

No. 163. Read the following letter from the Acting Secretary to the Board of Revenue, to the Acting Secretary to Government, Revenue Department, dated Madras, 15th August 1870, No. 5,300:—

With reference to Government Order, 27th June 1870, No. 949, I am directed to submit draft rules framed under Sections 23 and 27 of the Court Fees Act (VII. of 1870).

2. The first six rules contain directions to Revenue-officers as to the entertainment of a Process-serving Establishment and the accounts to be kept under the Court Fees Act.

3. The Board learn that the High Court have drafted rules applicable to Magistrates, but they do not think it desirable that separate establishments should be entertained by the same officer for serving Magisterial and Revenue processes. It may, however, be necessary for administrative convenience that an officer should keep separate accounts for stamps filed before him in his Revenue and in his Magisterial capacity. These questions must be determined by Government.

4. A doubt has occurred to the Board as to whether *all* processes, issued by Collectors and their subordinates, are to be served under Chapter IV. of the Court Fees Act. The phrase used in the Act is "processes issued by a Revenue Court," but a Revenue-officer issuing processes is seldom acting as a Court. For one process issued under Regulation VI. of 1831, or Madras Act VIII. of 1865; for instance, there are at least a score issued under Madras Act III. of 1869. The Board have, however, assumed that the Court Fees Act applies to all Revenue processes, whether relating to judicial or administrative matters, and have accordingly used the phrase "Revenue-officers" instead of "Revenue Courts." Whether the law contemplates this arrangement or not, it does not forbid it, and it will be found convenient.

5. In Rule I., processes under Madras Act II. of 1864 have been expressly excluded, because they are all issued by and on behalf of Government, because Sections 53 and 54 of the Act provide specially for the service of processes under it, and because the practice at present is to conduct the service of such processes through village-officers.

6. Rule VI. prescribes the Registers to be kept. Forms E. and F. should, if Government approve of them, be adopted by all Courts. They are framed in accordance with paragraph 11 of the letter from the Government of India, recorded with Government Order, 6th April 1870, No. 453. No forms of this character are framed in the draft rules of the High Court, probably because this is considered a fit matter for the Revenue Department to determine.

7. Rules VII., VIII., and IX., refer to the supply of Court Fees Stamps. In Government Order, 27th June 1870, No. 947, Government have expressed an

opinion that one set of rules should be applicable to the sale of all stamps, whether under the General Stamp Act or the Court Fees Act. From the letter referred to above, it appears that the Government of India are in favour of sale by an officer of each Court (or his agent), remunerated (if at all) by a small fixed salary. Rules VII. and VIII. are framed so as to give Government the power to make either or both of these arrangements.

8. The Board are strongly of opinion that a mistake will be made, and that great inconvenience will be caused if Court Fees Stamps are not sold by vendors appointed under the General Stamp Act, of whom there is one at least in the immediate vicinity of every Civil Court. Some of the stamps, for instance, those on petitions, are not necessarily bought and used in the neighbourhood of the officer before whom they are to be filed; but, on the contrary, they are used in the remotest villages. Revenue-officers are always on the move, and there is no one in their over-worked establishments to whom the duty of selling stamps can be conveniently assigned. The Board prefer also that vendors should be remunerated by discount and not by fixed salaries. The Government of India point out that it is unnecessary, and, indeed, unadvisable to press the sale of Court Fees Stamps; but this does not prove that fixed salaries are preferable to discount. The discount can be fixed so that the remuneration of the vendor will be as small as the fixed salary could be made, and it will vary with his work and with the revenue derived.

9. The mention of the Madras Small Cause Court in Rule VII. and the provisions of Rule IX. are necessary, if the present system of refunds is to continue in that Court. The Government are aware that the Court issue orders for refunding half and full costs, and it has been considered necessary that the refunds should be made on the premises. Up to last year costs were collected in money, and refunds made by an officer of the Court; but it was deemed unadvisable that this practice should continue, and a stamp vendor was appointed, under orders from Government, last November on the agreement that he should have a monopoly of the sale of stamps used in the Court, and receive two per cent. discount on his sales, and, in return for these advantages, make refunds on the Court's order without delay, and conform to all the Court's instructions under a heavy penalty. The Court Fees Act does not provide for such a monopoly, but, on the other hand, it does not prohibit it; and the Board have no doubt that it can be sanctioned by the Governor-General in Council under the powers conferred by Section 27, if it is still deemed desirable to maintain it.

10. Rule X. refers to the manner in which the Process Service Stamps shall be filed and received. It is clear that the fee cannot be levied until the Court has decided that it will issue the processes. When this has been done, the fee can be levied either by requiring the petitioner to bring a number of stamps of different values corresponding to the number of processes, and letting some officer of the Court affix them to the processes, or by requiring the applicant to put in a written document stamped to the necessary amount. The Board believe the latter course will be found the more convenient to all parties concerned. There is something incongruous in requiring a Court to stamp its own orders, as is required by the Rule drafted by the High Court on this point.

11. The Schedule of Fees, referred to in Rule X., is to be framed by the High Court, subject to the confirmation of the Local Government and the sanction of the Governor-General in Council. The draft schedule which has been prepared by the High Court is not altogether what the Board think best suited for Revenue processes. Their views on the subject are given in paragraph 8 of their letter dated the 11th March 1870, No. 1,693. They would prefer that each process of the kind served by a Peon should be charged 8 Annas. The uncertainties which will be caused by varying the charge according to the number of the processes, the distance of the place where they are to be served, and the number of Peons employed as the High Court propose, will be aggravated by the frequent movements of Revenue-officers from place to place. With regard to processes served by Amins (attachment and sale of property), the Board have no objection to make to the draft schedule.

12. Rule XI. is framed on the model of Section 49 of the General Stamp Act.

13. Rule XII. relates to the renewal of damaged or spoiled stamps and to refunds of the value of stamps. It is framed on the model of Sections 45 and 46 of the General Stamp Act.

14. The case with regard to refunds is the same as that with regard to the monopoly referred to above. Refunds are not provided for by the Act (except in the special cases referred to in Sections 14 and 15), but, on the other hand, they are not prohibited; and the Board have no doubt that they can be sanctioned under the proper restrictions like any other payments of public money. If refunds are not allowed, the Board are convinced that the gravest injustice will be perpetrated. Considering the difficulty which has been experienced all through the Presidency in interpreting the Act, there can be no doubt but what Courts or their ministerial officers will often be in doubt what stamp a document should bear; and in such cases, they will naturally exact the highest of the values about which they are in doubt. As an instance, I am to mention that not long ago a petitioner presenting an application to the High Court was directed to stamp it to the value of Rs. 360, and did so, and that it was afterwards declared by the Court that the fee payable was only Rs. 2. If no refund is permitted in this case, the applicant will be fined Rs. 358 for a mistake in the Registrar's department.

RULES UNDER THE COURT FEES ACT (VII. of 1870.)

I.—RULES FOR REVENUE-OFFICERS.

A SEPARATE establishment of Amins and Peons will be attached to all Revenue-officers for the service of all processes issued by them, with the exception of processes issued under the Madras Arrears of Revenue Recovery Act (II. of 1864). Warrants of attachment and sale will be executed by Amins; other processes will be served by Peons. No Amin or Peon will be employed on duties unconnected with the service of processes, except under special circumstances. The Rules of the High Court provide that Amins shall be paid Rupees 14 a month, and Peons not more than Rupees 7.

*Proceedings of the Madras Government, Revenue Department,
13th March 1872.*

2. When convenience requires that processes issued by one officer shall be served by the Peons or Amins or another officer, they may be served accordingly.

3. The number of Amins and Peons attached to each officer shall be fixed, so that the cost of the establishment may be at least equalled by the amount of fees levied on the processes served by it. It shall be reported to the Board of Revenue in the first instance, and shall be altered from time to time as they may direct, and it shall not be increased without their sanction; but the Collector shall have power to transfer Peons or Amins from one officer to another within his jurisdiction as convenience may require.

4. No one shall be eligible for the office of Peon unless he can read and write, nor for the office of Amin unless he can read and write and keep accounts.

5. Peons shall wear a belt of the description ordinarily used in the Revenue Department, and a brass badge showing the designation of the officer under whom they serve, and a distinguishing number.

6. Registers in the forms A., B., C., D., E., F., shall be kept by all Revenue-officers.

Form A.—A book ruled in this manner is to be given to each Amin or Peon. The first two columns are to be filled up directly a process is entrusted to him, and the last three directly he returns.

Form B.—This is a Daily Register. It provides for the entry of all processes including those received or sent for service from or to another officer. If the process is received from another officer, the date or receipt of his letter must be entered in column 1, and, in this case, as the fees have not been collected by the officer keeping the Register, no entry will be made in column 4.

Form C.—This is a monthly abstract of processes issued. It includes processes sent to other officers for service, but not processes received from other officers. It is to be submitted through the officer in charge of the division to the Collector.

Form D.—This is an annual return which is to be compiled from the C. Registers by the Collector, and submitted to the Board as soon after the close of the official year as possible.

Forms E. and F.—These relate to stamps filed under Schedules 1 and 2 of the Court Fees Act. Directly a stamp is filed, it must be cancelled in accordance with the Act; and an entry must then be made in a rough book showing the amount of the stamp and the Schedule and Article under which it is levied. At the end of each day the total amount, collected under each Article, must be entered in its proper place in Form E. At the end of each month, the totals must be submitted in Form F. to the Collector. At the end of each official year, the totals for the whole year must be submitted by the Collector to the Board in a similar form.

*Proceedings of the Madras Government, Revenue Department,
13th March 1872.*

A. { Amin
Peon }
Register of Processes entrusted to

Nature of Process.	Date of Receipt.	Date of Return.	Distance travelled.	Remarks.
1	2	3	4	5

B. { Amin
Peon }
Daily Register of Applications for Processes, Service of Processes, and Stamp Fees levied on Processes in the office of

Date of Application.	Designation of Application.	Number and nature of Processes.	Amount of fees collected by stamps filed and cancelled in the Court.	Date on which the Process is issued and delivered to an Amin or Peon or sent to another Court.	Name of Amin, Peon, or Court.	Date of Return.	Nature of Return.	Remarks.
1	2	3	4	5	6	7	8	9

Proceedings of the Madras Government, Revenue Department,
13th March 1872.

MONTHLY Abstract of Processes issued, Process Service Fees collected, and cost of Process-serving Establishment in the office of _____ for the month of _____

Nature of Processes.	Number of each description of Process issued.	Number of each description of Process to which a return has been made.	Number of each description of Process to which a return has not been made.	Amount of fees collected by stamps filed and cancelled in the Court.	Cost of Process Service Establishment during the month.	Remarks.
1	2	3	4	5	6	7

D.

Annual Abstract of Processes issued, Process Service Fees collected, and cost of Process-serving Establishment in the District of _____ for the official year _____

Office or Court.	Nature of Processes issued.	Number of each description of Process issued.	Fees collected on Processes.	Cost of Process-serving Establishment.	Remarks.
1	2	3	4	5	6

Proceedings of the Madras Government, Revenue Department,
13th March 1872.

II.—RULES FOR THE SUPPLY OF STAMPS.

7. All Stamps required under the Court Fees Act, with the exception of those used in the Madras Court of Small Causes, shall be sold by the ex-officio and licensed vendors appointed to sell Stamps under the General Stamp Act (XVIII. of 1869), and by any other ex-officio or licensed vendors whom the Government may appoint.

8. All the rules promulgated under Section 48 of the General Stamp Act, with the exception of Rules I., II., and VI., shall be applicable to vendors under the Court Fees Act, and to the sale of Stamps by them, provided as follows :—

that the phrase "Stamps of Class 2" shall be held to include all Court Fees Stamps whether Adhesive or Impressed ;

that vendors shall not make an endorsement on the back of Adhesive Stamps ;

that the Government shall have power to declare Rules VII., VIII., and IX. inapplicable in the case of any particular vendor, and to direct that Stamps shall be supplied to him without requiring payment in ready money ; that he shall give sufficient security for the payment of any sum due by him to Government ; and that he shall be remunerated by a certain fixed salary.

9. The sale of the Court Fees Stamps in the Madras Court of Small Causes shall be conducted solely by a vendor specially appointed for that purpose. The Stamps will be specially marked, and no Stamps other than those so marked will be received in the said Court under the Court Fees Act.

III.—MISCELLANEOUS RULES.

10. The fees due for serving processes shall be collected by Stamps of the requisite value affixed to a written application for such processes.

This application must be specially prepared for the issue of the processes and nothing else, and it must not be written till the Court or officer has determined to issue the said processes.

The amount of Stamp-duty will be ascertained by reference to the Schedule appended to these Rules, a copy of which will be kept open to public inspection in every Revenue-office.

11. The fee chargeable on any document shall be denoted by the smallest number of Stamps with which it is possible to denote it, provided that when such stamps are not procurable on application to a vendor, and the vendor shall give a certificate that out of the stock of Stamps in his hands the total amount of Stamp-duty cannot be represented with less than a certain number of Stamps, then the person requiring such Stamps may affix the number specified in the certificate to his document. In this case, the certificate must be affixed to the document and filed with it.

12. If any person possessing any Adhesive Stamp or stamped-paper which has been obtained under these Rules does not require the same for use,

or if the Stamp or stamped-paper so possessed becomes spoiled or unfit for use as hereinafter mentioned,

the Collector of the district in which the paper has been purchased may, upon application made to him, within one year after purchase, and upon delivery to him of such stamp or paper, refund the amount paid to Government for the same, whether by the applicant or any other person,

or in case the owner of the Stamp or stamped-paper so spoiled or unfit for use desires to be supplied with stamps or stamped-papers of similar or equal value, the Collector may cause such stamps or stamped-papers to be delivered to him or his agent upon payment (in the case of stamped-paper) of the value of the paper on which the new Stamp or Stamps shall be impressed.

Adhesive Stamps or stamped-papers shall be held to be spoiled or unfit for use within the meaning of this rule when—

(1,) by accident happening to the same before they have been submitted to any Court or Public Officer they are rendered unfit for use ;

(2,) or when because of some error in the drawing up or copying of any writing to which the said stamps are affixed, the said writing is rendered of no avail ;

D

*Proceedings of the Madras Government, Revenue Department.
13th March 1872.*

(3,) or when any Stamp has been filed in any Court or before any public officer, and cancelled accordingly, and it is afterwards discovered that such Stamp has been required by mistake, and that a Stamp of less value ought to have been required, and a certificate to that effect is issued by the said Court or public officer; in this last case, the Collector may grant a refund even if application is made more than a year after the purchase of the Stamp.

No. 164.

ORDER THEREON, 13th March 1872, No. 446.

Miscellaneous.

SECTION 23 of the Court Fees Act VII. of 1870 provides that, under rules to be framed by the Chief Revenue and Supreme Governments, every officer of a district shall fix, and may from time to time be employed for the service and execution of the Courts subordinate to him.

authority and approved by the Local and Supreme Governments, every officer performing the functions of a Collector of a district shall fix, and may from time to time alter, the number of Peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

2. Section 22 similarly provides for District Judges and Magistrates of districts determining the strength of the establishments of Process servers in their own and the subordinate Courts under rules to be framed by the High Court and approved as in the former case.

3. The Board of Revenue should

3. The Board of Revenue deem it undesirable that separate establishments should be maintained by the same officer for serving Magisterial and Revenue processes, but the Government believe that distinction must be maintained in the Roster, as the strength of the several establishments has to be regulated from time to time by the High Court and Board of Revenue respectively. The Government, however, so far agree with the Board that they would not allow any members of such establishments to consider themselves engaged for the one duty only, but they do not find that the Board's draft clearly guards against this.

4. In the rules framed by the High Court for the appointment of officers for serving processes, which are now before the Government, it is provided that no officer shall be appointed as a Magisterial officer who is already appointed as a Revenue officer, and vice versa.

4. In the rules framed by the High Court for Criminal and Magisterial processes, which are now before Government, it is provided (Rule X.) that "Peons appointed as aforesaid shall not be required to perform the duties of the regular establishment, but may be employed in serving or executing Civil or Revenue processes." The Government would similarly provide that Revenue process servers may be employed in serving Magisterial processes.

5. The Board in their rule note that the High Court rules provide "that the salary of an Amin in a District Munsif's Court is to be Rs. 12. The Government would provide that the Revenue Amins should receive not less than Rs. 12 nor more than Rs. 14.

6. With these remarks, the Government propose the following rules which will be communicated to the Board of Revenue for their remarks before forwarding them for the approval of the Government of India, as required by Section 27, Act VII. of 1870:—

RULES.

A separate establishment of Amins and Peons will be attached to all Revenue officers for the service of all processes issued by them, with the exception of processes issued under the Madras Arrears of Revenue Recovery Act II. of 1864.

Revenue Department, 13th March. 1872.

E.

aps in the Office of_

April 1870.

[illegible]

*Proceedings of the Madras Government, Revenue Department,
13th March 1872.*

F.

*Monthly } Abstract of Fees levied { by the
Annual } { in the district of
under Schedules 1 and 2 of the Court Fees Act for the { month }
{ year }*

	Rs. A.
Schedule I., Article 1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
Schedule II., Article 1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
Total ...	

Proceedings of the Madras Go

Daily Register of Fees other than Process Service Fees

Class.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Schedule I., Article 1															
2															
3															
4															
5															
6															
7															
8															
9															
10															
11															
12															
Schedule II., Article 1															
2															
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4															
5															
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16															
17															

Proceedings of the Madras Government, Revenue Department,
13th March 1872.

Warrants of Attachment and sale will be executed by Amins ; other processes will be served by Peons.

No Amin or Peon appointed under these rules will be employed on duties unconnected with the service and execution of processes, but they may be employed when necessary on the service and execution of Magisterial processes.

The salary of an Amin appointed under these rules shall in a Tahsildar's office be Rs. 12 monthly, and in any superior Office Rs. 14.

The salary of Peons appointed under these rules shall not exceed Rs. 7 in a Collector's Office, nor Rs. 6 in any other Office.

The number of Amins and Peons fixed by the District Collector for his own Office and the Offices subordinate to him shall be so fixed that the cost of the establishment may be at least covered by the amount of fees levied on the processes served and executed by them. It shall be reported to the Board of Revenue in the first instance for confirmation, and shall be altered from time to time as they may direct, and it shall not be increased without their sanction ; but the Collector shall have power to transfer Amins or Peons from one Office to another within his jurisdiction as experience may dictate, and, when convenience requires that processes issued by one officer shall be served by the Amins or Peons attached to another, they may be served accordingly.

No one shall be eligible for the office of Peon under these rules unless he can read and write, nor for the office of Amin unless he can read and write and keep accounts.

Peons appointed under these rules shall wear a black leather belt and a brass badge showing their office, the designation of the officer, under whom they serve, and a distinguishing number.

7. The Board have annexed to their draft rules certain forms of Registers and Returns to be maintained in connection with the Court Fees Act. These seem well adapted to their purpose, and are approved by Government for adoption in the Revenue Department so far as they relate to Revenue Process Service, and generally so far as they relate to the subject-matter of Clause (d), Section 27 of the Court Fees Act.

8. It will be considered in the Judicial Department whether the adoption of the same forms of Registers and Returns of Process Service may not be recommended to the High Court in lieu of the slightly differing forms appended to the Court's Draft Rules relating to processes issued by Civil and Criminal and Revenue Courts.

(True Extract.)

(Signed) W. HUDLESTON,
Officiating Chief Secretary.

To the Board of Revenue.
,, the Judicial Department.

Exd. F. R. Bantleman.

Revenue charges

Revenue Dept.

15
H. 4466

Pros of the Madras Govt
Under date the 13th February 1872

Read the following
letter from the Ag. Secretary
to the Board of Revenue

Submitting Draft Rules
framed under Secs 23 & 27 of Court
Fees Act VII of 1870, as to num-
ber of Pans required for serving
+ executing processes issued out
of Rev. Courts as to supply re-
newal, &c. of stamps to be
used in the several Courts in
payment of Court Fees.

H.E. 15 Aug. 1870, No 5300

Section 23 of the Court
Fees Act VII of 1870 provides
that, under rules to be
framed by the Chief
Revenue Authority and
approved by the Local
and Supreme Govern-
ments, every officer
performing the functions

J.D.S.

I hope it is not in-
tended to serve the
interests of deans and
our rights by means of
this act? It is not
long since we ordered
V. S. & Co. to be
in order to save the rights
from vexation and
successive changes

in rule 1. 27. 1870

W.L. C. No. 1890 of 1872

14/2/14 ✓
7.5.1865

6001 of 1872

7. Nov 1870 at 22 hrs
14. Dec 1870 at 58 hrs
27. Jan 1871 at 37-39-20-21

14/2/14

11-2-552

to the Ag. Secy. Board.

Rev. Secy.

Section 15. August 1870

1901-1870

1870-1871

1871-1872

1872-1873

1873-1874

1874-1875

1875-1876

1876-1877

1877-1878

1878-1879

1879-1880

1880-1881

1881-1882

No 163

1870-1871

1871-1872

1872-1873

of a Collector of a district shall fix and may from time to time alter the num-
ber of Peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

2. Section 22 similarly provides for District Judges and Magistrates of districts determining the strength of the establishments of Process servers in their own and the subordinate Courts under rules to be framed by the High Court and approved as in the former case.

178
3. The Board of Revenue deem it undesirable that separate establishments should be maintained by the same officer for serving Magisterial and Revenue processes, but the Govt. believe that distinction must be maintained in the poster as the strength of the several establishments has to be regulated from time to time by the High Court and Board of Revenue respectively. The Govt. however so far agree with the Board that they would not allow any members of such

such establishments to consider themselves engaged for the one duty only, but they do not find that the Board's draft clearly guards against this.

4. In the rules framed by the High Court for Criminal and Magisterial processes which are now before Govt, it is provided (Rule 10) that "Peons appointed as aforesaid shall not be required to perform the duties of the regular establishment, but may be employed in serving or executing Civil or Rev^e processes." The Govt would similarly provide that Rev^e process servers may be employed in serving Magisterial processes.

5. The Bd. in their rule note that the High Court rules provide "that Ammins shall

shall be paid Rs. 14 monthly but the Govt observe that under these rules the salary of an Amin in a Dist. Munsiff's Court is to be Rs. 12. The Govt would provide that the Revenue Ammins should receive not less than Rs. 12. nor more than Rs. 14.

6. With these remarks the Govt propose the following rules which will be communicated to the Board of Rev^e for their remarks before forwarding them for the approval of the Govt of India, as required by Sec. 27 act. 7 of 1870.

Rules

A separate establishment of Ammins and Peons will be attached to all Revenue Officers for the Service

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connection with the
Court Fees act.

These seem well
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[Signature]

12
approved by *[Signature]*
for adoption, in
the Rev. depart.
so far as they relate
to ^{Revenue} Service -
and generally so
far as they relate
to the subject-matter
of Cl. (d) Sec 27. of
the 1st Fees Act.

It will be considered
in the judicial dept.
whether the adoption
of the ^{forms of} Registers
of the same & Returns of Service
may not be
recommended to the
High Ct. in view of
the slight difference
forms appended
to the 1st draft

191-891-161

Whooping Cough. No. 11 under
res. by Phil. of Cincinnati
New York City
Dec 11 1870

14 Folio Board of Revenue
The Judicial Department

10 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

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