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MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No. 1762	Press
	~~Mis.~~
<i>97-97</i>	
Dated 29-11-1954	19

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Department,
24th November 1871.*

Read the following papers :—

No. 97. From the Acting Protector of Emigrants, to the Chief Secretary to Government, Fort St. George, dated Madras, 9th September 1871, No. 128-M.

With reference to the Proceedings of Government in the Public Department, dated 25th August 1871, and to the Order of Government of the same date, No. 1308, I have the honour to bring to the notice of Government that the meaning of the word "emigrant," according to Act VII. of 1871, is peculiar and difficult to understand.

2. Interpretation Clause 3 is given *verbatim* in the margin.

Act VII. of 1871.
(3.) In this Act "emigrate" denotes the departure of any Native out of British India for the purpose of labouring for hire in some other place; and the word "emigrant" denotes any Native of India under engagement to emigrate.

3. According to this section, children under ten years of age are not emigrants within the meaning of the Act. They merely accompany their parents for protection and maintenance. They do not "depart out of India for the purpose of labouring for hire," nor are they "under an engagement to emigrate."

4. Clause 5 of Section 41, however, seems to include children under ten years of age as emigrants. I beg, however, to observe that if by this clause children under* ten are to be considered emigrants, only 12 Annas can be charged as a registration fee, and the Order of Government alluded to above requires modification. I have to apologize for an error in my letter, dated 16th August 1871, No. 116-M. I there stated that Section 41 merely alluded to the space (on board of ship) to be allowed to each emigrant, whereas Clause 5 of this section says "for the purposes of this Act," and of these purposes registration must be one. The early orders of Government are solicited.

(5.) "An emigrant above the age of ten years shall for the purposes of this Act count as an adult, and two children from one to ten years of age shall count as one adult."

* (And over one year of age.)

No. 406.

Referred to the Advocate-General for his opinion.

(Signed) R. S. ELLIS,
Chief Secretary.

No. 98. From the Government Solicitor, to the Chief Secretary to Government, Fort St. George, dated Madras, 13th October 1871, No. 397, submitting the following opinion of the Advocate-General:—

OPINION.

Payment of Rupees 1-8-0 is only demandable on the registration of an emigrant under Section 31.

2. To see who an "emigrant" is, reference must be had to the Interpretation Clause, Section 3. The term is there defined "any Native of India *under an engagement to emigrate.*"

3. It cannot be said that children, it may be infants at the breast who accompany their parents, are "under an engagement to emigrate," *i. e.*, "to labour for hire in some other place."

24th November 1871.

4. If the practise obtains of registering such children, I can only say that it is superfluous, and that others than "emigrants" are registered.

5. Section 31 refers to registration of emigrants under Sections 27 or 29. Referring to these sections, it will be found that they both apply to Natives of India who "enter into any engagement with a recruiter to emigrate."

6. Section 41, Clause 5, evidently only refers to the amount of space which each person shall be entitled to enjoy. A man or woman of thirty or forty years of age would satisfy the description "an emigrant above the age of ten;" though if the legislature contemplated "emigrants" of the age of eleven or under sixteen if a Hindoo, as may be contended from the language used, perhaps attention was not sufficiently drawn to the question whether an infant can (except as an apprentice) enter into any binding engagement to labour. Children from one to ten are to count not as one "emigrant," but one *adult*. I am clearly of opinion that fees are only demandable on the registration of "emigrants" as defined in Section 3.

(Signed) JOHN BRUCE NORTON,

Advocate-General.

12th October 1871.

No. 99. ORDER THEREON, 24th November 1871, No. 1762.

Ordered that, in supersession of the Order of Government under date the 25th August 1871, No. 1308, the opinion of the Advocate-General above recorded be communicated to the Protector of Emigrants and to the several Magistrates of Districts for their information and guidance.

(True Extract.)

Chief Secretary.

To the Protector of Emigrants,
,, Magistrate of

Memorandum for Orders

The question raised in this ~~matter~~ correspondence is the rate of fee to be levied under Section 31 of Act VII of 1871 on the registration of children under ten who are registered on Emigration.

The section is marginally revised and prescribes a uniform fee of one rupee eight annas. No mention is made of any reduction on account of children, although in Section 41, relating to space to be provided on board ship, children over ten are declared adults, and two children from one to ten years of age are declared equal to one adult.

In the interpretation clause of Act VII of 1871, "Emigrant" denotes the departure of any native

Section 31. For the registration of every emigrant under Section 27 or Section 29, the Recruiter shall pay to the Magistrate or Protector of Emigrants, as the case may be, a fee of one rupee and eight annas.

G.O. of 1871 24th Nov.

PUBLIC.

THE PROTECTOR OF EMIGRANTS.

By, Secy. to

Dated November, 24th.

Recd.

Recd.

G. O. of 24th November 1871, No. 1702.

NOVEMBER.
Nos. 27-39.

Communicated, in pursuance of G. O. 25th August 1871, No. 1305, the Advocto-General's opinion relative to the construction of the word "emigrant" used in Act VII of 1871, and as to the amount to be charged for children as a registration fee.

Should the matter be
referred for opinion of
Advocate General?

Yes. We had letter
ask the Advocate
General.

C. 18-8

Opinion.

Payment of Rs. 1-8- is only demandable on the
registration of an Emigrant under Sec: 31.

2. To see who an 'Emigrant' is, reference must be had
to the interpretation Clause Sec: 3. The term is there
defined "any Native of India under an engagement
to emigrate."

3. It cannot be said that Children, it may be
infants at the breast who accompany their parents
are "under an engagement to emigrate", i.e. "to labour
for hire in some other place."

4. If the practice obtains of registering such
Children, I can only say that it is superfluous, and that
others than 'emigrants' are registered.

5. Sec: 31 refers to registration of emigrants
under Secs: 27 or 29. Referring to these Sections, it will
be found that they both apply to Natives of India who
enter into any engagement with a recruiter to emigrate.

6. Section 41. Cl. 5 evidently only refers to the
amount of space which each person shall be entitled to
enjoy. A man or woman of 30 or 40 years of age would
satisfy the description "an emigrant above the age of ten";
though if the Legislature contemplated "emigrants" of
the age of 11 or under 16 if a Hindu, as may be contended
from the language used, perhaps attention was not
sufficiently drawn to the question whether an infant
can (except as an apprentice) enter into any binding
engagement to labour. Children from 1 to 10 are to
count not as one "emigrant", but one adult. I am
clearly of opinion that fees are only demandable on
the

the registration of "Emigrants" as defined in Sec. 3. -

/Signed/ John Bruce Norton
Ado. Genl.

12th Oct. 1871.

/True Copy/

H. G. Richard
Government Solicitor.

No
N^o 128

Protectors Office.
Madras 9th September 1871.

From

The Honourable D Arbutnotth
Acting Protector of Emigrants

To

The Honourable R. S. Ellis C. B.
Chief Secretary to Government
Colacaminde.

Sir

With reference to the Proceed-
-ings of Government in the Public Depart-
-ment dated 25th August 1871 and to
the order of Government of the same
date N^o 1308 I have the honour to bring
to the notice of Government that the
meaning of the word "Emigrant" ac-
-cording to Act VII of 1871 is peculiar
and difficult to understand.

Interpretation clause 3 is

2.

Act VII of 1871.

3. In this Act.

"Emigrate" denotes the departure of any native
out of British India for the purpose of
labouring for hire in some other place; and the
word "Emigrant" denotes any native of India
under engagement to emigrate.

given verba-
-tum in the
margin

According

Enclosure in letter from
the Government of India,
Madras, to the Chief of
Department for Government
Colacaminde, dated
13th October 1871, C. N^o
397.

Recd. 24 Nov 2/71
En. 13. 11. 93.

En. 13. 11. 93.

3. According to this Section children under 10 years of age are not emigrants within the meaning of the Act. They merely accompany their parents for protection and maintenance. They do not "depart out of India for the purpose of labouring for hire" nor are they "under an engagement to emigrate."

4. Clause V of Section 41 however seems to include Children under 10 years of age as emigrants.

I beg however to observe that if by this clause children under ten are to be considered emigrants, only

12 Annas can be charged as a registration fee and the order of Government alluded to above requires modification. I have to apologize for an error in my letter dated 16th August 1871 No. 116. M. I there stated that Section 41 merely alluded to the space (on board of ship) to be allowed to each emigrant.

(5)

"An Emigrant above the age of 10 years shall for the purposes of this Act count as an adult" and two children from one to ten years of age shall count as one adult."

(and over one year of age)

grant, Wherein Clause V of this Section says "for the purposes of this Act" and of these purposes registration must be one. The early orders of Government are solicited.

I have the honour to be
Sir

Your most obedient Servant

W. H. Stuart
Acting Protector of Emigrants,

102406.

Referred to the Advocate General for his opinion.

for the Government Solicitor

with copy of Res. of 25th August 1871.
No. 1308. and a Memorandum

W. S. Ellis
Chief Secretary

Shall's instructions as regards the meaning of the word "emigrant" according to Act VII of 1871 and as to the amount to be charged for children as a registration fee.

10/10/36

date 14th Sept 1871
see 13

10/10/36
The Hon. Mr. Ellis C. B.
17 24 Nov 1871

Public. 1871. 54th

Refined

No. 397.

Madras 13th October 1871

From,

H. G. Prichard,
Government Solicitor.
Madras

To,

The Honorable R. S. Ellis C. B.
Chief Secretary to Government.
Cotacmand.

Sir,

I have the honor to acknowledge the receipt of the Order of Government together with its enclosures requesting the Advocate General's opinion relative to the construction of the word "Emigrant" under Act VII of 1871 and as to the amount to be charged for Children as a registration fee.

2. I submitted the matter for the consideration of the Advocate General and have also conferred with him thereon and

3. I now forward herewith a Copy of his opinion and return the enclosures forwarded with the Order of Government above noted.

I have the honor to be

Sir

Your most obedient servant

H. G. Prichard

Government Solicitor

Act of 1871
Public
The Protector of Emigrants

Dated Nov. 24
Recd

Encl

G. O. 24 Nov. 1871. No. 1762

Enc. 97. 99.

Coming in Inspection of G. O.
25 Aug. 1871 No. 1308 the Act.
Agent's opinion relative to
the construction of the word
"emigrant" used in Act
VII of 1871 and as to the
amount to be charged for
children as a registration
fee.

Act 1908
Nov. 25 Aug. 1871 No. 1308
Act VII of 1871.

Charles 1871: Report
The Govt. Secretary
to the Chief Secretary to Govt.
of the Colonies

Dated 19th October 1871.
Recd

No. 2325

No. 397.

Enclosure to the
Treasurer a copy of the
Act: Several opinions by
the Secretary of the
Board of Emigration and in
Act VII of 1871 and as to
the amount to be charged
for children as a registra-
tion fee & returning
the papers relating thereto.

Read Nov. 1908 & 2303.
Order No. 24 Nov. 1871 No. 1762.

Enclosed herewith in Inspection
of the Act of 1871 under date
Nov. 25 Aug. 1871 No. 1308, the
opinion of the Secretary
relative to the construction
of the word "emigrant"
and the amount to be charged
for children as a registra-
tion fee and as to the
amount to be charged for
children as a registration
fee.

The Protector of Emigrants
The Secretary of the Board of Emigration

97-99

with the