * * *

Order—No. 379, Judicial, dated 2nd March 1899.

The Government of India will be addressed.

(True Extract.)

(Signed) G. STOKES,
Chief Secretary.

To the Agent to the Governor, Ganjam.
" Vizagapatam.
" Revenue Department.

Letter—No. 380, Judicial, dated Fort St. George, 2nd March 1899, to the Secretary to the Government of India, Home Department.

With reference to the correspondence ending with Mr. Luson's letter, No. 627, dated 23rd May 1898, on the subject of the enactments in force in the Agency tracts of Ganjam and Vizagapatam, I am directed to state that the executive instructions regarding the enactments undoubtedly in force in the Agencies have been re-considered by this Government as promised in paragraph 12 of Judicial Department letter, No. 761, dated 25th May 1897, and that, as a consequence, revised instructions have been issued on the subject, a copy of which is herein enclosed.

India Acts.

The Indian Tolls Act, VIII of 1851.

The Workman's Breach of Contract Act, XIII of 1859.

The Cattle Trespass Act, I of 1871.

The Indian Evidence Act, I of 1872.

The Indian Contract Act, IX of 1872.

The European Vagrancy Act, IX of 1874.

Madras Acts.

The Enfranchised Inams Act, IV of 1862.

The Abkari Act, III of 1864.

The Inam Deeds Act, VIII of 1869.

2. When this matter was under consideration, it was noticed that the enactments specified in the margin, which relate to the administration of civil or criminal justice, or the collection of revenue, were *prima facie* barred by Act XXIV of 1839, and the local authorities were therefore called upon to report (a) whether they were in practice acted upon in the Agencies, and (b), if not, whether their extension to the Agency tracts was desirable.

3. From the reports which have now been received, it appears that the Indian Tolls Act, 1851, has not been acted upon in the Agency tracts of Ganjam and Vizagapatam. The local officers, however, urge the necessity for the enforcement of its

provisions, seeing that communications have been opened up in both the Agencies at the expense of the State. His Excellency the Governor in Council concurs in this view, and considers that Act VIII of 1851 should be extended to both the Agencies by a notification under section 5 of the Scheduled Districts Act.

4. The Workman's Breaches of Contract Act, 1859, has in practice been treated as in force in the Vizagapatam Agency. Enquiry, however, has not elicited any definite information as to whether it has been so treated in the Ganjam Agency. The local officers report that the enactment is required in both the Agencies, and I am accordingly to request that it may be declared to be in force in Vizagapatam under section 3, and extended to Ganjam under section 5, of the Scheduled Districts Act.

5. Madras Acts IV of 1862 and VIII of 1869 appear to have been in practice applied in the Ganjam Agency. Their operation is essential inasmuch as there are enfranchised inams in the Parlákimedi Maliahs. His Excellency the Governor in Council is therefore of opinion that the Acts should be declared to be in force in the Ganjam Agency tracts. In Vizagapatam, however, enquiry shows that the enactments have not been recognised as being in force, and as their extension is not recommended by the local officers, no declaration in respect of them is necessary.

6. India Acts I of 1871, I of 1872 and IX of 1872, and Madras Act III of 1864 have always been treated as being in force in both the Agencies, and as their operation appears to be barred by Act XXIV of 1839, they should, in the opinion of His Excellency the Governor in Council, be declared to be in force under section 3 of the Scheduled Districts Act, 1874.

7. The European Vagrancy Act, IX of 1874, has not been enforced in the Scheduled Districts in Ganjam and Vizagapatam, and is not required. The provisions of this Act affect to some extent the operation of the ordinary law relating to the administration of justice; His Excellency the Governor in Council is therefore inclined to the opinion that its application to the Agency tracts is barred by Act XXIV of 1839. As the correctness of this view, however, is not altogether free from doubt, I am to refer the question for the decision of the Government of India and to request that, if necessary, sanction may be accorded to the enactment being declared not in force in the Agencies.

8. With reference to paragraph 8 of your letter, No. 169, dated 30th January 1896, I am to submit the above proposals for the issue of notifications under section 3 or section 5 of the Scheduled Districts Act in the tabular form therein prescribed. The necessary draft notifications are also appended to this communication.

(Signed) G. STOKES,
Chief Secretary.

[Appendix.

APPENDIX.

Serial number	Number and year.	Subject matter.	Is the enactment clearly in force or not in force on the face of the Statute book? Give reasons briefly.	Has the course of practice accorded with the legal intendment apparent from the Statute book? State the facts.	Remarks.
1	(India Act) VIII of 1851.	Indian Tolls.	Clearly not in force by legal intendment inasmuch as it provides for the levy of tolls on roads and bridges: operation barred in the scheduled districts in Ganjam and Vizagapatam by Act XXIV of 1839.	Yes. The Act has not been treated as being in force in the Agency tracts.	The Act may properly be extended to both the Agencies under section 5 of the Scheduled Districts Act, 1874.
2	(India Act) I of 1871.	Cattle Trespass.	Clearly not in force, inasmuch as they relate to administration of justice, being adjective laws regulating procedure. Operation therefore barred in the scheduled districts in Ganjam and Vizagapatam by Act XXIV of 1839.	No. The enactments have actually been applied in the Agencies.	The enactments may properly be made the subject of a declaration under section 3 of Act XIV of 1874.
3	(India Act) I of 1872.	Indian Evidence.			
4	(India Act) IX of 1872.	Indian Contract.			Do.
5	(Madras Act) III of 1864.	Abkari.	Clearly not in force seeing that it relates to the collection of revenue. Operation therefore barred in the scheduled districts in Ganjam and Vizagapatam by Act XXIV of 1839.	No. The abkari administration in almost the whole of the tracts referred to is now carried on under the provisions of this Act.	
6	(India Act) XIII of 1859.	Workman's Breaches of Contract.	Clearly not in force in the scheduled tracts in Ganjam and Vizagapatam inasmuch as it affects the administration of justice. Operation barred by Act XXIV of 1839.	The Act has, in practice, been treated as in force in the scheduled districts in Vizagapatam, but no definite information is forthcoming as to whether it has been so treated in Ganjam. The Act, however, is required in both the Agencies.	The Act may be made the subject of a declaration under section 3 in respect of Vizagapatam and may be extended to Ganjam under section 5 of Act XIV of 1874.
7	(Madras Act) IV of 1862.	Enfranchised Inams.	Not in force by legal intendment. Operation barred in the scheduled districts in Ganjam by Act XXIV of 1839.	The Acts have, in practice, been treated as in force in Ganjam. There are enfranchised inams in the Parlákimedi Maliahs in Ganjam.	The Act may properly be made the subject of a declaration under section 3 of Act XIV of 1874.
8	(Madras Act) VIII of 1869.	Inam Deeds.			

DRAFT NOTIFICATIONS.

NOTIFICATION (1).

In exercise of the power conferred by section 3, clause (a), of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to declare that the following enactments are in force in the scheduled districts in Ganjam and Vizagapatam, namely:—

India Act I of 1871 (Cattle Trespass).
India Act I of 1872 (Indian Evidence).
India Act IX of 1872 (Indian Contract).

NOTIFICATION (2).

In exercise of the power conferred by section 3, clause (a), of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to declare that Madras Act III of 1864 (Abkari) is in force in the portions of the scheduled districts in Ganjam and Vizagapatam to which Madras Act I of 1886 (Abkari) has not been extended.

NOTIFICATION (3).

In exercise of the power conferred by section 3, clause (a), of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to declare that India Act XIII of 1859 (Workman's Breach of Contract) is in force in the scheduled districts in Vizagapatam.

NOTIFICATION (4).

In exercise of the power conferred by section 3, clause (a), of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to declare that the following enactments are in force in the scheduled districts in Ganjam, namely :—

Madras Act IV of 1862 (Enfranchised Inams).

Madras Act VIII of 1869 (Inam Deeds).

NOTIFICATION (5).

In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to extend India Act VIII of 1851 (Indian Tolls) to the scheduled districts in Ganjam and Vizagapatam.

NOTIFICATION (6).

In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to extend India Act XIII of 1859 (Workman's Breach of Contract) to the scheduled districts in Ganjam.

READ—also the following paper :—

From A. H. L. FRASER, Esq., c.s.i., Officiating Secretary to the Government of India (Home Department—Judicial), to the Chief Secretary to the Government of Madras, dated Simla, 8th June 1899, No. 842.

I am directed to reply to your letter No. 380, dated the 2nd March last, on the subject of the enactments in force in the Agency tracts of Ganjam and Vizagapatam. Subject to the remarks made below, the Governor-General in Council concurs in the views expressed by the Government of Madras. Some formal alterations have been made in the draft notifications received with your letter, copies of which, as finally approved by the Governor-General in Council, are forwarded herewith.

2. *The Indian Contract Act, 1872 (IX of 1872)*, has been removed from draft notification (1), as it is not an Act which relates especially to the administration of civil or criminal justice, and therefore not one of the Acts barred by section 3 of Act XXIV of 1839, the object of which was to bar the application of *adjective* law relating to civil and criminal justice.

The reference to the *Madras Abkari Act, 1886 (I of 1886)*, has been omitted from draft notification (2), as it has not, so far as it can be ascertained, ever been brought into force in any part of the scheduled districts in Ganjam and Vizagapatam.

3. In paragraph 7 of your letter it is stated that the *European Vagrancy Act, 1874 (IX of 1874)*, has not been enforced in the scheduled districts in Ganjam and Vizagapatam, and is not required. I am to observe for the consideration of the Governor in Council that this law is a useful one, especially in places within the reach of railways, and that it is therefore perhaps doubtful whether it would be wise to issue a notification declaring that it is not in force in the scheduled districts in Ganjam and Vizagapatam. The Code of Criminal Procedure has lately been expressly declared to be in force in those tracts, and there seems no reason why this Act, which is to a certain extent supplemental to the Code, should not also be in force. The Governor-General in Council is, however, content to leave the matter for the decision of the Government of Madras and would suggest that, if that Government think it desirable that it should be made clear that the Act is not in force in the tracts in question, a notification should be issued in the following terms :—

In exercise of the power conferred by section 3, clause (b), of the Scheduled Districts Act, 1874 (XIV of 1874), and with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to declare that the *European Vagrancy Act, 1874 (IX of 1874)*, is not in force in the scheduled districts in Ganjam and Vizagapatam.

4. I am to request that, unless the Governor in Council sees any objection, the notifications as now revised may, under the orders of His Excellency in Council, be published in the *Gazette of India* and in the local official Gazette as notifications made with the previous sanction of the Governor-General in Council.

REVISED DRAFT NOTIFICATIONS.

NOTIFICATION (1).

In exercise of the power conferred by section 3, clause (a), of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to declare that the following enactments are in force in the scheduled districts in Ganjam and Vizagapatam, namely :—

The Cattle Trespass Act, 1871 (I of 1871); and
The Indian Evidence Act, 1872 (I of 1872).

NOTIFICATION (2).

In exercise of the power conferred by section 3, clause (a), of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to declare that Madras Act III of 1864 (Abkari) is in force in the scheduled districts in Ganjam and Vizagapatam.

NOTIFICATION (3).

In exercise of the power conferred by section 3, clause (a), of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to declare that the Workman's Breach of Contract Act, 1859 (XIII of 1859), is in force in the scheduled districts in Vizagapatam.

NOTIFICATION (4).

In exercise of the power conferred by section 3, clause (a), of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to declare that the following enactments are in force in the scheduled districts in Ganjam, namely :—

Madras Act IV of 1862 (Enfranchised Inams).

Madras Act VIII of 1869 (Inam Deeds).

NOTIFICATION (5).

In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to extend the Indian Tolls Act, 1851 (VIII of 1851), to the scheduled districts in Ganjam and Vizagapatam.

NOTIFICATION (6).

In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), and, with the previous sanction of the Governor-General in Council, the Governor of Fort St. George in Council is pleased to extend the Workman's Breach of Contract Act, 1859 (XIII of 1859), to the scheduled districts in Ganjam.

ORDER—No. 1134, Judicial, dated 17th July 1899.

The foregoing letter from the Government of India, together with a copy of that to which it is a reply, will be communicated to the Agents to the Governor in Ganjam and Vizagapatam.

2. As the provisions of the *Madras Abkari Act, 1886*, have been extended * to some villages in the Agency tracts of Ganjam and Vizagapatam, the Government of India will be requested to retain the reference to this enactment in Notification (2).

* G.Os., No. 181, Revenue, dated 4th March 1890, and No. 641, Revenue, dated 17th July 1893.

3. On further consideration the Governor in Council is inclined to agree in the remarks of the Government of India regarding the application of the European Vagrancy Act to the Agency tracts, and that Government will accordingly be moved to extend that enactment to both the Agencies under section 5 of the Scheduled Districts Act.

4. The other notifications approved by the Government of India will be published in the *Fort St. George Gazette* and the *Gazette of India*.

[Here enter letter, No. 1135, Judicial, dated 17th July 1899.]

(True Extract.)

J. H. M.
for Chief Secretary.

To the Agent to the Governor in Ganjam.

" " " in Vizagapatam.

" Departments of the Secretariat. (C. to M.)

" Superintendent, Government Printing, India, Calcutta.
Gazette.

Ed. P. Seetharam.

When given for copying _____
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READ AGAIN G.O., No. _____, DATED
189 .

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
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