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Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1697 & 1698 Press Mis.

115

Dated 26-10- 1869.

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பாதுகாப்பு பிரிவு -1

செப்பனிடுபவரின் பெயர் : [illegible]

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள். 2.11.2008

செப்பனிட்டு முடித்த நாள். 9.4.2009

25/4/2009
சரிபார்க்கும்
முதல் முறிபாள
கையொப்பம்

சரிபார்க்கும்
2ம் முறிபாள
கையொப்பம்

ஆராய்ச்சி
உதவியாளர்
கையொப்பம்

Proceedings of the Madras Government, Judicial Department, 26th October 1869.

No. 113. Read the following letter from W. STOKES, Esq., Secretary to the Council of the Governor-General for making Laws and Regulations, to the Chief Secretary to Government, Fort Saint George, dated Simla, 11th October 1869, No. 323.

Legislative Department.]

I am directed to forward a copy of the Bill marginally noted, with annexure, published in the *Gazette of India* of the 2nd instant by Order of His Excellency the Governor-General, and to request that you will be so good as to obtain and submit to the Government of India, in this department, the opinions of the Honourable the Judges of the High Court at Madras, and of the Advocate-General on the provisions of the Bill, and also on the following points:—

Court Fees' Bill, 1869.

1*st*.—Assuming that the rates of fees now levied on the Original side of the High Court, Madras, have undergone no change since they were originally fixed under the authority conferred by the Letters Patent, whether those fees could conveniently and unobjectionably be made permanent by insertion in the present Bill?

If there is no decided objection to such a course, the advantage of its adoption, on the score of public convenience, would appear to be unquestionable.

2*ndly*.—Whether, in lieu of the present system, it would be practicable to provide for the remuneration of Ameens employed by the Civil Courts in making local investigations by fixed charges on the suitors, at whose instance they are employed, and whether the amount of such charges could be levied by means of stamps?

3*rdly*.—Whether it is expedient to impose on petitions or applications for review of Judgment a fee (either of fixed amount or *ad valorem*) higher than that to which miscellaneous petitions or applications are subject?

2. With regard to the provisions of the Bill, I am to invite your particular attention to the proposed repeal of portion of Madras Regulation III. of 1802, Section 21.

No. 114. ORDER THEREON, 26th October 1869, No. 1697.

Pursuant to the instructions conveyed in the foregoing letter, the Honourable the Judges of the High Court and the Advocate-General will be requested to communicate their opinions on the provisions of "The Court Fees' Bill," and on the several points connected with the proposed enactment, which are specified in Mr. Secretary Whitley Stokes' letter.

(True Extract.)

Actg. Secy. to Govt.

To the Honourable the Judges of the High Court, } with copy of the Court Fees' Bill and its annexure.
" Advocate-General, }

Exd. J. Wright.

JUDICIAL.

To

THE HON'BLE THE JUDGES OF THE HIGH COURT.

&c., &c., &c.

Dated October, 26th.

Read.

G. O., 26th October 1869, No. 1697.

OCTOBER.

Nos. 113—115.

Directing that the Honourable the Judges of the High Court and the Advocate-General be requested to communicate their opinions on the provisions of "The Court Fees Bill," and on the several points connected with the proposed enactment specified in Mr. Secretary Whitley Stokes' letter.

3

This Bill and the Statement of Objects and Reasons were published for general information in the *Gazette of India* of the 2nd October 1869, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of His Excellency's Council for the purpose for making Laws and Regulations.

THE COURT FEES BILL, 1869.

CONTENTS.

CHAPTER I.—PRELIMINARY.

SECTION.

1. Short title.
   Extent of Act.
   Commencement of Act.
2. Repeal of enactments.

CHAPTER II.—FEES LEVIABLE IN THE HIGH COURTS AND IN THE COURTS OF SMALL CAUSES AT THE PRESIDENCY TOWNS.

3. Levy of fees in High Courts on their original side and in Presidency Small Cause Courts.
4. Fees on instruments filed in High Courts on their appellate side.
5. Procedure in case of difference as to necessity of paying fee.

CHAPTER III.—FEES LEVIABLE IN OTHER COURTS.

6. Fees on instruments filed in Mofussil Courts or in Government Offices.
7. Computation of fees payable in suits
   (1.) For money.
   (2.) For other moveable property.
   (3.) For maintenance and annuities.
   (4.) For land.
   Proviso as to Bombay Presidency.
   (5.) For houses, gardens and portions of revenue-paying estates.
   (6.) Between landlord and tenant.
8. Power to ascertain market-value or net profits.
9. Procedure where market-value or net profits erroneously estimated.
10. Procedure in suits for mesne profits where profits decreed exceed profits claimed.
11. Refund of fee paid on petition of appeal.
12. Additional fee where respondent takes objection to unappealed part of decree.
13. Decision of questions as to valuation.
14. Exemption of certain instruments.

CHAPTER IV.—MODE OF LEVYING FEES.

15. Collection of fees by stamps.
16. Stamps to be impressed or adhesive.
17. Rules for use, renewal, and keeping accounts of stamps.
18. Stamping documents inadvertently received.
19. Amended document.
20. Cancellation of stamps.

CHAPTER V.—MISCELLANEOUS.

SECTION.

21. Rules for sale of stamps.
22. Power to reduce or remit fees.
23. Saving of fees to sheriff and attorneys.
24. Fixing time for service or execution of process.

SCHEDULE

I. *Ad valorem* fees.
Table of rates of *ad valorem* fees leviable on the institution of suits.
II. Fixed fees.
III. Enactments repealed.

1697-98
II
5

THE COURT FEES BILL, 1869.

CHAPTER I.—PRELIMINARY.

Short Title. 1. This Act may be called "The Court Fees Act, 1869:"

Extent of Act. It extends to the whole of British India;

Commencement of Act. And it shall come into force on the first day of January, 1870.

Repeal of enactments. 2. On and after that day, the enactments specified in the third schedule hereto annexed shall be repealed to the extent specified in the third column of the same schedule.

CHAPTER II.—FEES LEVIABLE IN THE HIGH COURTS AND IN THE COURTS OF SMALL CAUSES AT THE PRESIDENCY TOWNS.

Levy of fees in High Courts on their original side and in Presidency Small Cause Courts. 3. Such fees as are for the time being chargeable in each of the High Courts established by Letters Patent and their several offices by virtue of the power conferred upon them by Statute twenty-fourth and twenty-fifth of Victoria, Chapter one hundred and four, section fifteen, or under Nos. 6 and 9 of the first, and Nos. 7, 9, 10 and 12 of the second, schedule to this Act annexed;

and such fees as are for the time being chargeable in the Courts of Small Causes at the Presidency Towns and their several offices;

shall be levied in manner hereinafter appearing.

Fees on instruments filed in High Courts on their appellate side. 4. No instrument of any of the kinds specified in the first or second schedule to this Act annexed, as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by, any of the said High Courts in any case coming before such Court in the exercise of its appellate jurisdiction under section fifteen of the Letters Patent under which it is constituted;

or in the exercise of its extraordinary original jurisdiction under sections thirteen and twenty-four of the same Letters Patent;

or as a Court of appeal, reference or revision under sections twenty-seven and twenty-eight of the said Letters Patent;

unless in respect of such instrument there be paid a fee of an amount not less than that indicated by the said schedules as the proper fee for such instrument.

Procedure in case of difference as to necessity of paying a fee. 5. If any difference arise between the officer whose duty it is to see that any fee is paid under this chapter and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in a High Court, be referred to the taxing officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in

which case he shall refer it to the final decision of the Chief Justice of such High Court.

When any such difference arises in any of the said Courts of Small Causes, the question shall be referred to the clerk of the Court, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the First Judge of such Court.

CHAPTER III.—FEES LEVIABLE IN OTHER COURTS.

Fee on instrument filed in Mofussil Courts or in Government Offices.

6. Except in the Courts hereinbefore mentioned, no instrument of any of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice or Government Office, or shall be received or furnished by any public officer, unless in respect of such instrument there be paid a fee of an amount not less than that indicated in either of the said schedules to be the proper fee for such instrument.

Computation of fees payable in certain suits.

7. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows :—

For money.

(1.) In suits for money (including suits for damages or compensation)——according to the amount claimed :

For other moveable property.

(2.) In suits for moveable property other than money——according to the market—value of the subject-matter of the suit at the date of filing the plaint, or (where the subject-matter has no market-value, as for instance, in the case of accounts or of documents relating to title) according to the amount at which the subject-matter is estimated in the petition of plaint or appeal :

For maintenance and annuities.

(3.) In suits for maintenance and annuities——according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year :

For land.

(4.) In suits for land——according to the value of the subject-matter of the suit ; and such value shall be deemed to be—

(a.) where the land forms an entire estate paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue,

and such revenue is permanently settled,

ten times the revenue so payable ;

(b.) where the land forms part of an entire estate paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid ;

and such revenue is settled but not permanently,

five times the revenue so payable ;

(c.) where the land pays no such revenue fifteen times the net profits arising therefrom during the year next before the date of presenting the petition of plaint or appeal ;

1697-98

7

Proviso as to Bombay Presidency.

Provided that in the territories subject to the Governor of Bombay in Council, such value shall be deemed to be—

(a.) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government, a sum equal to five times the survey assessment ;

(b.) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government, a sum equal to ten times the survey assessment ; and

(c.) where the whole or any part of the annual survey assessment is remitted, a sum computed under clause *(a.)* or *(b.)* of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted :

For houses, gardens, and portions of revenue-paying estates.

(5.) In suits for houses, for gardens and for land forming part of an estate paying revenue to Government, but not separately assessed as mentioned in paragraph four of this section,——according to the market-value of the subject-matter of the suit ; and

Between landlord and tenant

(6.) In suits (other than suits for money) between landlord and tenant,——according to the amount of the rent of the land to which the suit refers payable for the year next before the date of filing the plaint.

Power to ascertain market-value or net profits.

8. In order to ascertain the market-value or the annual net profits of any such land, house or garden as is mentioned in section seven, paragraphs four and five, for the purpose of computing the fee leviable on the institution of a suit relating thereto, the Court may either of its own motion, or on the application of any party to the suit, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court, and the decision of the Court as to such market-value or profits shall, for the purpose aforesaid, be final.

Procedure where market-value or net profits erroneously estimated.

9. If in the result of any such investigation the Court shall find that the market-value or net profits has or have been erroneously estimated, the Court shall either, as the case may be, refund the excess paid as such fee, or require the plaintiff to pay so much additional fee as would have been payable had the said market-value or net profits been correctly estimated ; and in such case the suit shall be stayed until the additional fee shall have been paid.

Section 180 of the Code of Civil Procedure shall be construed as if the words "the market-value of any property in suit or" were inserted after the word "ascertaining," and as if the words "or annual net profits" were inserted after the word "damages."

Procedure in suits for mesne profits when profits decreed exceed profits claimed.

10. In suits for mesne profits or for immoveable property and mesne profits, if the profits decreed are in excess of the profits claimed, the decree shall not be executed until the difference between the fee actually paid and the fee which would have been payable had the suit

comprised the whole of the profits so decreed shall have been paid to the proper officer.

Such difference shall be calculated by the Court according to the rules above-mentioned, and shall be costs in the suit.

Refund of fee paid on petition of appeal.

11. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in section 351 of the same Code, for a second decision by the lower Court, the appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the petition of appeal:

Provided that, if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

Additional fee where respondent takes objection to unappealed part of decree.

12. When any appeal is presented to a Civil Court, not against the whole of a decision, but only against so much thereof as relates to a portion of the subject-matter of the suit, and, on the hearing of such appeal, the respondent takes, under section 348 of the Code of Civil Procedure, an objection to any part of the said decision other than the part appealed against, the Court shall not hear such objection until the respondent shall have paid the additional fee which would have been payable had the appeal comprised the part of the decision so objected to.

Such additional fee shall be calculated by the Court according to the rules above-mentioned, and shall be costs in the suit.

Decision of questions as to valuation.

13. All questions relating to valuation for the purpose of determining the amount of fee chargeable under this chapter on a petition of plaint or of appeal, shall be decided by the Court in which such petition is filed, and except as provided by section eight, shall be subject to any appeal to which the orders of such Court are open.

Exemption of certain instruments.

14. Nothing contained in this Act shall render the following instruments liable to duty:—

(1.) First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit in any Criminal Court.

(2.) Application or petition to a Collector or other officer making a settlement of land revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land, or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.

(3.) Application for permission to cut timber in Government forests, or otherwise relating to such forests.

(4.) Application for the payment of money due by Government to the applicant.

(5.) Power of attorney to institute or defend a suit when executed by an officer, warrant-officer, non-commissioned officer or private of Her Majesty's Army not in civil employment.

(6.) Bail-bonds in criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearance or otherwise.

(7.) Petition, application, charge, or information respecting any offence, when presented, made or laid to or before a Police officer, or to or before the heads of villages or the village Police in the territories respectively subject to the Governors in Council of Madras and Bombay.

(8.) Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.

(9.) Petition of appeal against the chaukídárí assessment under Act No. XX of 1856, or against any municipal tax.

(10.) Petition of plaint presented to a Military Court of Requests.

(11.) Petition by a Municipal Officer to a Municipal Commissioner relating to offences against the Act under which the Commissioner is appointed.

CHAPTER IV.—Of the mode of levying Fees.

Collection of fees by stamps.

15. All fees leviable under this Act shall be collected by stamps.

Stamps to be impressed or adhesive.

16. All or any stamps to be used under this Act shall be impressed or adhesive as the Local Government may, from time to time, direct.

Rules for use, renewal and keeping accounts of stamps.

17. The Local Government may, from time to time, make rules for regulating the use of stamps under this Act, for the renewal of damaged or spoiled stamps, and for keeping accounts of all stamps used under this Act:

Provided that, in the case of stamps used under section four in a High Court, such rules shall be made with the concurrence of the Chief Justice of such Court.

Stamping documents inadvertently received.

18. No document which ought to bear a stamp under this Act shall be of any validity, unless and until it is properly stamped; but if any such document is through mistake or inadvertence received, filed or used in any Court or office without

being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that the same be stamped as he may direct; and on such document being stamped accordingly the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

Amended document.

19. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

Cancellation of stamp.

20. No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled. Such officer as the Court or the head of the office shall, from time to time, appoint shall effect such cancellation by punching out the figure-head so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

CHAPTER V.—MISCELLANEOUS.

Rules for sale of stamps.

21. In the General Stamp Act, 1869, section forty-eight shall be read as if for the words and figures "Act No. XXVI of 1867," the words and figures "The Court Fees Act, 1869," were substituted.

Power to reduce or remit fees.

22. The Governor General of India in Council may from time to time, by notification in the *Gazette of India*, reduce or remit in the whole or in any part of British India the fees prescribed by this Act for all or any of the instruments referred to in section six;

and may in like manner cancel or vary such order.

Saving of fees to sheriff and attorneys.

23. Nothing in Chapter IV of this Act shall apply to the fees allowed to the sheriff or attorneys of a High Court, or to the fees which any officer of such Court shall be allowed to receive in addition to any fixed salary.

Fixing time for service or execution of process.

24. Whenever an application for service or execution of process is granted, the Court granting the same shall fix the time within which the process shall be served or executed, and after the expiration of such time, if the process shall not have been served or executed, and if the applicant still desire its service or execution, a fresh application shall be necessary.

SCHEDULE I.

Ad valorem fees.

		Proper Fee. Rs. A. P.
1. Petition of plaint or appeal (not otherwise provided for in this Act or any Act passed by the Council of the Governor General for making Laws and Regulations), presented to any Civil or Revenue Court, except those mentioned in section four of this Act.*	When the amount or value of the subject-matter sought to be recovered in such suit or appeal does not exceed Rs. 5	0 6 0
	When such amount or value exceeds Rs. 5, For every Rs. 5, or part thereof, in excess of Rs. 5, up to Rs. 100	0 6 0
	When such amount or value exceeds Rs. 100, For every Rs. 10, or part thereof, in excess of Rs. 100, up to Rs. 1,000	0 12 0
	When such amount or value exceeds Rs. 1,000, For every Rs. 100, or part thereof, in excess of Rs. 1,000, up to Rs. 5,000 ...	5 0 0
	When such amount or value exceeds Rs. 5,000, For every Rs. 250, or part thereof, in excess of Rs. 5,000, up to Rs. 10,000 ...	10 0 0
	When such amount or value exceeds Rs. 10,000, For every Rs. 500, or part thereof, in excess of Rs. 10,000, up to Rs. 20,000 ...	15 0 0
	When such amount or value exceeds Rs. 20,000, For every Rs. 1,000, or part thereof, in excess of Rs. 20,000, up to Rs. 30,000 ...	20 0 0
	When such amount or value exceeds Rs. 30,000, For every Rs. 2,000, or part thereof, in excess of Rs. 30,000, up to Rs. 50,000 ...	20 0 0
	When such amount or value exceeds Rs. 50,000, For every Rs. 5,000 or part thereof, in excess of Rs. 50,000	25 0 0
	Provided that the maximum fee leviable on a petition of plaint or appeal shall be Rs. 5,000.	
2. Copy or translation of a judgment or order not being, or having the force of, a decree.	When such judgment or order is passed by any Civil Court other than a High Court, or by the presiding officer of any Revenue Court or Office, or by any other Judicial or Executive Authority,—	
	(*a*).—If the amount or value of the subject-matter is fifty, or less than fifty, rupees...	0 4 0
	(*b*).—If such amount or value exceeds fifty rupees	0 8 0
	When such judgment or order is passed by a High Court	1 0 0
3. Copy of a decree or order having the force of a decree.	When such decree or order is made by any Civil Court other than a High Court, or by any Revenue Court,—	
	(*a*).—If the amount or value of the subject-matter of the suit wherein such decree or order is made, is fifty or less than fifty rupees	0 8 0
	(*b*).—If such amount or value exceeds fifty rupees	1 0 0
	When such decree or order is made by a High Court	4 0 0

* To ascertain the proper fee leviable on the institution of a suit, see the Table annexed to this Schedule.

SCHEDULE I,—*continued.*

		Proper Fee. Rs. A. P.
4. Copy of any instrument or writing liable to stamp-duty under the General Stamp Act, 1869, when left by any party to a suit or proceeding in place of the original withdrawn.	(*a*).—When the stamp-duty chargeable on the original does not exceed eight annas ...	The amount of the duty chargeable on the original.
	(*b*).—In any other case	0 8 0
5. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like taken out of any Civil or Criminal Court or Office, or from the Office of any chief officer charged with the executive administration of a Division or Department.	For each folio of 360 words	0 8 0
6. Probate of a will granted under the Indian Succession Act, 1865.	If the amount or value of the property comprised in the will does not exceed Rs. 500 ...	1 0 0
	If such amount or value exceeds Rs. 500, but does not exceed Rs. 1,000	10 0 0
	For every Rs. 1,000 or part thereof in excess of Rs. 1,000 up to Rs. 20,000	20 0 0
	For every Rs. 5,000 or part thereof in excess of Rs. 20,000 up to Rs. 40,000	50 0 0
	For every Rs. 5,000 or part thereof in excess of Rs. 40,000 up to Rs. 1,00,000	100 0 0
	For every Rs. 10,000 or part thereof in excess of Rs. 1,00,000 up to Rs. 2,00,000	150 0 0
	For every Rs. 50,000 or part thereof in excess of Rs. 2,00,000 up to Rs. 5,00,000	500 0 0
	And for every Rs. 1,00,000, or part thereof in excess of Rs. 5,00,000	1,000 0 0
7. Certificate of administration granted under Act No. XL of 1858 *(for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal).*	If the amount or value of the property in respect to which such certificate is granted does not exceed Rs. 500	5 0 0
	If such amount or value exceeds Rs. 500 but not Rs. 1,000	10 0 0
	And for every Rs. 1,000 or part thereof in excess of Rs. 1,000	5 0 0

SCHEDULE I,—*concluded.*

		Proper Fee. Rs. A. P.
8. Certificate of administration granted under Act No. XXVII of 1860 *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons).* 9. Letters of administration granted under the Indian Succession Act, 1865.	If the amount of debts or value of the property in respect of which such certificate or letters is or are granted does not exceed Rs. 500 ...	5 0 0
	If such amount or value exceeds Rs. 500, but does not exceed Rs. 1,000	15 0 0
	For every Rs. 1,000 or part thereof in excess of Rs. 1,000 up to Rs. 2,000	30 0 0
	For every Rs. 5,000 or part thereof in excess of Rs. 20,000 up to Rs. 40,000	75 0 0
	For every Rs. 5,000 or part thereof in excess of Rs. 40,000 up to Rs. 1,00,000	150 0 0
	For every Rs. 10,000 or part thereof in excess of Rs. 1,00,000 up to Rs. 2,00,000	225 0 0
	For every Rs. 50,000 or part thereof in excess of Rs. 2,00,000 up to Rs. 5,00,000	750 0 0
	For every Rs. 1,00,000 or part thereof in excess of Rs. 5,00,000	1,500 0 0
	NOTE.—The person to whom any such certificate or letters is or are granted, or his representative shall, after the expiration of twelve months from the date of such certificate or letters and thereafter whenever the Court which granted such certificate or letters shall require him so to do, file a statement on oath of all monies recovered or realised by him under such certificate or letters, and if the monies so recovered or realised shall exceed the amount of debts or other property as sworn to by the person to whom the certificate or letters is or are granted, the Court may cancel the same, and order such person to take out a fresh certificate or letters, as the case may be, and pay the fee prescribed by this schedule for such excess. In default of filing such statement within the time allowed, the Court may cancel the certificate or letters, as the case may be.	

Table of rates of ad valorem fees leviable on the institution of suits.

When the amount or value of the subject-matter exceeds	But does not exceed	
Rs.	Rs.	Rs. A. P.
.....	5	0 6 0
5	10	0 12 0
10	15	1 2 0
15	20	1 8 0
20	25	1 14 0
25	30	2 4 0
30	35	2 10 0
35	40	3 0 0
40	45	3 6 0
45	50	3 12 0
50	55	4 2 0
55	60	4 8 0
60	65	4 14 0
65	70	5 4 0
70	75	5 10 0
75	80	6 0 0
80	85	6 6 0
85	90	6 12 0
90	95	7 2 0
95	100	7 8 0
100	110	8 4 0
110	120	9 0 0
120	130	9 12 0
130	140	10 8 0
140	150	11 4 0
150	160	12 0 0
160	170	12 12 0
170	180	13 8 0
180	190	14 4 0

Table of rates of ad valorem fees, &c.,—continued.

When the amount or value of the subject-matter exceeds	But does not exceed	
Rs.	Rs.	Rs. A. P.
190	200	15 0 0
200	210	15 12 0
210	220	16 8 0
220	230	17 4 0
230	240	18 0 0
240	250	18 12 0
250	260	19 8 0
260	270	20 4 0
270	280	21 0 0
280	290	21 12 0
290	300	22 8 0
300	310	23 4 0
310	320	24 0 0
320	330	24 12 0
330	340	25 8 0
340	350	26 4 0
350	360	27 0 0
360	370	27 12 0
370	380	28 8 0
380	390	29 4 0
390	400	30 0 0
400	410	30 12 0
410	420	31 8 0
420	430	32 4 0
430	440	33 0 0
440	450	33 12 0
450	460	34 8 0
460	470	35 4 0
470	480	36 0 0
480	490	36 12 0

Table of rates of ad valorem fees, &c.,—continued.

When the amount or value of the subject-matter exceeds	But does not exceed	
Rs.	Rs.	Rs. A. P.
490	500	37 8 0
500	510	38 4 0
510	520	39 0 0
520	530	39 12 0
530	540	40 8 0
540	550	41 4 0
550	560	42 0 0
560	570	42 12 0
570	580	43 8 0
580	590	44 4 0
590	600	45 0 0
600	610	45 12 0
610	620	46 8 0
620	630	47 4 0
630	640	48 0 0
640	650	48 12 0
650	660	49 8 0
660	670	50 4 0
670	680	51 0 0
680	690	51 12 0
690	700	52 8 0
700	710	53 4 0
710	720	54 0 0
720	730	54 12 0
730	740	55 8 0
740	750	56 4 0
750	760	57 0 0
760	770	57 12 0
770	780	58 8 0
780	790	59 4 0

Table of rates of ad valorem fees, &c.,—continued.

When the amount or value of the subject-matter exceeds	But does not exceed	
Rs.	Rs.	Rs. A. P.
790	800	60 0 0
800	810	60 12 0
810	820	61 8 0
820	830	62 4 0
830	840	63 0 0
840	850	63 12 0
850	860	64 8 0
860	870	65 4 0
870	880	66 0 0
880	890	66 12 0
890	900	67 8 0
900	910	68 4 0
910	920	69 0 0
920	930	69 12 0
930	940	70 8 0
940	950	71 4 0
950	960	72 0 0
960	970	72 12 0
970	980	73 8 0
980	990	74 4 0
990	1,000	75 0 0
1,000	1,100	80 0 0
1,100	1,200	85 0 0
1,200	1,300	90 0 0
1,300	1,400	95 0 0
1,400	1,500	100 0 0
1,500	1,600	105 0 0
1,600	1,700	110 0 0
1,700	1,800	115 0 0
1,800	1,900	120 0 0

Table of rates of ad valorem fees, &c.,—continued.

When the amount or value of the subject-matter exceeds	But does not exceed	
Rs.	Rs.	Rs. A. P.
1,900	2,000	125 0 0
2,000	2,100	130 0 0
2,100	2,200	135 0 0
2,200	2,300	140 0 0
2,300	2,400	145 0 0
2,400	2,500	150 0 0
2,500	2,600	155 0 0
2,600	2,700	160 0 0
2,700	2,800	165 0 0
2,800	2,900	170 0 0
2,900	3,000	175 0 0
3,000	3,100	180 0 0
3,100	3,200	185 0 0
3,200	3,300	190 0 0
3,300	3,400	195 0 0
3,400	3,500	200 0 0
3,500	3,600	205 0 0
3,600	3,700	210 0 0
3,700	3,800	215 0 0
3,800	3,900	220 0 0
3,900	4,000	225 0 0
4,000	4,100	230 0 0
4,100	4,200	235 0 0
4,200	4,300	240 0 0
4,300	4,400	245 0 0
4,400	4,500	250 0 0
4,500	4,600	255 0 0
4,600	4,700	260 0 0
4,700	4,800	265 0 0
4,800	4,900	270 0 0

Table of rates of ad valorem fees, &c.,—continued.

When the amount or value of the subject-matter exceeds	But does not exceed	
Rs.	Rs.	Rs. A. P.
4,900	5,000	275 0 0
5,000	5,250	285 0 0
5,250	5,500	295 0 0
5,500	5,750	305 0 0
5,750	6,000	315 0 0
6,000	6,250	325 0 0
6,250	6,500	335 0 0
6,500	6,750	345 0 0
6,750	7,000	355 0 0
7,000	7,250	365 0 0
7,250	7,500	375 0 0
7,500	7,750	385 0 0
7,750	8,000	395 0 0
8,000	8,250	405 0 0
8,250	8,500	415 0 0
8,500	8,750	425 0 0
8,750	9,000	435 0 0
9,000	9,250	445 0 0
9,250	9,500	455 0 0
9,500	9,750	465 0 0
9,750	10,000	475 0 0
10,000	10,500	490 0 0
10,500	11,000	505 0 0
11,000	11,500	520 0 0
11,500	12,000	535 0 0
12,000	12,500	550 0 0
12,500	13,000	565 0 0
13,000	13,500	580 0 0
13,500	14,000	595 0 0
14,000	14,500	610 0 0

Table of rates of ad valorem fees, &c.,—continued.

When the amount or value of the subject-matter exceeds	But does not exceed	
Rs.	Rs.	Rs. A. P.
14,500	15,000	625 0 0
15,000	15,500	640 0 0
15,500	16,000	655 0 0
16,000	16,500	670 0 0
16,500	17,000	685 0 0
17,000	17,500	700 0 0
17,500	18,000	715 0 0
18,000	18,500	730 0 0
18,500	19,000	745 0 0
19,000	19,500	760 0 0
19,500	20,000	775 0 0
20,000	21,000	795 0 0
21,000	22,000	815 0 0
22,000	23,000	835 0 0
23,000	24,000	855 0 0
24,000	25,000	875 0 0
25,000	26,000	895 0 0
26,000	27,000	915 0 0
27,000	28,000	935 0 0
28,000	29,000	955 0 0
29,000	30,000	975 0 0
30,000	32,000	995 0 0
32,000	34,000	1,015 0 0
34,000	36,000	1,035 0 0
36,000	38,000	1,055 0 0
38,000	40,000	1,075 0 0
40,00	42,000	1,095 0 0
42,000	44,000	1,115 0 0
44,000	46,000	1,135 0 0
46,000	48,000	1,155 0 0

Table of rates of ad valorem fees, &c.,—concluded.

When the amount or value of the subject-matter exceeds	But does not exceed	
Rs.	Rs.	Rs. A. P.
48,000	50,000	1,175 0 0
50,000	55,000	1,200 0 0
55,000	60,000	1,225 0 0
60,000	65,000	1,250 0 0
65,000	70,000	1,275 0 0
70,000	75,000	1,300 0 0
75,000	80,000	1,325 0 0
80,000	85,000	1,350 0 0
85,000	90,000	1,375 0 0
90,000	95,000	1,400 0 0
95,000	1,00,000	1,425 0 0
1,00,000	2,00,000	1,925 0 0
2,00,000	3,00,000	2,425 0 0
3,00,000	4,00,000	2,925 0 0

SCHEDULE II.

Fixed Fees.

		Proper Fee.
1. Application or petition...	(*a.*) When presented to any officer of the Customs or Excise Department or any other executive officer by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings; or when presented to any officer of Land Revenue by any person holding temporarily-settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such land; or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the petition relates solely to such conservancy or improvement; or when presented to any Civil Court other than a principal Civil Court of original jurisdiction, or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859, or to any Court of Small Causes constituted under Act No. XI of 1865, or Act No. XVI of 1868, section 20, or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees; or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or Office.	One anna.
	(*b.*) When first presented to any Civil or Revenue Court for service or execution of process.	Twelve annas.
	Whenever presented to such Court after the expiration of the time fixed under section twenty-four of this Act for such service or execution.	Eight annas.
	(*c.*) When containing a complaint or charge of any offence other than an offence for which Police officers may, under the Criminal Procedure Code, arrest without warrant, and presented to any Criminal Court; or when relating to any matter not otherwise provided for by this Act, and presented to a Civil, Criminal or Revenue Court, or to a Collector, or any revenue officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity.	Eight annas.
	(*d.*) When presented to a Chief Commissioner or other chief controlling revenue or executive authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a Division or Department.	One rupee.

23

SCHEDULE II,—*continued.*

		Proper Fee.
2. Plaint in suit under sec. 5, 6, 11, 14 or 25 of the Panjáb Tenancy Act, 1868 ...	... ...	Eight annas.
3. Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any court or executive authority	... ...	Eight annas.
4. Petition of appeal under the Indian Income Tax Act, section 21	... ...	One rupee.
5. Mukhtárnáma or Wakálatnáma.	When presented for the conduct of any one case— (*a.*) to any Civil or Criminal Court other than a High Court, or to any Revenue Court, or to any Collector or Magistrate, or other executive officer, except such as are mentioned in clauses (*b*) and (*c*) ... ... (*b.*) to a Commissioner of Revenue, Circuit or Customs, or to any officer charged with the executive administration of a division, not being the chief revenue or executive authority ... ... (*c.*) to a High Court, Chief Commissioner, Board of Revenue, or other chief controlling revenue or executive authority	Eight annas. One rupee. Two rupees.
6. Petition of appeal not provided for by the first paragraph of Schedule I to this Act annexed ...	When the appeal is not from an order rejecting a plaint or from a decree or an order having the force of a decree, and is presented— (*a.*) to any Civil Court other than a High Court, or to any Revenue Court or executive officer other than the High Court or chief controlling revenue or executive authority ... ... (*b.*) to a High Court or Chief Commissioner, or other chief controlling executive or revenue authority ...	Eight annas. Two rupees.
7. Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866 ...	... ...	Five rupees.
8. Plaint in a suit to obtain possession of a wife ...		
9. Any petition mentioned in sec. 47 of the Indian Divorce Act		
10. Administration-bond executed pursuant to the Indian Succession Act, 1865	... ...	Eight rupees.
11. Plaint in suit where it is not possible to estimate at a money-value the subject-matter, and which is not otherwise provided for by this Act ...	... .	Ten rupees.
12. Petition of plaint or appeal under the Párs Marriage and Divorce Act, 1865 ...	...	

SCHEDULE III.

ENACTMENTS REPEALED.

Number and year of Enactment.	Title of Enactment.	Extent o repeal.
Act No. X of 1859 ...	An Act to amend the law relating to the recovery of rent in the Presidency of Fort-William.	So much section as relate the stam be born a petitio appeal.
Act No. X of 1862 ...	An Act to consolidate and amend the law relating to Stamp-duties.	So much has not repealed
Act No. XX of 1862 ...	An Act to provide for the levy of fees and Stamp-duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain sections of Act VIII of 1859 in the said High Court.	Section 2
Act No. XI of 1863 ...	An Act to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process.	Sections and 10.
Act No. X of 1865 ...	The Indian Succession Act, 1865 ...	Section 3 the Sche
Act No. XV of 1865 ...	The Pársí Marriage and Divorce Act, 1865 ...	Section 3
Act No. XVIII of 1865 ...	An Act to amend Act No. X of 1862 (to consolidate and amend the law relating to Stamp-duties).	The whole
Act No. XXI of 1866 ...	The Native Converts' Marriage Dissolution Act, 1866.	In sectio the ' shall stamp two r and'
Act No. XXVI of 1867 ...	An Act to amend the law relating to Stamp-duties.	The whole
Act No. XV of 1868 ...	The High Court Fees Act, 1868 ...	The whole
Act No. XXVIII of 1868 ...	The Panjáb Tenancy Act, 1868 ...	Section
Act No. IV of 1869 ..	The Indian Divorce Act ...	In sectio the ' shall a stam four r and'

16798

SCHEDULE III,—*continued.*

Number and year of Enactment.	Title of Enactment.	Extent of repeal.
Act No. IX of 1869 ...	The Indian Income-tax Act ...	In section 21, the words 'shall bear a stamp of one rupee and'
Bengal Act No. V of 1863 ...	An Act to amend the law relating to the employment and remuneration of Peons for the service and execution of the process of the Civil and Revenue Courts.	Sections 7, 9 and 10.
Madras Regulation III of 1802	A Regulation for receiving, trying and deciding suits on complaints declared cognizable in the Courts of Adawlut established in the several zillahs immediately subject to the Presidency of Fort St. George.	Section 21, from 'when' down to 'writing' (both inclusive).

STATEMENT OF OBJECTS AND REASONS.

THE rates of Stamp fees leviable in Courts and offices established beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, and in proceedings on the appellate side of such High Courts, were, as fixed by Act XXVI of 1867, to a great extent tentative.

The experience gained of their working during the two years in which they have been in force, seems to be conclusive as to their repressive effect on the general litigation of the country.

It is, therefore, thought expedient to make a general reduction in the rates now chargeable on the institution of civil suits, and to revert to the principle of a maximum fee which obtained under the former law.

It is proposed also to reduce the valuation fixed by the existing law for the computation of the fee leviable on suits relating to land under temporary settlement or land exempt from the payment of revenue to the Government which is believed to be, at least relatively, excessive, as compared with the valuation of permanently settled land; and to provide for the valuation of suits relating to mere parcels of land, which, though forming part of estates under settlement, bear no specific allotment of any portion of the assessment of Government revenue on such estates, at the estimated selling price of such land, as was the rule in those cases under Act X of 1862.

The want of some fixed valuation applicable to certain classes of suits—as for example, suits instituted between landlord and tenant to recover a right of occupancy or enforce ejectment, or suits for maintenance or for an annuity,—the subject-matter of which, though not absolutely indeterminable, is certainly not susceptible of ready determination, has given rise to much uncertainty and variety in the procedure adopted by the several Courts in such cases; and the amendment of the existing law in this respect is felt to be urgently called for.

In deference to the strong objections entertained by the local authorities in certain Provinces to the retention of the fee imposed on the presentation of certain petitions in the Criminal Courts, it is proposed to reduce the amount of such fee from one rupee to eight annas.

The uniform exaction of a fee of eight annas in the case of all petitions addressed to a Revenue Officer or a Magistrate, works harshly in its application to such communications when Presented by persons having dealings or transactions with the Government in relation to such transactions. Equitable considerations require that petitions of this kind should be excepted from the operation of the general rule, and the Bill makes suitable provision for such cases.

The *ad valorem* fee now chargeable on summaty suits instituted under Act XVI of 1838 and the Bombay Act (V of 1864) is represented as working unsatisfactorily, and the substitution of a fixed rate is recommended.

It is to be observed that an award in such cases is liable to be set aside by a judgment passed in regard to the same matter in a regular suit, hence it appears more equitable to treat these summary suits as miscellaneous applications and to subject them to a similar fixed institution-fee.

As the Bill provides for a considerable reduction of the fees heretofore chargeable on Civil suits of small amount, it seems unnecessary to maintain the present distinction between the Courts of Cantonment Joint Magistrates and other Civil Courts in respect of the amount of fee leviable on the institution of such suits.

It is proposed also to exempt suits instituted in a Military Court of Requests from the payment of any fee. The constitution of such Courts is peculiar; they form no part of the regular machinery employed in the general administration of justice; the present measure therefore is inapplicable to them. Moreover, the suitor in such Courts is placed at this disadvantage as compared with suitors in the ordinary Civil Courts that, although he may gain his case, he is unable to recover the costs which he has incurred in prosecuting his claim: hence the incidence of the taxation imposed by the levy of an institution-fee in such cases is inequitable.

Suits for the restitution of wives, which are of common occurrence in the Panjáb, are held to be somewhat excessively taxed under the present law, which prescribes that in suits the money value of the subject-matter of which cannot be estimated, a fixed fee of Rs. 10 shall be levied; the Bill substitutes for that rate in such cases a special fee of Rs. 5.

The clause in Act XXVI of 1867, exempting Advocates of a High Court from the obligation of presenting to any Court a written authority empowering them to act in any case pending in such Court, is excluded from the Bill. Such a provision appears to be beyond the scope of an enactment for regulating the levy of Court fees. It is, moreover, open to the objection that it conflicts with Section 18 of the Civil Procedure Code, and consequently creates some doubt as to the intention of the Legislature.

As some measure of compensation for the loss of revenue which is expected to result from the general reduction of fees, it is proposed to discontinue the refund of any portion of the amount levied on the first institution of suits, and also to raise the fees heretofore chargeable on probates and letters of administration granted under the Indian Succession Act, and on certificates issued under Act XXVII of 1860, to the *ad valorem* rates leviable under the English law in like cases.

The abolition of refunds is justified by the consideration that for all practical purposes in the majority of cases, the plaintiff, whose suit has not gone beyond the stage at which under the present law he is entitled to recover a moiety of the institution-fee, has gained as much through the Court's agency as the suitor whose case has proceeded to a decision, and that therefore, on the principle on which all Court fees are adjusted, the former should contribute in equal proportion with the latter to the maintenance of the Courts from whose action both derive an equal benefit.

In lieu of the existing rates of process-fees, which vary according to the distance of the Court by which the processes are issued from the place where they are to be served or executed, it is proposed to levy, by means of stamps, an uniform rate in all cases. All suitors will thus be required to contribute in equal proportion to the maintenance of the establishment employed in the serving of processes, without reference to the length of time occupied in each service and the consequent amount of work rendered on behalf of each person at whose instance any process is served or executed.

Such a provision is in accordance with the modern system under which the charges in the Postal and Electric Telegraph Departments are regulated, and is also more equitable to the general community.

The incorporation of the High Court Fees Act (XV of 1868) with, and the transfer of so much of the provisions of the Pársí Marriage and Divorce Act, 1865, the Native Converts'

Marriage Dissolution Act, 1866, the Panjáb Tenancy Act, 1868, the Indian Divorce Act, and the Indian Income Tax Act, as relate to the levy of stamp fees in judicial proceedings to, the present Bill appear to be conducive to public convenience, as the whole of the existing law relative to fees leviable in all Courts of Justice will thus be contained in one enactment.

With the same object this Bill purports to effect a complete re-arrangement of the provisions of the existing law on this subject, a similar classification of instruments chargeable with Court fees to that which obtains in the General Stamp Act having been adopted, and the rules for determining the value of the subject-matter of certain suits being transferred from the Schedule where they are to be found in Act XXVI of 1867, to the body of the proposed Act.

Lastly, that for the future there may be no confusion between stamp-revenue proper and the revenue derived from what have heretofore been termed 'judicial stamps,' the proceeds of the proposed enactment are to be designated Court fees, and the Bill is entitled accordingly.

SIMLA,
The 28th September 1869.

F. R. COCKERELL.

Government of India.

LEGISLATIVE DEPARTMENT.

Annexure

to

Court Fees Bill, 1869.

(Statement of Objects and Reasons.)

JUDICIAL DEPARTMENT.

No. 1698.

To

THE HONOURABLE SIR C. H. SCOTLAND, *Kt.*,
Chief Justice of the High Court of Judicature at Madras.

HONOURABLE SIR,

I am directed to transmit the annexed copy of a letter,* received from the Secretary to the Council of the Governor-General for making Laws and Regulations, forwarding a copy of "The Court Fees' Bill," and to request that the Honourable the Judges of the High Court will be good enough to communicate their views on the provisions of the proposed enactment, and on the several points connected with the subject, which are specified in Mr. Whitley Stokes' letter.

* Dated 11th October 1869, No. 323.

I have the honour to be,
Honourable Sir,
Your most obedient servant,

FORT SAINT GEORGE,
26th October 1869.

Actg. Secy. to Govt.

Exd. J. Wright.

If there is no decided objection to

JUDICIAL.

To

THE HON. THE CHIEF JUSTICE OF THE
HIGH COURT OF JUDICATURE,
Madras.

Dated October, 26*th*.

Recd.

Encl.

G. O., 26th October 1869, No. 1693.

OCTOBER.
Nos. 113—115.

Requesting the Honorable the Judges of t
High Court to communicate their views on t
provisions of "The Court Fees Bill," and on t
several points connected with the proposed enq
ment specified in Mr. Secretary Whitley Stok
letter.

164788

No. 323

From

Whitley Stokes Esqre
Secretary to the Council of the Govr. Genl.
for making Laws and Regulations

To

The Chief Secretary to Government
For Fort St. George

Dated Simla the 11th October 1869

Legislative Department

Court Fees Bill, 1869

Sir,

I am directed to forward a copy of the Bill marginally noted, with annexure, published in the Gazette of India of the 2nd instant by order of His Excellency the Governor General, and to request that you will be so good as to obtain and submit to the Government of India, in this Department, the opinions of the Honble the Judges of the High Court at Madras and of the Advocate General on the provisions of the Bill, and also on the following points:-

1st Assuming that the rates of fees now levied on the Original side of the High Court, Madras, have undergone no change since they were originally fixed under the authority conferred by the Letters Patent, whether those fees could conveniently and unobjectionably be made permanent by insertion in the present Bill?

If there is no decided objection to

169-98
37

Judicial 1869 Department.

From

Secretary to the Govt. of India,
Legislative Department.

No. 923

Dated 11th
Received 21st } Oct

Subject Fees No. 2491

Calling for opinion on the provisions of the "Court Fees Bill" of 1869.-

c 22/10-
1869

113.

to such a course, the advantage of its adoption, on the score of public convenience, would appear to be unquestionable.

2nd. Whether, in lieu of the present system, it would be practicable to provide for the remuneration of Amins employed by the Civil Courts in making local investigations by fixed charges on the suitors, at whose instance they are employed, and whether the amount of such charges could be levied by means of Stamps?

3rd. Whether it is expedient to impose on petitions or applications for review of judgment a fee (either of fixed amount or ad valorem) higher than that to which miscellaneous petitions or applications are subject?

With regard to the provisions of the Bill, I am to invite your particular attention to the proposed repeal of portion of Madras Regulation III of 1802, sec. 21.-

I have the honor to be,
Sir,
Your Obedient Servant
Whitley Stokes
Secretary to the Council of the Govr. Genl for making Laws and Regulations.

2

…in course the advantage of its adoption,

169798

37

Judicial Department

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Secretary to the Council of the Governor General for making Laws & Regulations (Dated 11th Octr. 1869. No 323).

Ordered 26 Octr. 1869. No 1869

No 1

Pursuant to the instructions conveyed in the foregoing letter, the Honourable the Judges of the High Court and the Advocate General will be requested to communicate their opinions on the provisions of the Court Fees Bill, and on the several points connected with the proposed

proposed enactment,
which are specified in
Mr Secretary Whitley
Stokes' letter.

To
The Hon'ble Sir C. H. Scotton
Knight
Chief Justice of the Hi Ct
Court of Judicature
at Madras

Hon'ble Sir,

I am directed to transmit the annexed Copy of a letter received from the Secretary to the Council of the Governor for making laws and Regulations forwarding a Copy of the Court Fees Bill", and to request that the Hon'ble the Judges of the High Court will be good enough to communicate their views on the provisions of the proposed Enactment and on the several points Connected with the subject, which are specified in Mr. Whitley Stokes' letter.

No. 1698 dated 28/10

Judicial Department

Fort St. George
26th October 1869.

To
The Hon'ble the Judges of the
High Court
The Advocate General

with Copy of the Court Fees' Bill & its Annexure.

dated 28/10

8/11th Oct. 1869
No 323

18/4/83
7-9-17

Govt. of {1869} Madras.

Jud

To
The Hon'ble the Judges of the
High Court &c

Dated 26 Sept. 1868 } 1869, No. 1097

Recd. 1/10/68

Nos. 113. 115.

Directing that the Hon. the Judges of the High Court and the Advocate Genl. be requested to communicate their opinions on the provisions of the Court Fees Bill, and on the several points connected with the proposed enactment specified in Mr. Secy. Whitley Stokes' letter.