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MADRAS RECORD OFFICE

Government of Madras

Revenue DEPARTMENT

G.O. No. 75~~B.P. No.~~~~Press~~

Mis.

Dated

11. 4. 1872

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*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

Read the following papers:—

No. 43. From the Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, Fort St. George, dated Madras, 22nd July 1870, No. 1369.

With reference to your letter to the Chief Justice, dated 18th May 1870, forwarding copy of the Proceedings of Government, Judicial Department, of the same date, and requesting that the rules contemplated by Sections 20 and 22 of Act VII. of 1870, respecting the levy of fees for serving and executing processes issued by the High Court in its appellate jurisdiction and by the other Civil, Revenue, and Criminal Courts established within the local limits of that jurisdiction, and respecting the remuneration of persons employed in the service and execution of processes, and respecting the strength of the establishments to be employed, may be framed and submitted for the confirmation of the Local Government and the sanction of the Governor-General of India in Council; I am instructed to forward the Rules framed by the High Court relating to processes issued by the Civil and Revenue Courts, and to state that the rules relating to processes issued by Criminal Courts will form the subject of a separate communication.

2. Previous to the receipt of your letter under reply, draft rules were framed in April and circulated to all Civil Judges for observations and suggestions. Many of the suggestions received have been adopted, and the rules as they now stand are a complete set of rules for the guidance of the Courts in all matters relating to processes, opportunity having been taken to consolidate all the existing rules on the subject.

3. The principle on which the schedules have been framed is that of making the parties to each suit liable for the actual cost of serving the processes required. With this view, the Courts have been divided into two classes according to the area of their jurisdiction, and the cost of each process fixed according to the time likely to be occupied in serving or executing it. The system in force in Lower Bengal and the North-Western Provinces is to levy a mileage rate calculated according to the distance of each village from the Court which issues the process, and the Schedule contains a list of villages and their distance from the Court. The advantage of the present system is that a table of fees is fixed in a conspicuous place in every Court, and suitors can ascertain at a glance what fee is payable. The only disadvantage seems to be the tentative nature of the rates. These, however, can be altered if found to be too high or too low. It is presumed that it is not the intention of the Government to derive any revenue from the service of processes.

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Rules relating to Processes issued by Civil and Revenue Courts in the Madras Presidency framed by the High Court of Judicature at Madras in pursuance of Sections 20 and 22 of Act VII. of 1870 (Court Fees Act).

1. In supersession of all other Rules now in force relating to the service or execution of processes, the following Rules shall take effect from the date of their publication in the *Fort St. George Gazette*.

2. In the Civil Courts, the Principal Sadr Amins' Courts, Courts of Small Causes and District Munsifs' Courts, all processes shall, unless for some special reason, be served or executed by a separate establishment which shall consist of Amins and Peons.

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

3. Every warrant for the attachment of property and every warrant for the sale or for the sale and delivery of possession of property (whether moveable or immoveable) shall be executed by Amins.

4. Every summons, notice, written order, warrant of arrest, injunction, and proclamation shall be served or executed by Peons.

5. The number of Amins and Peons fixed by the District Judge for his own Court and the Courts subordinate to him shall be reported to the High Court. In no case shall the number at first fixed exceed the number employed during the year ending 31st March 1870. In fixing the number of Amins and Peons to be employed in each Court, every District Judge shall compare the average disbursements of the three years ending 31st March 1872, with the cost of the proposed establishments calculated according to Rule 23, and in no case without the special sanction of the High Court shall the latter be allowed to exceed the former.

6. The establishment of each Court must suffice for the service and execution of processes transmitted from other Courts as well as of processes issued from the Court to which the establishment belongs.

7. Amins and Peons shall be appointed by the Judge of each Court, and shall be under the control of the Nazir, or (when there is no Nazir) the head Ministerial officer of the Court. Such Amins and Peons as have been for the longest period on the Batta establishment shall be the first persons appointed under this Rule.

8. The appointment of relatives or dependents of the Judge or of any of the Ministerial servants of the Court as Amins or Peons is strictly prohibited.

9. No person shall be eligible as Amin who cannot read and write and keep accounts, and ability to read and write shall be considered a necessary qualification for a Peon not at present on the Batta establishment. Every Amin shall be required to furnish security in 100 Rupees for the proper discharge of his duties.

10. Every Amin shall on appointment receive a sanad signed by the Judge and with the seal of the Court and he shall be prepared to produce the sanad whenever the party against whom a warrant is being executed requires its production.

11. A register is to be kept of Amins and Peons according to the date of their appointment.

12. No increase is to be made in the number of Amins and Peons fixed by Rule 5 without the previous sanction of the High Court, but transfers from one Court to another may be made at the discretion of the District Judge. When reduction in the establishments is feasible, the same should be made and reported to the High Court. On all occasions of reducing the establishments, those who were last appointed are to be first discharged.

13. All orders regarding the punishment and dismissal of Amins and Peons made by Civil Judges—Judges of Small Cause Courts and Principal Sadr Amins shall be final and not subject to appeal. Appeals shall lie to the Civil Judge from all orders passed by District Munsifs.

14. No Amin or Peon shall ordinarily be employed on any other duty than that connected with the service and execution of processes. Every Amin or Peon, when not employed in serving or executing processes, shall be in daily attendance at the Court-house, and all processes shall be delivered to those in attendance in regular order.

15. As many processes as possible are to be entrusted to each Amin and Peon so as to economize labour.

16. To ensure regularity, every Amin and Peon shall be required to keep a book (to be provided by the Court) in Form A showing the date of delivery of each process and the date of the return made. The Nazir or head Ministerial officer will be required to initial each entry when return is made to the process and to satisfy himself that no unnecessary delay has taken place. For the service of an ordinary process, time will be allowed at the rate of 15 miles *per diem* for

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

the distance to be travelled to and from the place at which service is to be made and one clear day for the service.

17. Amins shall not be required to wear any belt or badge.

18. Every Peon shall wear a plain black leathern belt to be provided by the Court, with a brass badge on which shall be inscribed the name of the Court to which he belongs and his registered number.

19. Daily registers must be kept by the Nazir or head Ministerial officer in Forms B and C.

20. At the close of the month, an abstract statement is to be prepared for the Judge's inspection in Form D. District Munsifs will submit a copy of the abstract statement each month to the Civil Judge.

21. At the close of the official year, a general statement from each zillah of all processes served or executed during the year and the amount disbursed on account of the service or execution of processes must be prepared in Form D and submitted to the High Court together with a brief report on the working of the system. Judges of Small Cause Courts and Principal Sadr Amins will furnish the necessary information to the Civil Judge of their zillah to be included in the general Return.

22. All correspondence relating to the service of processes shall be deemed to be official correspondence on the public service, but a separate account must be kept of the postage on account of such correspondence and entered in Form D.

23. The salary of an Amin in a District Munsif's Court shall be 12 Rupees, and that of a Peon 6 Rupees *per mensem*. The salary of an Amin in every other Court specified in Rule 2 shall be 14 Rupees, and that of a Peon 7 Rupees *per mensem*. Provided that in exceptional cases and with the previous sanction of the High Court ~~batta may be given in addition to salary.~~

24. The salary of Peons employed in the Revenue Courts shall not exceed 7 Rupees *per mensem* in the Collector's Court, or 6 Rupees *per mensem* in any other Court.

25. Processes issued by Village Munsifs shall ordinarily be served or executed by the Village Peon or Taliar, but processes issued by District Munsifs in execution of the decrees of Village Munsifs shall be served or executed by the officers of the District Munsif's Court.

26. On the introduction of these Rules no *batta* shall be received for the service of processes in any of the Courts specified in Rule 2, but stamps according to the rates prescribed in the schedules hereunto annexed shall be substituted. No other fees except those provided in the schedules shall hereafter be collected for the service or execution of processes, but where ferry charges have to be incurred, the party at whose instance the process is issued shall pay to the Amin or Peon entrusted with the process (through the Nazir or head Ministerial officer) the actual amount of such charge, and in cases in which the party at whose instance a process is issued desires expedition in the service or execution of the process, he may in like manner pay the actual cost of travelling by rail, boat, cart or otherwise.

27. When the Government of India shall prescribe the use of impressed stamps, every stamp paper presented must be endorsed by the party presenting it, with the particulars of the process required to be issued, and the Nazir or head Ministerial officer will in the usual way efface the stamp and endorse on the outside sheet the date of presentation with his initials on satisfying himself that the proper stamp has been presented and will then cause the required process to be issued.

28. When the Government of India shall prescribe the use of adhesive stamps, the Nazir or head Ministerial officer will attach the adhesive stamps to the process issued and efface the stamps.

29. Nothing in these Rules shall prevent the application for any process being presented on stamp paper if the law requires such application to be on stamp paper. The stamp required for the process itself need not be presented until an order is passed on the application.

FORM A.

FORM B.

Proceedings of the Madras Government, Judicial Department,
5th April 1872.

Form C
Daily Register showing the number of Processes received from other Courts for service within the jurisdiction of the Court of

Date of receiving Process from other Courts.	Name of Court whence received.	No. of Suit or Petition in which Process issued.	Number and nature of Processes received.	Date of delivering Process to serving Officer.	Name of serving officer.	Date of Return made thereto.	Nature of Return.	Date of transmitting Return to Court whence issued.	Remarks.
1	2	3	4	5	6	7	8	9	10

Proceedings of the Madras Government, Judicial Department,
5th April 1872.

N. B.—(1). If a process is to be served or executed within a radius of 6 miles from the Court-house, half the above rates only are to be charged. The Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court-house.

(2). When it is found necessary to employ more than one Amin or Peon (as for instance where property is situated in different places) double rates are to be charged.

(3). When a warrant remains unexecuted for fifteen days after its delivery to the officer entrusted with its execution, an additional fee at the same rate shall be levied from the party at whose instance the warrant was issued for every fifteen days or portion of fifteen days until return is made, provided that the delay in executing the said warrant is not attributable to the officer of the Court.

(4). If the processes for attachment and sale are issued simultaneously, the proper fee for the former process only is to be charged.

(5). Under Section 8, Act XXIII. of 1861, the lowest rate for serving a process shall be deemed to be as heretofore 4 Annas *per diem*. A week's batta is to be deposited in advance and renewed at like intervals.

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

SCHEDULE B.

In Small Cause Courts, District Munsif's Courts and Subordinate Revenue Courts.

		Rs.	A.	P.
1	Summons to defendant And for every additional defendant if applied for at the same time, and if defendant resides in the same neighbourhood	...	8	...
2	Summons to a witness And for every additional witness if applied for at the same time, and if witness resides in the same neighbourhood...	...	8	...
3	Warrant of arrest...	1	...	...
4	Proclamation of attachment or sale	...	8	...
5	Warrant of attachment of moveable or immovable property according to the value of the suit if applied for before judgment, or the amount decreed if applied for in execution of decree. If the value or amount does not exceed 50 Rs. ~~exceeds~~ 50 Rupees but does not exceed 100 Rs. " 100 " " 500 " " 500 "	...	8	...
6	Warrant of delivery of possession of property (moveable or immovable). If no attachment has taken place If attachment has taken place: For moveable property... For immovable property	The fee for attachment of said property. Rs.	A.	P.
7	Warrant of sale of moveable property If conducted at the Court-house If not conducted at the Court-house	...	8	...
8	Warrant of sale of immovable property. If conducted at the Court-house If not conducted at the Court-house	1	...	...
9	Injunction, Order or Notice not otherwise provided for	...	8	...
10	Any process in execution of a decree of a Village Munsif	...	4	...

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

Form D

Abstract Statement showing the number of Processes issued and the amount of Stamp fees collected in the _____ Court of _____ during the _____

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

SCHEDULE A.

*In the High Court (Appellate Side) Civil Courts, Principal Sadr Amins' Courts and
Collectors' Courts.*

		Rs.	A.	P.
1	Summons or Notice to defendant or respondent	1	...	...
	And for every additional defendant or respondent, if applied for at the same time, and if defendant or respondent resides in the same neighbourhood	...	8	...
2	Summons to a witness	1	...	...
3	And for every additional witness, if applied for at the same time and if witness resides in the same neighbourhood	...	8	...
4	Warrant of arrest	2	...	...
5	Proclamation of attachment or sale	1	...	...
	Warrant of attachment of moveable or immoveable property according to the value of the suit, if applied for before judgment; or the amount decreed if applied for in execution of decree,			
	If the value or amount			
	does not exceed 100 Rs.	2	...	...
	exceeds 100 Rupees but does not exceed 500 Rs.	3	...	...
	" 500 " " 1,000 " "	4	...	...
	" 1,000 " " 5,000 " "	5	...	...
	" 5,000 " " 10,000 " "	6	...	...
	" 10,000 " "	7	...	...
6	Warrant of delivery of possession of property (moveable or immoveable).			
	If no attachment has taken place	The fee for attachment of said property.		
	If attachment has taken place:			
	For moveable property	Rs.		
	For immoveable property	1	...	...
		2	...	...
7	Warrant of sale of moveable property.			
	If conducted at the Court-house	...	8	...
	If not conducted at the Court-house	1	...	...
8	Warrant of sale of immoveable property.			
	If conducted at the Court-house	1	...	...
	If not conducted at the Court-house	2	...	...
9	Injunction, Order or Notice not otherwise provided for	1	...	...

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

N.B.—(1). If a process is to be served or executed within a radius of 6 miles from the Court-house, half the above rates only are to be charged. The Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court-house.

(2). When it is found necessary to employ more than one Amin or Peon (as for instance where property is situated in different places) double rates are to be charged.

(3). When a warrant remains unexecuted for fifteen days after its delivery to the officer entrusted with its execution, an additional fee at the same rate shall be levied from the party at whose instance the warrant was issued for every fifteen days or portion of fifteen days until return is made, provided that the delay in executing the said warrant is not attributable to the officer of the Court.

(4). If the processes for attachment and sale are issued simultaneously, the proper fee for the former process only is to be charged.

(5). Under Section 8, Act XXIII. of 1861, the lowest rate for serving a process shall be deemed to be as heretofore 4 Annas, per diem. A week's batta is to be deposited in advance and renewed at like intervals.

No. 44. From the Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, Fort St. George, dated 5th August 1870, No. 1455.

In continuation of my letter, dated the 22nd July 1870, No. 1369, transmitting the rules framed by the High Court, relating to processes issued by the Civil and Revenue Courts, I am directed, herewith, to forward the rules relating to processes issued by the Criminal Courts.

2. The High Court have not felt themselves at liberty, looking at the provisions of the Court Fees' Act, to enter upon the question whether the levy of fees on processes in Criminal cases is expedient, and whether if expedient, the Police ought to be relieved from the duty of serving such processes. These questions appear to have been raised in a letter from the Secretary to the Government of Bengal, to the Secretary to the Government of India, Home Department, and the opinions of all Magistrates in this Presidency invited on the subject, in the Proceedings of the Madras Government, Judicial Department, dated 2nd February 1870. The High Court, however, understand the legislature to have affirmed the principle that fees are to be levied on processes in certain Criminal cases, and that an establishment distinct from the General Police Force is to be employed in serving and executing those processes. On this view they have framed the present rules.

3. It will be observed that the rules differ from the rules relating to Civil processes in providing that the establishments shall be confined to the Subordinate Magistrate's Courts, and that all processes issued from Superior Courts shall be sent through the Subordinate Magistrates. The object of this provision is to economize labour. It has been considered necessary to give to all Magistrates a wide discretion as regards remitting the fees in cases where, in the opinion of the Magistrate, hardship would result from their imposition.

4. The fees are confined to processes issued for the purpose of compelling the appearance of defendants or witnesses.

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

Rules relating to processes issued by Criminal Courts in the Madras Presidency, framed by the High Court of Judicature at Madras, in Pursuance of Sections 20 and 22 of Act VII. of 1870 (Court Fees' Act).

1. THE following Rules shall take effect from the date of their publication in the Fort St. George Gazette.
2. When a complaint is made before any Criminal Court of an offence under the Penal Code or under any special or local law other than an offence for which the Police are authorized to arrest without warrant, no process to compel the appearance of a defendant or witness shall ordinarily be issued until the complainant has paid stamp fees at the rates mentioned in the Schedule hereunto annexed.
3. Similar stamp fees shall be levied from a defendant who applies for the issue of process to compel the appearance of his witnesses.
4. Provided that any Court may, on recording its reasons for so doing in the diary of the Court, remit the fees payable on account of the poverty of the party complainant or defendant, or for any good and sufficient cause.
5. Applications for processes may be oral or written. Written applications shall be exempt from stamp duty.
6. All processes issued under Rules 2, 3 and 4 shall be served or executed by Peons attached to the Courts of the Subordinate Magistrates. Processes issued by the Superior Courts shall be transmitted for service or execution to the Sub-Magistrate within whose jurisdiction the defendant or witness resides.
7. The number of Peons fixed by the District Magistrate, for the Courts of the Subordinate Magistrates shall be reported to the High Court. The number at first fixed shall not exceed the rate of one Peon for every 300 processes that may have been annually served or executed in cases in which the Police are not authorized to arrest without warrant, calculated on the average of the three years ending 31st March 1870.
8. No increase shall be made in the number fixed by Rule 7 without the previous sanction of the High Court; but transfers may be made from one Court to another at the District Magistrate's discretion. When reduction in the establishments is feasible, the same should be made and reported to the High Court.
9. Peons shall be appointed by the Sub-Magistrate, subject to the approval of the Divisional Magistrate, and shall be liable to punishment or dismissal by the Sub-Magistrate subject to an appeal to the Divisional Magistrate.
10. 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.
11. As many processes as possible are to be entrusted to each Peon so as to economise labour.
12. To ensure regularity, every Peon shall be required to keep a book (to be provided by the Court) in Form A showing the date of delivery of each process and the date of return made. The Head Gumastah will be required to initial each entry when return is made to the process and to satisfy himself that no unnecessary delay has taken place. For the service of an ordinary process, time will be allowed at the rate of 15 miles *per diem* for the distance to be travelled to and from the place at which service is to be made and one clear day for the service.
13. Every Peon shall wear a plain black leathern belt to be provided by the Court, with a brass badge on which shall be inscribed the name of the Court to which he belongs and his registered number.
14. Daily registers must be kept by the Head Gumastah in Forms B and C.
15. At the close of the month, an abstract Statement is to be prepared and submitted through the Divisional Magistrate for the District Magistrate's inspection in Form D.
16. At the close of the official year, a general Statement from each district of all processes served or executed during the year and the amount disbursed on account of the service or execu-

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

- tion of processes must be prepared in Form D and submitted to the High Court, together with a brief report on the working of the system.
17. All correspondence relating to the service of processes shall be deemed to be official correspondence on the public service, but a separate account must be kept of the postage on account of such correspondence and entered in Form D.
 18. The salary of a Peon shall be 6 Rupees *per mensem*, provided that in exceptional cases and with the previous sanction of the High Court, batta may be granted in addition to salary.
 19. Where ferry charges have to be incurred, the party at whose instance the process is issued shall pay to the Peon entrusted with the process (through the Head Gumastah) the actual amount of such charge, and in cases in which the party at whose instance a process is issued desires expedition in the service or execution of the process, he may in like manner pay the actual cost of travelling by rail, boat, cart or otherwise.
 20. When the Government of India shall prescribe the use of impressed stamps, every stamp paper presented must be endorsed by the party presenting it, with the particulars of the process required to be issued, and the Head Gumastah will, in the usual way, efface the stamp and endorse on the outside sheet the date of presentation with his initials on satisfying himself that the proper stamp has been presented and will then cause the required process to be issued.
 21. When the Government of India shall prescribe the use of adhesive stamps, the head Ministerial officer will attach the adhesive stamps to the process issued and efface the stamps.
 22. Nothing in these rules shall apply to Magisterial processes issued by Heads of Villages.

Form A.

Proceedings of the Madras Government, Judicial Department,
5th April 1872.

Name of Peon.	Date on which Process delivered.	Nature of Process.	Date of Return made thereto.	Mileage travelled.	Explanation of delay in serving or executing Process.
1	2	3	4	5	6

Form B.

Daily Register showing the number of Processes issued and the Stamp fees collected in the

Court of

Proceedings of the Madras Government, Judicial Department,
5th April 1872.

Date of receiving application for issue of Process.	No. of case in which applied for.	Date of Magistrate's order on application.	Number and nature of Processes issued.	Amount of stamp fees collected.	Date of delivery of Processes to Serving Officer.	Name of Serving Officer.	Date of Return made thereto.	Nature of Return.	Remarks.
1	2	3	4	5	6	7	8	9	8

8/75

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

Form C.

Daily Register showing the number of Processes received from other Courts for service within the jurisdiction of the Court of _____

Date of receiving Process from other Courts.	Name of Court whence received.	No. of case in which Process issued.	Number and nature of Processes received.	Date of delivering Process to serving Officer.	Name of serving Officer.	Date of Return made thereto.	Nature of Return.	Date of transmitting Return to Court whence issued.	Remarks.
1	2	3	4	5	6	7	8	9	10

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

3. The process fees should be so arranged that the revenue derived by them should cover all the expenditure above classified; but, if fees calculated upon this basis seem, for any special reason, to be oppressive and burdensome to suitors, the Governor-General in Council will be prepared to accord sanction to the rules without this condition being fulfilled.

4. I am directed further to request that the High Court may be requested to propose rules, under Section 22, for the regulation of the number of peons employed in the Civil and Criminal Courts, and that the Chief Controlling Revenue Authority may be requested to propose similar rules for the Revenue Court.

5. The Governor-General in Council further desires that a report be submitted, after the expiry of each year, as to the financial working of the rules, so as to show how far the revenue under this head has met the expenditure. With a view to the preparation of this report, His Excellency in Council desires that the High Court may be requested to issue such instructions as may be necessary for maintaining, in an accessible form, the requisite information, both as to the revenue by process fee stamps, and as to the expenditure incurred in the ways above detailed.

6. With reference to the pensionary charges, I am to say that the liability for pension should be taken at six per cent. of the expenditure incurred in pay.

7. In connexion with this subject, I am to forward copy of the Rules* promulgated by the Bengal Board of Revenue. These refer to the procedure under the previous law; but, as they are the result of much consideration and experience in the working of process-serving establishments, they may afford some assistance to the High Court in considering the same subject.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Officiating Secretary to the Government of Bengal, Revenue Department, dated Fort William, 2nd February 1871, No. 40-B.

In continuation of my letter, No. 195-B., of the 23rd May last, I am directed to report that the Board have now been supplied by the High Court with copies of the Court's rules framed under Clauses 1 and 3, Section 20 of the Court Fees' Act for regulating (1) the fees to be levied in the Civil, Criminal, and Revenue Courts, on the issue of processes; (2) the remuneration to be given to the Process Officers of those several Courts; (3) the establishment of peons to be maintained in the Civil and Criminal Courts. It remains for the Board to submit a draft of Rules under Section 23 of the Act for regulating the process establishment to be entertained in the Revenue Courts, and to amend their own rules for the service of processes.

2. In respect to the process establishment, it is to be observed, in the first place, that the High Court have assumed, and the assumption has apparently been ratified by Government, that under Clause 3, Section 20 of the Act, which requires them to frame rules for "the remuneration of peons and all other persons employed by leave of a Court in the service or execution of processes," the remuneration of Nazirs is within their cognizance. They have accordingly assigned to the Nazirs of the Judges' Courts salaries of Rupees 100, rising to Rupees 200 per mensem, and fixed the salaries of peons at Rupees 8 and 10 in the Judges' Courts, and at Rupees 6 and 8 in the Munsifs' Courts; and the Registrar informs the Board that the Court have assigned to the peons attached to the Collectors' and Deputy Collectors' offices the same salaries as those which have been given to the peons of the Judges' and the Munsifs' Courts respectively. Nothing, however, is said

* Will be sent from the Financial Department at Calcutta.

Proceedings of the Madras Government, Judicial Department,

5th April 1872.

in the Registrar's communication about the Nazirs, and the Board can hardly suppose that a similar rule is to hold in respect of them. Considering how insignificant the work will now be in the Nizarat Department of the Revenue Courts, except in the Orissa Division, where alone, of the Regulation Provinces of Bengal, Act VIII. (B.C.) of 1869 has not been put in force, a salary of Rupees 100, rising to Rupees 200, would be extravagantly high for the Nazir. I am directed to request that the Board may be favoured with orders on this point.

3. I am further to solicit the attention of Government to the scale of salaries for peons^s which has been adopted by the Court. The Board presume that the Court's object is to secure the services of men who can read and write. They have reason, however, to believe that, while in most parts of Bengal those qualifications can be obtained at the rates fixed by the Court and even at lower ones, there are other parts, such as Assam, with the Commissioner of which Province the Board had a correspondence on the subject in the early part of the year, where even the high rate of Rupees 8, rising to Rupees 10, now fixed by the Court for the remuneration of peons attached to all District Judges', Collectors', and Deputy Commissioners' Courts, will fail to secure generally the class of men required. In such parts of the country the consequence of the Court's arrangements will be a waste of public money in the employment of uneducated men on salaries intended to command the services of a superior class. In view of these considerations, I am to request that the Board may be permitted to regard the rates of salary fixed by the Court for the peons of the Collectors' and Deputy Collectors' offices as applicable only to men who can read and write; and that where such men are not procurable, and it is found necessary to employ ignorant men, their pay should not be at a higher rate than at present.

4. In connexion with this subject, I am to bring to the notice of Government that, under the instructions contained in paragraph 2 of Government Order No. 2,272 of 10th June last, the Board, by their letter No. 333-B, of the 24th idem, copy of which is enclosed, requested the High Court to direct the establishment of rules for the approval of Government, with the Board should have framed, in communication with the Court, the rules required by Section 23 of the Act. Had this request been acceded to, the Board would have had an opportunity of drawing the Court's attention to the facts which they, in consequence of the course actually adopted by the Court, are only now for the first time able to bring forward.

5. The establishment of peons to be employed in the Revenue Courts must, of course, depend on the amount of work to be done,—an amount which will be found to vary in different districts, and in the same district at different times. The Court have recognized this in the rules which they have prescribed for the guidance of the Civil and Criminal Courts, and have left the Judges and Magistrates to regulate their staff of peons according to circumstances, laying down certain principles for their guidance. The Board entirely concurring with the views of the Court on this head, propose to adopt, *mutatis mutandis*, for the guidance of Revenue Officers the rules issued by the Court for the regulation of process establishments in the Civil Courts. A draft of Rules, prepared with the necessary modifications, is submitted for approval.

6. On receipt of the sanction of Government to the rules mentioned in the last paragraph, and of orders on the other points above noticed, the Board will be in a position to make the necessary alterations in the existing rules for the service of processes from the offices subordinate to them.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Registrar of the High Court, dated Fort William, 24th June 1870, No. 333-B.

I am directed by the Board of Revenue to forward, herewith, a copy of their letter to the Government of Bengal, No. 195-B., dated 23rd ultimo, and of the Government reply, No. 2,272, of the 10th instant, and to request that you will be good enough, with the permission of the Honourable Judges of the High Court, to supply the Board with a copy of the rules which it is proposed to issue for regulating the remuneration of peons to be employed for the service of processes issued by the Revenue Courts.

Proceedings of the Madras Government, Judicial Department,

5th April 1872.

Form D.
Abstract Statement showing the number of Processes issued and the amount of Stamp fees collected in the Court of during the

Name of Court.	Number of Processes issued (excluding those despatched to other Courts.)	Number of Processes received from other Courts for service.	Total.	Number of Processes to which return has been made.	Number of Processes still outstanding.	Amount of Stamp fees collected on Processes.	Postage in connexion with service or execution of Processes.	Cost of Process serving establishment, deducting fines, stoppages, &c.	Total of columns 8 and 9.	Remarks.
1	2	3	4	5	6	7	8	9	10	11

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

SCHEDULE.

	RS.	A.	P.
1. Summons to defendant	0	8	0
And for every additional defendant if applied for at the same time and if resident in the same neighbourhood...	0	4	0
2. Summons to a witness	0	8	0
And for every additional witness if applied for at the same time and if witness resides in the same neighbourhood..	0	4	0
3. Warrant of arrest	0	12	0
4. Notice, order, injunction, or warrant not otherwise provided for	0	8	0

- N. B.—(1.) If a process is to be served or executed within a radius of six miles from the Court-house, half the above rates only are to be charged. The Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court-house.
- (2.) When a warrant remains unexecuted for fifteen days after its delivery to the officer entrusted with its execution, an additional fee at the same rate shall be levied from the party at whose instance the warrant was issued for every fifteen days or portion of fifteen days until return is made, provided that the delay in executing the said warrant is not attributable to the officer of the Court.

No. 45. From the Under Secretary to the Government of India, Financial Department, to the Chief Secretary to Government, Fort St. George, dated Simla, 30th June 1871, No. 1379.

The Governor-General in Council having had under consideration the principles upon which the process fees, chargeable under the Court Fees' Act, should be regulated, desires me to communicate the following remarks, and to request that the High Court may be asked to propose rules in accordance therewith for the sanction of His Excellency in Council, or, if already such rules have been proposed, to make any revision or alteration which may seem to be required.

2. The following are the expenses which have to be borne in connexion with the service and execution of process:—

- (1.)—Peons and other officers employed in the service and execution of process, their pay and pensionary allowances.
- (2.)—The Nazir or other supervising officer, and the establishment employed in arranging, registering, and executing process, and in controlling the establishment of peons; their pay and pensionary allowances. If the Nazir or other officers are partly employed in other work, then only that proportion of their whole pay and pensionary allowances should be taken which represents the portion of the time occupied in the duties above enumerated.
- (3.)—Office contingencies and cost of stationery, peons' badges, and other miscellaneous expenditure in connexion with process-serving.
- (4.)—Travelling allowances, boat-hire, and other similar expenses incurred in performing the duties.

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

2. I am desired also to request that the submission of these rules for the approval of Government may be deferred until the Board shall have framed, in communication with the Honourable Court, the rules they are required, by Section 23 of the Act, to prepare in reference to the number of peons to be employed in the Courts above alluded to.

Under the provisions of Section 23 of the Court Fees' Act, No. VII. (B.C.) of 1870, the following rules made by the Board of Revenue, Lower Provinces, and approved by the Lieutenant-Governor of Bengal and by the Governor-General of India in Council, are prescribed as the rules subject to which the District Collectors are to 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 their offices, and each of the officers subordinate thereto:—

- 1st.—The Collector or Deputy Commissioner of every district in the Lower Provinces shall ascertain the average number of processes issued from his own office, and from each of the offices subordinate thereto, during three years last past.
- 2nd.—From this shall be deducted, in the districts to which Act VIII. (B.C.) of 1869 has been extended, the average of processes issued by the same offices under Act X. of 1859 and Act VI. (B.C.) of 1862.
- 3rd.—The peons to be employed in each district shall be in number sufficient for the execution of a like number of processes, each peon being for this purpose considered capable of executing

	Per annum.
In the Collector's office	200
In the Deputy Collector's office	250

4th.—In order to provide for the service of processes of certain kinds which occupy a longer period, and in respect of which a higher fee is charged, 20 per cent. may be added in each case to the average ascertained under the first and second rules.

5th.—In the districts named in the margin, where the peons entrusted with a large proportion of processes have to be conveyed by boat, the number of processes which each peon is expected to serve may be reduced by one-third, and the number of peons to be employed shall be calculated accordingly.

Packerung.	Luckimpore.
Dacca.	Chittagong.
Jessore.	Dinagpore.
Sylhet.	Mymensing.
Kamroop.	Rajshahye.
Nowgong.	Rangpore.

N. B.—For the districts in the second column, the calculation is to be made from May to October inclusive only.

6th.—Where there are in any district several offices of any one class, the Collector may authorize the appointment of such number of

peons on the whole for such offices as may suffice for executing the total number of processes, and may from time to time apportion such peons according to need among such offices.

7th.—When it appears to the District Collector that the number of processes issued out of any office or class of offices in the district has increased by 10 per cent., he shall be competent to make a corresponding increase in the number of peons; and if there shall be a diminution to the like extent, or if he shall be satisfied that the processes of all or any of such offices can be executed by a smaller number of peons, it shall be his duty to make a reduction accordingly.

No. 46. From the Secretary to the Government of India, Financial Department, to the Secretary to Government, Fort St. George, dated Fort William, 18th December 1871, No. 3121.

Separate Revenue—Stamps.

I am directed to request the early attention of the Government of Madras to the circular from this office, No. 1379, dated 30th June 1871, regarding the

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

framing of rules relating to process fees under Chapter IV of the Court Fees' Act, 1870, and I am to take this opportunity of further explaining what it is necessary that these rules should provide for.

2. It must be remembered that the revenue by the sale of process fee labels will now form part of the general revenues of the country. It is not intended to issue any different form of label for use in payment of process fees, and the revenue from this source will be, so far as the accounts go, indistinguishable from that by other Court fee labels.

3. The special funds formed by the revenue by process fees will, therefore, cease to exist, and the expenditure, which was formerly charged against them, will now come under the same control and be accounted for in the same way as the other expenditure of Government.

4. The chief difficulty that has to be provided for in this view is that the establishments of peons cannot be absolutely fixed, but must continually vary according to the amount of work requiring to be done. As it is necessary that the expenditure on establishments be under control, it is necessary that definite rules be fixed with reference to the circumstances of each Province, according to which the varying expenditure may be regulated by the officers immediately responsible, controlled by the controlling authority, and checked by the Audit Officer.

5. The system of management which suggests itself to His Excellency in Council as the best, is to have a permanent establishment the minimum required at any time of the year, and to employ, besides this, an extra establishment determined in amount by the amount of work to be done.

6. It is necessary, as part of the Imperial system of audit, that, whatever rules be framed, each monthly bill should be capable of being tested, in accordance with the rules, by the Audit Officer.

No. 47. Proceedings of Government, Revenue Department, dated 13th March 1872, No. 446.

Rules proposed under Sections 23 and 27 regarding the number of peons required for serving and executing processes issued by Revenue Officers, communicated to the Board of Revenue for remarks.

No. 48. ORDER THEREON, 5th April 1872, No. 464.

In their Proceedings under date the 18th May 1870, No. 694, the Government requested the Judges of the High Court to frame and submit, for the confirmation of this Government and for the sanction of the Government of India, the Rules required to be made, under Section 20 of the Court Fees' Act, for the levy of fees for serving and executing processes issued by the High Court in its Appellate jurisdiction and by the other Civil, Revenue, and Criminal Courts established within the local limits of that jurisdiction, and for the remuneration of peons and

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

all other persons employed by leave of a Court in the service and execution of processes; and also the Rules to be framed under Section 22 of the Act for regulating the number of peons to be employed for the service and execution of processes issued out of the District Courts and the Courts subordinate thereto. The Board of Revenue were also called upon at the same time to submit, through the Revenue Department, the rules required to be made by them, under Section 23 of the Act, for determining the strength of the establishments of process servers to be employed in the Courts of Collectors of districts and the Courts subordinate to the Collectors.

2. The first and second of the letters above entered give cover to the Rules submitted by the High Court in pursuance of this requisition. The third and fourth are communications received from the Government of India, setting forth the principles upon which the process fees chargeable under the Court Fees' Act should be regulated, and explaining what it is necessary that the Rules relating to process fees should provide for. The disposal of these papers was deferred until the passing of orders in the Revenue Department on the Rules framed by the Board of Revenue under Section 23 of the Act. These orders have now been received and are contained in the Proceedings of Government, Revenue Department, dated 13th March 1872, No. 446.

3. The schedule of process fees framed by the High Court having been framed before the receipt of the Financial Circular of the Government of India, No. 1379, dated 30th June last, was, of course, prepared without reference to the principles laid down in that Circular, according to which the fees are to be arranged so as to cover all the items of expenditure specified in the margin.

4. The Government of India have, however, remarked that "if fees calculated upon this basis seem, for any special reason, to be oppressive and burdensome to suitors, the Governor-General in Council will be prepared to accord sanction to the Rules without this condition being fulfilled." The Governor in Council is of opinion that the fees charged in the High Court Rules should be experimentally introduced for a given term as they stand at present. It appears to him that they are likely to cover the charges and to show a considerable surplus besides; but he would wish to have before him the results, after a limited period has elapsed, before making any enhancement in the rates, if enhancement is required, for the purposes contemplated by the Government of India.

5. The Rules proposed by the High Court are therefore, with the following exception, confirmed by the Governor in Council, and will be submitted for the sanction of the Government of India:—

EXCEPTION.—Section 27 of the Rules relating to processes issued by Civil and Revenue Courts, and the corresponding section (viz., Section 20) of the Rules relating to processes issued by the Criminal Courts, will be omitted, the Government of India having decided that impressed stamps shall not be used.

*Proceedings of the Madras Government, Judicial Department,
5th April 1872.*

6. Ordered that the following letter be despatched to the Government of India:—

(Here enter letter dated 5th April 1872, No. 465.)

(True Extract.)

S. J. P. M. S.
Acting Secretary to Government.

To the Honourable the Judges of the High Court,
with Revenue G. O. No. 446.
„ Revenue Department. ✓

20 Shambhu
Sent to Registrar

7-5-66

14/2/14

13 Ldhe Board of Oke Sur 16 April

Revenue Dept.
No. 1220.
Govt. of 18723
Judges.

JUDICIAL.

To
THE HON. THE JUDGES OF THE
HIGH COURT,
&c., &c., &c.

Dated April, 6th.

Recd. a 10th

Encl.

G. O., 6th April 1872, No. 464.

APRIL.

Nos. 43-49.

Confirming, with certain exception, the rules proposed by the High Court relating to processes issued by the Civil, Revenue, and Criminal Courts in this Presidency, and directing that the rules be submitted for the sanction of the Government of India.

H. 75.

Revenue Dept.

11-4-72.