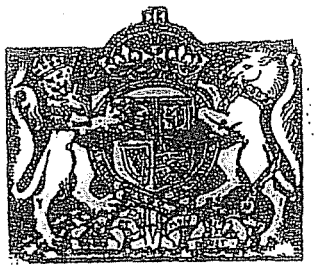
ANDHRA PRADESH JUDICIAL ACADEMY
SECUNDERABAD



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THE CIVIL RULES OF PRACTICE AND CIRCULAR ORDERS

ISSUED BY THE HIGH COURT OF JUDICATURE
AT MADRAS FOR THE GUIDANCE OF
SUBORDINATE CIVIL COURTS
IN THE PRESIDENCY

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1930	P. Dis. 230	283
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CHRONOLOGICAL LIST OF GOVERNMENT ORDERS CITED IN VOLUME I

I. OF THE PROVINCIAL GOVERNMENT.

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1877	G.O. 1944, d. 16 Aug.	221
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1882	G.O. 91, Political, d. 27 May	112
1883	Judl. Notfn. 2, d. 1 Jan.	128
	G.O. 18, J., d. 9 Jan.	2
	G.O. 323, J., d. 8 Feb.	128
	G.O. 635, Rev., d. 19 May	220
	G.O. 2509, d. 20 Sep.	221
1884	Judl. Notfn. 42, d. 29 Jan.	228
	Judl. Notfn. 209, d. 16 June	225
1885	Judl. Notfn. 398, d. 1 Aug.	227
1886	G.O. 2396, J., d. 4 Sep.	110
1889	G.O. 1374, J., d. 10 Aug.	227
	G.O. 1725-A, J., d. 8 Oct.	227
1890	G.O. 1142, J., d. 11 July	227
1892	G.O. 952, J., d. 17 May	26
1894	G.O. 507, J., d. 28 Feb.	279
	G.O. 1578, J., d. 26 June	279
1898	G.O. 717, Pub., d. 2 June	330
1900	G.O. 1313, d. 14 Sep.	59
1901	G.O. 672, J., d. 3 May	330
	G.O. 1462, J., d. 17 Sep.	59, 227
1902	G.O. 522, J., d. 24 Mar.	233
1905	G.O. 718, J., d. 3 May	28
1906	G.O. 17, Rev., d. 5 Jan.	220
	G.O. 60, J., d. 9 Jan.	51
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	G.O. 2048, J., d. 11 Dec.	129
1907	G.O. 836, J., d. 10 May	27
	G.O. 1667, J., d. 26 Sep.	129
	G.O. 2005, J., d. 30 Nov.	6
1908	G.O. 380, J., d. 3 Mar.	7
1909	G.O. 900, J., d. 7 July	94
	G.O. 1214, d., 4 Sep.	11
	Judl. Notfn. 105, d. 20 Feb.	128
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1911	G.O. 675, J., d. 20 Apr.	6
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1915	G.O. 257, H. (J.), d. 6 Feb.	78
	G.O. 1066, Pub., d. 14 July	3
1916	G.O. 232, J., d. 28 Jan.	10
	G.O. 270, Sep. Rev. d. 6 Apr.	222
	G.O. 1248, H. (Edn.), d. 24 Nov.	95
	G.O. 2915, J., d. 8 Dec.	235
1917	G.O. 398, H. (J.), d. 17 Feb.	78
	G.O. 1224, H. (J.), d. 13 June	227
1918	G.O. 693, H. (J.), d. 23 Mar.	92
	G.O. 1720, H. (J.), d. 31 July	116
	G.O. 2817, H. (J.), d. 28 Dec.	78
1919	G.O. 282, H. (J.), d. 5 Feb.	92
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	G.O. 2541, H. (J.), d. 3 Nov.	280
1920	G.O. 1732, H. (J.), d. 16 July	280
	G.O. 2198, H. (J.), d. 3 Sep.	280
	G.O. 1138, H. (Edn.), d. 30 Sep.	95
	G.O. 3247, H. (J.), d. 30 Nov.	25
1921	G.O. 1361, L. (G.), d. 10 Sep.	277
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1922	G.O. 572, L. (G.), d. 2 Mar.	332, 335, 338
	G.O. Ms. 955, L. (G.), d. 7 Apr.	259
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1923	G.O. 30, L. (G.), d. 4 Jan.	229
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	G.O. 1851, Rev., d. 21 Dec.	287
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	G.O. 2119, L. (G.), d. 23 July	253
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1925	G.O. 24, L. (G.), d. 7 Jan.	274
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	G.O. Ms. 1956, L. (G.), d. 14 June	6
	G.O. Ms. 2804, L. (G.), d. 4 Sep.	74
	G.O. 3340, L. (G.), d. 26 Oct.	225
1927	G.O. 504, Fin., d. 12 July	329
	G.O. 706, Fin., d. 6 Oct.	329
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1928	G.O. Ms. 2130, L. (G.), d. 21 June	255
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1934	G.O. 1790, L. (G.), d. 14 Jan.	30
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	G.O. Ms. 1480, L. (G.), d. 29 Apr.	192
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	G.O. Ms. 1764, L. (G.), d. 22 May	192
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1936	G.O. 2603, H., d. 7 Oct.	5
1937	G.O. 330, H., d. 25 Jan.	337
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	G.O. Ms. 2804, H., d. 22 July	94
	G.O. Ms. 3074, H., d. 6 Aug.	64
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1938	G.O. Ms. 20, H., d. 3 Jan.	326
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1939	G.O. Ms. 2010, H., d. 12 Apr.	190
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II. OF THE CENTRAL GOVERNMENT.

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1875	G.I. Resolution, 3373, F., d. 24 Sep.	221
1882	G.I. Resolution, 225, d. 12 Apr.	31
1893	G.I. Notfn. 4344, S.R., d. 6 Oct.	122, 217
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1917	G.I. Notfn. 2228-I. B., d. 1 Oct.	164
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1920	G.I. Notfn. 1924, H. (J.), d. 25 Nov.	65
1923	G.I. Notfn. F. 290/23, H. (J.), d. 6 June	65
1924	G.I. Notfn. F. 811/23 H. (J.), d. 4 June	65
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1925	G.I. Notfn. F. 576/24-H. (J.), d. 15 Aug.	65
1928	G.I. Notfn. 840/25-H. (J.), d. 3 May	65
1929	G.I. Notfn. 928, J.	282
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1930	G.I. Notfn. 176-I., d. 13 Mar.	42
1931	G.I. Notfn. 438-I. (F. & P.), d. 21 July	43
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1934	G.I. Letter, F. 1180/33, H. (J.), d. 16 Apr.	65
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	G.I. Notfn. 312-I. (F. & P.), d. 28 June	156
	G.I. Notfn. 485-I. B., d. 4 Oct.	41
1935	G.I. Notfn. 108-I. B., d. 13 Feb.	41
	G.I. Notfn. 126-I. B., d. 20 Feb.	41
	G.I. Notfn. 156-N. (F. & P.), d. 14 Mar.	65
1936	G.I. Notfn. F. 12/17/35, H. (J.), d. 20 Jan.	64
	G.I. Notfn. 116-I. B., d. 6 Feb.	159
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	G.I. Home Dept., F. 311–37, Judl., d. 29 July	189, 195–197
	G.I. Notfn. 261-I. B., d. 4 Nov.	37
1938	G.I. Notfn. 455, Defence Dept., d. 14 May	284
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	G.I. Notfn. 191/38-J., d. 3 Nov.	197
	G.I. Notfn. 366/37, H. (J.), d. 10 Nov.	166
	G.I. Notfn. 148/38, H. (J.), d. 21 Nov.	166
1939	G.I. Notfn., Commerce Dept., 91-G-(1)/38, d. 25 Mar.	199
	G.I. Notfn. 286/36, H. (J.), d. 27 Mar.	166
	G.I. Notfn. 286-1/36, H. (J.), d. 27 Mar.	167
	G.I. Notfn. 148/38, H. (J.), d. 25 May	166
1940	G.I. Letter, B. 56937/1, A.G. 8, Defence Dept. (Army Branch), d. 8 Jan.	285

LIST OF ABBREVIATIONS USED

A.O.	..	For Government of India (Adaptation of Indian Laws) Order, 1937, as modified by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.
Appx.	..	Appendix.
Ch.	..	Chapter.
Cl.	..	Clause.
C.O.	..	Circular Order.
C.R.P. & C.O.	..	Civil Rules of Practice and Circular Orders.
F.S.G.G.	..	*Fort St. George Gazette.*
Gen. R. & O.	..	General Statutory Rules and Orders.
G.I.	..	Government of India.
G.O.	..	Madras Government Order.
Govt.	..	Madras Government.
H.C.	..	High Court.
H.C.Cir.	..	High Court Circular.
H.C.Dis. or H.C.P. Dis.	..	High Court Disposal.
H.C. Pro.	..	High Court Proceedings.
Ins.	..	Inserted.
L.G.	..	Local Government.
M.F. & A.C.	..	Madras Financial and Account Code.
Notfn.	..	Notification.
O.	..	Order.
Pt.	..	Part.
r.	..	Rule.
rr.	..	Rules.
Sec. or S.	..	Section.
Sch.	..	Schedule.
Subs.	..	Substituted.
Vol.	..	Volume.

THE CIVIL RULES OF PRACTICE AND CIRCULAR ORDERS

VOLUME I.

Preamble.—Whereas it is expedient to consolidate, re-arrange and bring up to date the Civil Rules of Practice, 1905, and incorporate with them the Circular Orders and Administrative Instructions issued from time to time for the guidance of all the Subordinate Civil Courts in the Presidency, except the Court of Small Causes, Madras, the following Rules and Circular Orders are issued under the authority of the High Court :—

PRELIMINARY.

1. *Short title.*—These rules may be cited as the Civil Rules of Practice and Circular Orders.

2. *Forms.*—The forms in Appendix III, Part II, Volume II, hereto shall be used with such variations as circumstances may require.

3. *Definitions.*—In these rules, unless there is something repugnant in the subject or context :—

(1) *Address for service* means the place appointed by a party, or his pleader, at which service of summons, notice, or other process, may be made on such party;

(2) *Application* includes execution application, execution petition, and interlocutory application, whether written or oral;

(3) *Code* means the Code of Civil Procedure, as amended from time to time;

(4) *Execution petition* means a petition to the court for the execution of any decree or order;

(5) *Execution application* means an application to the court made in a pending execution petition;

(6) *First hearing* includes the hearing of a suit for settlement of issues, and any adjournment thereof;

(7) *Interim decree* means a decree declaring the rights and liabilities of the several parties, and providing for the determination of the particular property or sum of money to be apportioned or paid to any party, or for otherwise giving effect to such declaration;

(8) *Interlocutory application* means an application to the court in any suit, appeal or proceeding, already instituted in such court, other than a proceeding for execution of a decree or order;

(9) *Original petition* means a petition whereby any proceeding other than a suit or appeal or a proceeding in execution of a decree or order, is instituted in a court;

(10) *Proceeding* includes all documents presented to or filed in court by any party, or commissioner or other officer of court, other than documents produced as evidence;

(11) *Verified* means verified in manner provided by Order VI, rule 15 of the Code; and

(12) *Other expressions.*—All other expressions used herein shall have the respective meanings prescribed by the Code or the General Clauses Act, 1897.

4. *Reckoning of prescribed day.*—In all cases in which any particular number of days, not expressed to be clear days, is prescribed by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day; unless the last day falls on a Sunday, or other day on which the office of the court is closed, in which case the time shall be reckoned exclusively of that day also, and of any other following day or days during which the office may continue closed.

5. *Service of notice.*—Except where otherwise provided by the Code, or these rules, or any law for the time being in force, any notice directed to be given to any party shall be in writing, and may be served by the party, or his pleader, on the other party, or his pleader personally, or by sending the same by post, in a registered prepaid cover, to the address for service of the party or his pleader.

CIRCULAR ORDERS.

I. Sittings of Courts.

(1) Ordinarily, the sittings of the courts shall commence not later than 11 a.m. and unless the work of the day is disposed of earlier, the court shall not rise except for luncheon, before 5 p.m.

In cases in which it may be necessary or desirable to continue or complete the examination of witnesses in a trial then proceeding before the courts, the civil courts are authorized to continue their sitting after 6 p.m.
(*H.C. Rule, d.* 2-12-1882.)

(2) District and Sessions Judges are informed that they should ordinarily sit in court on Saturdays and that they are expected to sit daily at least 5½ hours subject to extraordinary calls upon their time.
(*H.C. Cir.* 252, *d.* 19-3-1900.)

(3) Any practice in variation of the above rules, which may appear to be necessary owing to circumstances of a special or local character, should be reported for the orders and (if approved of) sanction of the High Court.
(*H.C. Rule, d.* 2-12-1882, *sanctioned in G.O.* 18, *J., d.* 9-1-1883.)

(4) It has been brought to the notice of the High Court that the above instructions directing the officers of subordinate judiciary to keep regular hours of attendance at court (11 a.m. to 5 p.m.) are frequently infringed by the officers either by coming late and sitting late or working for shorter period than that prescribed, thus allowing the work to either fall into arrears or suffer in quality. Considerable inconvenience is caused to the parties and practitioners by this irregular practice.

The High Court desires to impress upon all presiding officers of courts the imperative necessity of being punctual and regular in their attendance. District Judges are expected to see that there is no laxity in the observance of these instructions by the subordinate judicial officers and to warn them that serious notice will be taken of any breach of this rule in future.
(*H.C. P. Dis.* 652 *of* 1938.)

(5) The High Court directs that no case be heard and no judicial act be formally announced or done on Sundays.
(*H.C. Cir.* 1240-*A*, *d.* 26-4-1887.)

(6) The High Court directs that the submission of the monthly returns of sittings of Subordinate Judges and District Munsifs ordered in Circular Dis. No. 292, dated 7th February 1898, be discontinued. But District Judges may call for a return from any particular Subordinate Judge or District Munsif, if circumstances render it desirable to do so.
(*H.C. Dis.* 911 *of* 1903.)

(7) The attention of courts is drawn to the concession allowed to the Muhammadan employees of the Government in G.O. Nos. 1408 and 1066, Public, dated the 14th November 1913 and the 14th July 1915, respectively, to absent themselves for one or two hours on Fridays to say their prayers.
(*H.C. Dis.* 1757 *of* 1920.)

Muslim suitors and witnesses in all civil courts may be permitted on their application to avail themselves of such time, not more than two hours, between 12-15 p.m. and 2-15 p.m. as they require on Fridays to say their *Jumma* prayers. (*H.C. P. Dis.* 103 *of* 1938.)

II. Language of Civil Courts.

In exercise of the powers conferred by section 137 (2) of the Code, the Governor in Council is pleased to declare that in respect of the following Courts the languages shall be those set against them respectively:—

1. The City Civil Court, Madras	English. (*H.C. Dis.* 3199 *of* 1892.)
2. The Court of the District Munsif of Kasaragod (South Kanara district)	Kanarese and Malayalam. (*H.C. Dis.* 1242 *of* 1910.)
3. The Court of the District Munsif of Gudalur (Nilgiris district)	Malayalam and Tamil. (*H.C. Dis.* 788 *of* 1914.)
4. All courts in the Bellary district	Kanarese and Telugu. (*H.C. Dis.* 405 *of* 1915.)
5. The Court of the District Munsif of Sholingur (Chittoor district)	Tamil and Telugu. (*H.C.P. Dis.* 435 *of* 1929.

PART I

RULES MADE UNDER THE CODE OF CIVIL PROCEDURE.

CHAPTER I.

General.

A.—Form of Proceedings.

6. *Form of plaints, etc.*—All plaints, written statements, applications, affidavits, memoranda of appeal, and other proceedings presented to the court, shall be written, typewritten, or printed, fairly and legibly, on stamped paper or on substantial white foolscap folio paper, with an outer margin about two inches wide and an inner margin about one inch wide, and separate sheets shall be stitched together bookwise. The writing or printing may be on both sides of the paper, and numbers shall be expressed in figures.

7. *Cause-title of plaint, etc.*—(1) A plaint, or original petition, shall be headed with a cause-title, as in Form No. 1. The cause-title shall set out the name of the court, and the names of the parties, separately numbered, and described as plaintiffs and defendants or petitioners and respondents, as the case may be.

(2) *Cause-title of memorandum of appeal.*—A memorandum of appeal shall be headed with a cause-title setting out the names of the courts to and from which the appeal is brought, the names of the parties, separately numbered, and described as appellants and respondents, and also the full cause-title of the suit or matter in the lower court, as in Form No. 2.

(3) *Cause-title of subsequent proceedings.*—* All proceedings, subsequent to a plaint or original petition shall be headed with a cause-title as in Form No. 1 and all proceedings subsequent to a memorandum of appeal shall be headed with a cause-title as in the first part of Form No. 2.

(4) *Description of contents.*—Every proceeding shall also contain, immediately after the cause-title, a short description of its contents, as in Forms Nos. 5 and 6.

8. *Names, etc., of parties.*—(1) The full name, residence, and description of each party, and if such is the case, the fact that any party sues or is sued in a representative character, shall be set out at the beginning of the plaint, original petition, or

* Subs. by G.O. 2603 (H), d. 7-10-1936. (*H.C. P. Dis.* 718 *of* 1936.)
For forms—Vide Appx. III-A of Part II, Vol. II.

memorandum of appeal, as in Form No. 5, and need not be repeated in the subsequent proceedings in the same suit, appeal, or matter.

(2) *Address for service.*—The first proceeding filed by any party shall also state an address for service, which shall be within the local limits of the jurisdiction of the court in which the same is filed or of the District Court in which the party ordinarily resides.

CIRCULAR ORDERS.

I. Suits by or against Cantonment Authorities.

Claims on the part of a Cantonment authority should be instituted in the name of [the Secretary of State for India] [1] and not of the Cantonment authority, and the Secretary of State for India is a necessary party to any suit in respect of claims against a Cantonment authority, particularly where the relief sought will involve funds or property under the control of the Cantonment authority and belonging to the Crown.

(*G.O.* 675, *J.*, *d.* 20-4-1911. *H.C. Dis.* 939 *of* 1911.)

II. Suits against Government.

(a) *Agent to receive processes.*

(1) *In the City Civil Court.*—The Government Solicitor is appointed as the agent of Government for the purpose of receiving processes against [the Secretary of State for India in Council] [2] issued by the Madras City Civil Court. (*G.O.* 167, *J.*, *d.* 28-1-1910. *H.C. Dis.* 304 *of* 1910.)

(2) *In mufassal courts.*—All Collectors are requested to see that notices issued to them under section 80 of the Code of Civil Procedure in suits in which [the Secretary of State for India in Council] [3] represented by a Collector is a party, are received and signed by officers duly authorized to do so, and that in accepting service it may be stated by them that they are authorized to receive the same on behalf of the Collector. The present practice of some one signing "for Collector" leaves it uncertain whether the signatory had any authority to accept service on the Collector's behalf.

(*H.C. Dis.* 1835 *of* 1922.)

(3) *In suits by paupers*—

(i) *Notice to be given to the Crown Pleader and not to the Collector.*—Order XXXIII, rule 6 of the Civil Procedure Code, directs that notice of enquiry to determine whether an applicant shall be allowed to sue as a pauper shall be given to the Government Pleader. The Government understand that at present this notice is given sometimes to the Government Pleader and sometimes to the Collector of the district. As this practice is not in accordance with the law, the notice under Order XXXIII, rule 6, Civil Procedure Code, should in future be given only to the Government Pleader. When a Government Pleader receives such a notice he will immediately put himself in communication with the Collector in order to obtain the information necessary to decide upon the applicant's claims to sue *in forma pauperis*.

(*G.O.* 2005, *J.*, *d.* 30-11-1907. *H.C. Dis.* 46 *and* 46-*A of* 1908.)

(ii) *Notice to be given to the Crown Pleader for the District Court when there is no Government Pleader for the court issuing the notice.*—It has been brought to the notice of Government that when an application for permission to sue as a pauper is presented to a District Munsif's Court for which no Government Pleader has been appointed, the District Munsif concerned sends the notice required by Order XXXIII, rule 6 of the Code of Civil Procedure, to the Collector of the district. The practice is not

[1] "The Governor-General in Council" is now the authority under section 79 of the Code as amended by A. O.

[2] and [3] This expression has to be read as "the Crown" with reference to A. O.

in accordance with law. The Government accordingly direct that such notices shall in future be sent to the Government Pleader for the District Court. (*G.O.* 380, *J.*, *d.* 3-3-1908. *H.C. Dis.* 417-*A of* 1908.)

NOTE.—The expression "Government Pleader" has to be read as "Crown Pleader" with reference to A.O.

(b) *Officers authorized to sign and verify pleadings.*

Under the provisions of Order XXVII, rule 1 of the First Schedule of the Code of Civil Procedure, 1908 (Act V of 1908), and in supersession of all previous orders on the subject, the Governor in Council is pleased to authorize the undermentioned officers to sign and, if acquainted with the facts of the case, to verify all *pleadings in suits by or against* [*the Crown*] * *relating to their respective departments.*

Unless an officer is empowered to sanction the institution or defence of a suit the above authority extends only to his acting for [the Crown] † by signing plaints, etc., in suits the institution or defence of which has been previously duly sanctioned by Government or other competent authority.

List of Officers empowered.

(1) Secretaries and joint Secretaries to Government.
(2) Collectors, including the Collector of Customs, Madras.
(3) Headquarters Sub-Collectors.
(4) Personal Assistant Deputy Collectors.
(5) Director of Survey.
(6) The Agent to the Governor, Vizagapatam and the Government Agent, Gōdāvari.
(7) The Deputy Director of Agriculture, Cinchona, Ootacamund.
(8) The Principal, Veterinary College, Madras.
(9) The Superintendent, Civil Veterinary Department.
(10) The Conservators of Forests.
(11) The Registrar of Co-operative Societies.
(12) The Director of Agriculture.
(13) The Director of Industries.
(14) The Director of Fisheries.
(15) Superintendent, School of Arts.
(16) The Surgeon-General with the Government of Madras.
(17) The Director of Public Health.
(18) The Director of the King Institute of Preventive Medicines.
(19) Superintendents of Medical Schools.
(20) Director of Public Instruction.
(21) The Inspector of European Schools, District Educational Officers and Inspectresses of Girls' Schools.
(22) Heads of Government Colleges and of Government High Schools and Training Schools.
(23) Superintendent, Reformatory School, Chingleput.
(24) The Principal, Institute of Commerce, Madras.
(25) The Headmaster, School of Commerce, Calicut.
(26) Commissioner for Government Examinations.
(27) Superintendent, Government Museum.
(28) Superintendents of Engineering Schools.
(29) Inspector-General of Registration and Registrar of Joint Stock Companies.
(30) Inspector-General of Prisons.
(31) Superintendents of District and Central Jails.
(32) The Commissioner of Labour.
(33) The Inspector-General of Police.
(34) The Commissioner of Police, Madras.
(35) Superintending Engineers.
(36) The Superintendent, Government Press.
(37) The Superintendent of Stamps and Stationery.
(38) The Presidency Port Officer.
(39) Assistant Commissioners of Salt and the Secretary to the Collector of Salt Revenue, Madras.
(40) Assistant Commissioners of Excise.
(41) Assistant Commissioners of Income-tax.
(42) The Examiner of Local Fund Accounts.
(43) The Inspector of Industrial Education.
(44) The Postmaster-General.

[*G.O.* 2360, *L.* (*G.*), *d.* 25-9-1923. *H.C. Dis.* 1869 *of* 1923, *as amended by corrigendum*, *d.* 2-6-1924.]

* Subs. for the words "the Secretary of State for India in Council".
† Subs. for the word "Government".

(c) *Officers authorized to act.*

Under the provisions of Order XXVII, rule 2 of the First Schedule of the Code of Civil Procedure, 1908 (Act V of 1908), and all other powers hereunto enabling them in this behalf, the Government are pleased to authorize all Collectors, Headquarters Sub-Collectors, Treasury Deputy Collectors and Deputy Collectors who are Personal Assistants to the Collector in every district ex-officio to act for [the Crown] * in respect of legal proceedings arising in the district.

It must be understood that this notification does not empower Collectors and other officers to institute and defend suits, etc.; their powers in this respect are regulated by Chapter X of the Board's Standing Orders.

[*G.O. Ms.* 1916, *L.* (*G.*), d. 27-6-1924. *H.C. Dis.* 1205 *of* 1924.]

Under rule 2 of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), and all other powers hereunto enabling, the Governor in Council is pleased to authorize the Special Revenue Officer, Cauvery-Mettur Project, and Assistant to the Collector of Tanjore to act for [the Crown] * in respect of all judicial proceedings arising in connexion with the acquisition of land for the purposes of the Cauvery-Mettur Project in the revenue district of Tanjore.

2. It must be understood that this notification does not empower the Special Revenue Officer to institute and defend suits, etc.

[*G.O. Ms.* 3782, *L.* (*G.*), *d.* 17-10-1932. *H.C. P. Dis.* 851 *of* 1932.]

9. *List of documents filed along with the plaint.*—Every plaint shall at the foot thereof, contain a list, to be signed by the plaintiff or his pleader, of the documents filed therewith, in Form No. 7, or a statement, signed as aforesaid, that no document is filed therewith.

10. *Form prescribed for list filed under Order XIII, rule* 1.—The list of documents, if any, filed by the parties under Order XIII, rule 1 of the Code, shall be in Form No. 7.

11. *Proceedings in respect of immovable property.*—Every plaint, original petition, and memorandum of appeal, in which relief is sought with respect to immovable property, shall state, as part of the description thereof, the registration district or sub-district in which the property is situate and the survey number, if any; and in cases where the value of the property is required to be estimated for the purposes of the Court Fees Act, 1870, there shall be annexed thereto a statement, duly filled in and signed by the party, of the particulars mentioned in Form No. 8. In case of default the proceeding may be received, but shall not be admitted or filed until the provisions of this rule have been complied with.

12. *Leave to sue.*—(1) If under section 20 (*b*) of the Code, leave to institute a suit is required, the plaint shall contain a prayer that leave may be granted, and shall be accompanied by an affidavit stating the residences and occupations of the several defendants, and the reasons for instituting the suit in the court.

(2) If leave to sue is granted, the summons to the defendant shall contain the notice set out in Form No. 9.

For forms—Vide Appx. III-A of Part II, Vol. II.

* Subs. for the words "the Government."

(3) The court may, in its discretion, issue notice of the application to the defendants, before passing an order thereon.

13. *Suits by or against numerous parties.*—(1) An application under Order I, rule 8 of the Code shall be supported by an affidavit stating the number or approximate number of the parties, and the places where they respectively reside; that they have all the same interest in the subject-matter of the suit, and the nature of the said interest; and the best means of giving notice of the institution of the suit to the said parties, and the probable cost thereof. If the application is made by the plaintiff, it may be made in Form No. 10, and the estimated costs of giving notice of the institution of the suit shall at the same time be deposited in court.

(2) The plaint shall state that the plaintiff sues on behalf of himself and all other persons interested in the subject-matter of the suit, or sues the defendant as representing all persons so interested; and the summons to the defendant shall contain the notice set forth in Form No. 11.

14. *When application is made by defendant.*—If the application is made by a defendant, notice thereof shall be given to all parties to the suit; and, if permission is granted, the plaint shall be amended by inserting a statement that the defendant is, with the leave of the court, sued as the representative of all persons interested in the subject-matter of the suit.

15. *Adding plaintiff or next friend.*—If an application is made to add any person as plaintiff, or as the next friend of a plaintiff, he shall either appear in person, in which case his consent to be so added shall be recorded by the judge in writing, or a written consent thereto signed by him, and authenticated by a person authorized to take affidavits, shall be filed in court.

Recognized Agents and Pleaders.

16. *Party appearing by agent.*—(1) When a party appears by an agent, other than a pleader or advocate, the agent shall, before making or doing any appearance, application, or act, in or to the court, file in court the power-of-attorney, or written authority, thereunto authorizing him, or a properly authenticated copy thereof; or, in the case of an agent carrying on a trade or business on behalf of a party, without a written authority, an affidavit stating the residence of his principal, the trade or business carried on by the agent on his behalf, and the connexion of the same with the subject-matter of the suit, and that no other agent is expressly authorized to make or do such appearance, application, or act.

For forms—Vide Appx. III-A of Part II, Vol. II.

(2) The judge may thereupon record in writing that the agent is permitted to appear and act on behalf of the party; and, unless and until the said permission is granted, no appearance, application, or act, of the agent shall be recognized by the court.

17. *Signing or verification by agent.*—If any proceeding, which, under any provision of law or these rules, is required to be signed or verified by a party, is signed or verified by any person on his behalf, a written authority in this behalf signed by the party shall be filed in court, together with an affidavit verifying the signature of the party, and stating the reason of his inability to sign or verify the proceeding, and proving the means of knowledge of the facts set out in the proceeding of the person signing or verifying the same.

18. *Appointment of pleader.*—* Save as provided in paragraph 3 of this rule, every vakalatnama or appointment of a pleader shall be executed, or its execution attested before a judicial functionary, a gazetted officer, or a member of the Legislative Council or of the Legislative Assembly of the Province or before a member of a district educational council or a member of a district board or panchayat constituted under the Madras Local Boards Act, 1920, a municipal councillor, an assistant monigar or other assistant village headman, or any person upon whom a title has been conferred by Government, or a retired gazetted officer receiving pension from Government, or before a Commissioned Military officer of the A.F.I., stationed in the Anamalais, or the manager of the office of the Board of Commissioners for the Hindu Religious Endowments, or any superintendent or inspector working under the Board, or in the City of Madras before any sub-registrar †, who shall subscribe his own signature adding his designation on the vakalatnama in authentication of its execution or attestation.

Provided that when a vakalatnama is executed by any person who appears to the officer before whom it is executed, or the execution is attested, to be illiterate, blind, or unacquainted with the language, in which the vakalatnama is written, the officer shall certify that the vakalatnama was read, translated or explained in his presence to the executant, that he seemed to understand it and that he made his signature or mark in the presence of the officer.

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* Subs. by H.C.P. Dis. 315 of 1935 and 321 of 1939.

† In the case of sub-registrars the Government direct that they shall attest the execution of vakalats only in which they know the parties personally or in which the vakalats are presented by persons who appear before them for the registration of documents and whose identity has been proved in connexion with the registration of those documents and they shall not hold special inquiries in this connexion.

(*G.O.* 232, *Judicial*, d. 28-1-1916. *H.C. Dis.* 482 *of* 1916.)

When the executant of a vakalatnama is himself a public officer of whose signature a court must take judicial notice, authentication on the vakalatnama shall not be necessary.

A statement of the pleader's address for service shall be endorsed on the vakalatnama and subscribed with his own signature by the pleader.

19. *Form of vakalat.*—Every vakalat shall, unless otherwise ordered by the court, be in Form No. 12 and shall authorize the pleader to appear in all execution and miscellaneous proceedings in the suit or matter subsequent to the final decree or order passed therein.

NOTE I.—*Vakalatnamas*—

(1) Every vakalatnama must be dated at the time of its execution and its acceptance. (*H.C. Rule, d.* 27-7-1896.)

(2) No vakalatnama is to be authenticated unless the vakil's name be inserted therein previous to its execution. (*Pro., d.* 1-12-1858.)

(3) It is not necessary for the authenticating officers to see that vakalatnamas are stamped at the time of attestation or execution. (*G.O.* 1214, *d.* 4-9-1909. *H.C. Dis.* 1290 *of* 1909.)

(4) No vakalatnama will be filed, unless it be noted thereon, in the handwriting of the vakil to whom it is executed, that it has been "accepted" by him.

(5) Where a person is a party in two or more connected suits, he must execute a separate vakalatnama in each case, notwithstanding that he may retain the same pleader in all.

(6) Where the party may afterwards retain additional vakils, he may either execute a fresh vakalatnama, to be signed by all the vakils by whom it is accepted and to be substituted for the original vakalatnama; or he may execute a separate vakalatnama to the additional vakils. (*Pro., d.* 24-7-1851.)

(7) Whenever a vakalat in the names of more than one vakil is presented, it should be rejected unless it has been accepted by all the vakils who are named in it. (*H.C. Cir.* 2074, *d.* 26-8-1889.)

(8) A party who has retained a vakil to appear for him cannot be heard in person, unless he first withdraws the vakalatnama. (*Pro., d.* 15-3-1821.)

(9) The Government Pleader need not file a written authority in each case. (*H.C. Cir.* 739, *d.* 12-8-1903.)

II.—*Termination of pleader's authority.*—(1) A vakil retained in any case has discharged his duty to his client on the decree being made, and is not bound to appear on any application for review of judgment without further instructions. But, if prepared to appear, he may do so without a fresh vakalatnama: provided that if any such vakil takes any step in the review, it will be incumbent upon him to appear at the hearing.

(2) A vakil retained in a suit cannot afterwards appear for the same client in an appeal from an order passed in execution of the decree in such suit, unless he puts in a fresh vakalatnama. (*Pro., d.* 17-8-1860.)

20. ***Pleader not to act in opposing interest.***—Except when specially authorized by the court, or by consent of the party, a pleader who has advised in connexion with the institution of a suit, appeal or other proceeding, or has drawn pleadings in connexion with any such matter, or has, during the progress of

For forms—Vide Appx. III-A of Part II, Vol. II.

any such suit, appeal or other proceeding, acted for a party, shall not, unless he first gives the party for whom he has advised, drawn pleadings or acted, an opportunity of engaging his services, appear in such suit, appeal or other proceeding, or in any appeal, or application for revision arising therefrom or in any matter connected therewith for any person, whose interest is opposed to that of his former client.

Provided that the consent of the party shall be presumed if he engages another pleader to appear for him in such suit, appeal or other proceeding without offering an engagement to the pleader whose services he originally engaged.

NOTE.—(1) When a suit is remitted by order of an appellate court for a re-hearing or finding on an issue, the proceeding on such order must be regarded as a further proceeding in the trial of the suit, and consequently a vakil cannot change sides and hold a vakalatnama for the party opponent to the one for whom he appeared at the first hearing.

(2) A vakil retained by one party in a suit is not precluded from afterwards accepting a vakalatnama from the other party, if the same cause or interest again comes under adjudication in another suit.

(*H.C. Cir.* 679, *d.* 8-4-1869.)

20-A. *Change of vakalat.*—* An advocate or pleader proposing to file an appearance in a suit, appeal or other proceedings in which there is already an advocate or pleader on record, may not do so, unless he produces the written consent of such advocate or pleader or, where the consent of such advocate or pleader is refused, unless he obtains the special permission of the court.

[*N.B.*—For rules regarding the qualification and admission of, and the fees payable to, legal practitioners—vide Chapter X of Part II *infra*.]

B.—PRESENTATION OF PROCEEDINGS TO THE COURT.

21. *Presentation of proceedings and documents.*—All plaints written statements, applications and other proceedings and documents, may be presented to or filed in court by delivering the same personally to the chief ministerial officer of the court at any time during office hours. The said officer shall at once endorse on the document the date of presentation, and if proceedings are thereby instituted, shall insert the serial number.

22. *Documents or proceedings not to be sent by post or telegraph.*—No document or proceeding required to be presented to, or filed in, court which is sent by post or telegraph, shall be received or filed in court.

NOTE.—(1) No pleading will be entertained which is couched in language disrespectful to the court, or to the judge of any other court or to any other public officer, or which contains terms of reproach against the other party.

(2) Verbal corrections may at any time be made in pleadings with the permission of the court.

(3) Where two or more pleadings are in any way connected with each other, a note is to be made by the party or his pleader on each of such petitions, describing the others with which it is connected.

* Inserted by G.O. Ms. 3886, L. (G.), d. 30-11-1933.
H.C.P. Dis. 784 *of* 1933.

No. 41

Page 12. The following proviso hsall be added to rule 22:-

"Provided that in case where (the Officer assignee) an Official Receiver does not intend to defend or contest any proceedings before a Court in which he is impleaded as party, he may inform the Court accordingly by a statement in writing in the form appropriate to the proceeding, and send it to the Court by post or personal messenger. Such statement shall ~~form~~ form ~~of~~ part of the record of the Proceedings."

(P.Dis N. .202 of 1942)

Page 12. in the proviso to rule 22 after the word "where" the words "Official Assignee or" shall be inserted.

(P. Dis No. 612/1945)

SUPERINTENDENT, DISTRICT COURT, NELLORE. 18-11-75

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C.—POSTING OF CASES.

23. *Posting of suits, etc.*—(1) On the last working day in every week a list of the suits, petitions, applications, appeals, and other cases, appointed to be heard on each day of the next week but one, shall be posted on a notice-board of the court. The list shall set out the serial number and short cause title of each case. and the names of the pleaders appearing therein.

(2) Unless the judge otherwise orders, the cases shall be called on on the day and in the order in which they stand in the list.

Cause Lists.

It has been observed that many of the courts do not post a cause list showing the work to be done each day, but merely exhibit on the notice board what is practically a copy of the A Diary (*vide* Civil Register No. 16, Appx. II, Vol. II) showing the dates to which cases dealt with on a given day are adjourned. For the convenience of practitioners and parties, the High Court considers that a cause list (*vide* Civil Mis. Form No. 62—Appx. III-L, Vol. II) should be posted daily on the notice board of each District and Subordinate Court, showing the cases which will be heard on the succeeding day. (*H.C. Dis.* 2319 *of* 1915.)

24. *Cases ready to be posted according to their order.*—Unless the judge otherwise orders, every case ready for disposal shall be posted and taken up according to its order on the file of the court.

Exceptions.—(1) All suits in civil courts for the prosecution or defence of which persons in the service of Government, officers of the army or soldiers * have obtained leave of absence and suits to which officers or men borne on the roll of Native Infantry Reserves are parties, shall be disposed of by such courts as soon as they are ripe for hearing, irrespective of the order in which they may stand in the Registers and as speedily as may be consistent with the due administration of justice.

(*H.C. Cir.* 3985 *of* 1883 *and* 847 *of* 1892.)

† (1-A) All suits in civil courts for the prosecution or defence of which persons in the civil or military services of the Cochin Government have obtained leave of absence, shall be disposed of by such courts as soon as they are ripe for hearing, irrespective of the order in which they stand in the register, and as speedily as may be consistent with the due administration of justice.

(2) In order to clear off arrears and to save the time of the courts by reducing the number of applications to bring in the representatives of deceased parties, etc., batches of suits and appeals pending in civil courts should be heard in future as soon as possible after they are filed, being posted before other suits and appeals which are ready for hearing. This instruction should be treated as an exception to rule 24 above, which should be followed in other cases.

* [For rules framed under the Indian Soldiers Litigation Act IV of 1925, vide Chap. VIII of Part II *infra*.]

† Added by *H.C.P. Dis.* 879 *of* 1939.

For this purpose ' batch ' means five or more suits or appeals which will be governed by a single decision.

(*H.C. Dis.* 84 *of* 1913.)

Recommendations of the Civil Justice Committee for improvement in the matter of dealing with uncontested work and in the fixing of dates.

" A considerable improvement in dealing with uncontested work, in cases in which an officer is entrusted with the disposal of both uncontested and contested suits, will take place if the officer follows these simple rules.

He should fix a time, about half an hour after his arrival in court, when he should go through the whole list of the day, disposing of all uncontested work at once, and putting the contested work on one side for disposal after uncontested work has been completed. Endeavours should be made never to adjourn an uncontested suit to a date on which contested work is fixed. * * *

The object to be attained should be the completion of the work fixed for a certain day on that day. It is, of course, not possible to attain this object invariably. A reasonable estimate can be framed as to how long a particular suit will take to hear. The time required for the purpose may exceed the estimate; it may be below the estimate. The death of a party may prevent the suit being heard on the day on which it is fixed, the plaintiff may withdraw the suit, the parties may compromise. If the suit comes on for hearing, the hearing may take a longer period than the period estimated by the presiding officer. But over the greater part of India no attempt is made to make such estimates, and more work fixed in a day than can possibly be done in the day.

We are convinced that it is possible to make some sort of estimate as to the period required for the disposal of each particular portion of the work, and to fix the dates after making such an estimate, so as to ensure almost invariably that the work fixed for a particular day will be done within the day. A margin may be allowed, but every endeavour should be made to prevent litigants appearing in court and being sent away without a hearing, because the time of the court is so occupied that no attention can be paid to them. * *

Certain subordinate judges and munsifs frankly admitted to us that it was their practice to fix more work than they could complete, and they stated that it was necessary to do so, because it was always possible that if only sufficient work were fixed for the day a portion might disappear, and then the presiding officer would be left without full occupation.

The utmost concession that should be made to this view, would be to fix for hearing on one day perhaps one quarter more than could be done on it and to give the undone work precedence on the next date. We have been unable to find in the majority of cases that any such practice has been adopted. More work is fixed for the day than can possibly be got through, whatever drops out, and precedence is not given to the undone work on the next date. * * *

It has been found, however, that those courts who fix their dates in a reasonable manner do not find their work thrown out to any great extent by so doing. On the average the work equalizes up when reasonable estimates are made. One case takes a little more, another takes a little less time. At the worst, if on one particular day the court is left with insufficient case work to fill up more than an hour or even less, the presiding officer has judgments to write in cases which he has heard, pleadings to examine in cases that are coming on for issues. There is usually much to inspect in his office. He can fill up his time without detriment to the public in this manner.

In all places in which there is more than one court of the same jurisdiction no difficulty will be felt for, if a presiding officer finds that he has

not sufficient work for the day, he can send for work from his colleagues and take it on his own file.

There is a further argument that is raised in support of the practice to which exception is taken. It is this. The upholders of the practice assert that the position of parties who wish to compromise or withdraw is improved by fixing an adjourned date on which it is known that in absence of a compromise or withdrawal the suit will not be taken up. There are some instances in which parties are driven to compromise or withdrawal by their inability to tolerate the manner in which the hearing is dragging on. We have found more than one such instance.

It, however, is a scandal that any litigant should be coerced to a withdrawal in this manner. In cases where the compromise or withdrawal is the result of a genuine settlement, it is perfectly easy for the parties to effect withdrawal from the contest on any day, whether that date has or has not been fixed for hearing. All that is required for the purpose is an application duly certified, put in at any hour of the day.

We are forced to the conclusion that the practice has grown up owing to apathy. Presiding officers, merely in order to save themselves trouble, have allowed their clerks to fix dates and have made no estimates. The clerks fix dates without any attempt at method and arrange four times the amount of work that can be got through in the day.

There is no reason why clerks should not perform the clerical duty of writing down the dates, provided these dates are written under the orders of the presiding officer, and provided he controls the work sufficiently. Unfortunately when the presiding officer does not write the order with his own hand, he is very apt not to know what the order is."

(*H.C. Dis.* 404 *of* 1926.)

D.—ADJOURNMENTS.

25. *Adjournment to be to a day certain.*—All adjournments shall be to a day certain, if possible, and the day shall be fixed with regard to the convenience of the parties and the business of the court. Upon an application for an adjournment, the court shall consider the interest of all parties and the particular circumstances of the case. The absence of the pleader of a party, or want of preparation on his part, whether arising from insufficient instructions, or otherwise, shall not of itself be a sufficient ground for an adjournment.

26. *Proceedings not to be adjourned sine die or struck off the file.*—No suit, appeal, matter, or proceeding, shall, under any circumstances whatever, be adjourned *sine die* or struck off the file; and if, by inadvertence, a day certain for the further hearing is not fixed by the court, or a case is ordered to be struck off the file, the case shall be posted and come on for hearing one month from the day on which it was before the court, or, if the court is then closed, on the next day thereafter on which the court is sitting.

* Provided that in a suit for partition in which a preliminary decree has been passed the court may adjourn the proceedings *sine die*, with liberty to any of the parties to whom shares have been allotted to apply for the passing of a final decree.

27. *Costs of adjournment.*—Except where an adjournment is granted with the consent of all parties, or is necessitated by the

* Inserted by G.O. Ms. 2004, L. (G.), d. 7-5-1929.
(*H.C.P. Dis.* 552 *of* 1929)

business of the court, or by the act or default of any other party, the party desiring an adjournment shall be ordered to pay the costs thereof, including the expenses of re-summoning the witnesses, if any, and the fee of the pleader, of the other party.

28. (1) *Notice.*—Any party desiring an adjournment may give notice in writing to the other party, or his pleader, of his intention to apply therefor on the day fixed for the hearing, and it shall not be necessary for such party to file a petition.

(2) *Advancement of hearing.*—Any party who desires that the hearing may be advanced, may apply therefor by interlocutory application, of which notice shall be given to the other party.

(3) *Notice of consent.*—The party served with notice may give to the other party, or his pleader, notice in writing that he consents to, or will oppose, such adjournment or advancement.

CIRCULAR ORDERS.

(1) *Laxity in granting adjournments deprecated.*—Any tendency towards laxity in the matter of granting adjournment of suits on the part of the subordinate courts should be duly noticed and checked by the District Judges. (*H.C. Cir.* 1402 *of* 1879.)

To ensure an effective scrutiny by District Judges of the adjournments granted by Subordinate Judges and District Munsifs, the High Court directs that all District Munsifs and Subordinate Judges should submit to District Judges a monthly disposal report of over one year old suits in the form appended and that these reports should be reviewed by District Judges.

Pending from last month.	Becoming one year old during the month.	Disposed of.	Balance.
(1)	(2)	(3)	(4)

(*H.C.P. Dis.* 384 *of* 1937.)

(2) *Reasons for granting adjournments to be recorded.*—The proviso to Order XVII, rule 1, Civil Procedure Code, requires that the reasons for adjournments should be recorded. This direction of the Code is frequently overlooked. Laxity in granting adjournments occasions a serious waste of the time of the court and serious inconvenience to suitors, especially to those whose means are limited and who cannot afford the frequent loss of a day's earnings by attendance at the court. Disregard of the procedure prescribed deprives the superintending courts of the opportunity of duly exercising their functions. (*H.C. Cir.* 236 *of* 1881.)

It has been brought to the notice of the High Court that in certain subordinate courts it has been the practice to adjourn the hearing of a suit on the representation that an appeal or revision or stay application has been filed or is about to be filed in a superior court. The High Court considers that representations of this nature should not weigh with the subordinate courts. The hearing of a suit (or appeal) should proceed unless a stay order from an appellate court has been actually received. (*H.C.P. Dis.* 175 *of* 1939.)

(3) *Granting adjournments for arguments disapproved.*—From the frequency with which delay in the disposal of suits has been accounted for by the explanation that the hearing was adjourned for the arguments of the pleaders, the High Court is led to believe that the practice of allowing time to pleaders to specially prepare their address to the court after evidence in the case in which they are engaged has been fully heard, is growing into an evil of some magnitude.

Business cannot be disposed of well and expeditiously if suits are heard in such piecemeal fashion. A judge's grasp of the facts of a suit must be weakened by lapse of time, and the result of a long adjournment after the close of evidence is either that the judgment is written from imperfect recollection of the details of the case or that the time of the judge is wasted by the necessity he is under of refreshing his memory by study of the records.

For these reasons, the High Court looks with disfavour upon the grant of adjournments for the purpose mentioned and will, in no circumstances, regard such adjournments as satisfactorily accounting for delay in the disposal of pending suits. (*H.C. Cir., d.* 13-11-1890.)

[*N.B.*—For recommendations of the Civil Justice Committee on this subject—vide Chapter III, pp. 83-84, *infra.*]

E.—Interlocutory Proceedings.

29. *Form of interlocutory application.*—Interlocutory applications shall be headed with the cause title of the plaint, original petition, or appeal, as in Form No. 13.

30. *Contents thereof.*—Except where otherwise provided by these rules, or by any law for the time being in force, an interlocutory application shall state only the order prayed for, and shall not contain any statement of facts or argumentative matter. Every application in contravention of this rule shall be returned for amendment or rejected.

31. *May be rejected if substantive order is not asked for.*—Every application which does not pray for a substantive order but prays, merely, that any other application may be dismissed, and every application which prays for an order which ought to be applied for on the day fixed for the hearing of any suit, appeal or matter, may be rejected with costs.

32. *Notice.*—Unless the court otherwise orders, notice of an interlocutory application shall be given to the other parties to the suit or matter or their pleader not less than three days before the day appointed for the hearing of the application.

Ex parte injunctions—Recommendations of the Civil Justice Committee regarding the granting of.

" (1) Much delay and injustice is occasioned by interlocutory orders for stay of proceedings, stay of execution, interlocutory injunctions, and by the holding up of proceedings pending applications in revision. * * *

(2) It appears to us that interlocutory injunctions are, throughout India, granted much too freely and without sufficient care to impose terms. There is, moreover, a specially noticeable freedom in the granting of such orders *ex parte*. It seems to be very inadequately appreciated that the right to an interlocutory injunction and the right to have it granted *ex parte* are

For forms—Vide Appx. III-A of Part II, Vol. II.

two very different things. We have been struck by the fact that in cases in which it is clear from the plaint itself that the parties have been at difference for months as to a right in immovable property, the plaintiff has been granted an *ex parte* injunction to restrain digging or building operations on the part of a defendant in possession. Having regard to the congestion in many courts one can readily see that a plaintiff by such an order is put at once into a strategic position. Indeed a lax practice in granting such orders is an open invitation to blackmail. * * *

(3) * * * In many cases the plaints and affidavits fail utterly to explain that anything has happened in the last few days to justify a sudden claim to interference with the defendant from behind his back. They frequently show that the plaintiff might and should have brought his suit long before and proceed on the assumption that so long as it is conceivable that the plaintiff's right is being infringed the court is bound to restrain the defendant until the distant day when the question shall be tried out. Thus, we think that a main cause of the bad practice is inexperience and weakness on the part of the officers.

(4) Another cause we believe to be that courts are too apt to look merely at the rules in Order XXXIX of the Code. These rules are a statement of the general conditions under which interlocutory injunctions *may* be granted. They are a statement—that is to say—of the powers of the court. The question whether such an order *should* be granted involves a great deal more than mere compliance with these conditions. It involves a certain amount both of law and commonsense. By rule 3 of this Order the court is required before granting an injunction to direct notice to be given of the application to the opposite party, in all cases except where it appears that the object of granting the injunction would be defeated by the delay. Accordingly, looking solely to the words of exception contained in this rule, the courts appear to grant *ex parte* injunctions to restrain all sorts of acts even although it is manifest that the plaintiff has long known that the acts were intended. It is much to be wished that the subordinate courts would appreciate that an interlocutory injunction should be granted *ex parte* only in very exceptional circumstances and practically speaking should never be granted unless the plaintiff establishes in a convincing manner that by no reasonable diligence on his part could he have avoided the necessity of applying behind the back of the defendant. It is important to notice that the question here is not whether since the plaint was filed he has had time to serve the defendant. Plaintiffs consequently come to court at the last moment for the purposes of getting the advantage of commencing with an *ex parte* injunction. Even in cases where this is not the deliberate purpose it is wholly wrong to reward dilatoriness at a heavy expense to the opposite party.

(5) Again, we consider that a court which is not prepared to hear the defendant on an application of this sort in a few days and which gives an *ex parte* injunction which it knows must continue for weeks is exercising its jurisdiction in a highly dangerous manner. Such injunctions when granted at all should invariably be limited to hold good only until a specific and early date. By early is meant for this purpose not a month but a week or less, i.e., a minimum time within which a defendant can come effectively before the court assuming that to get rid of the injunction he will be prepared to use the greatest expedition possible.

(6) Again when such an injunction is granted the greatest care should be taken to state exactly what the acts forbidden are. Such orders when drawn up frequently disclose incurable vagueness or they are made up by copying out a long rigmarole from the plaint. Where it is sought to restrain a series of acts of different kinds, with respect to one of which some possible claim of urgency can be made, the *ex parte* injunction frequently embraces all the possible acts that can be objected to by the plaintiff.

(7) The recklessness with which injunctions are sometimes granted *ex parte* is a special evil in a country where rights and interests in land are apt to be complicated and uncertain. It is, for example, a heavy drawback to industrial progress if a firm buying land to build a factory, however careful it may be to get a good title and however good in fact be the title which it gets, should run a great risk of having expensive building operations stopped for weeks by an injunction granted by a junior officer

at the instance of a plaintiff claiming a small and fractional interest in a portion of the land. Again, we understand that in recent times the ordinary operations of local bodies are being constantly interfered with by *ex parte* injunctions at the suits of plaintiffs whose grievance is in no way commensurable with the damage which an interlocutory injunction is bound to do. There can be no greater encouragement to blackmailing and malicious suits. The serious interruption of public business in the interest of a protagonist in a local quarrel is by no means unknown.

* * * * *

(8) This matter is one which urgently requires the attention of District and High Court Judges both when dealing with appeals and at inspections. What is wanted is that the materials upon which *ex parte* injunctions are granted should be scrutinized in as many cases as possible by the inspecting officer. When he finds them to have been insufficient he should go through them with his subordinate and explain their insufficiency. If the subordinate officer's ideas are defective as to the principles which should govern the exercise of the powers given by Order XXXIX, the inspecting officer will have every opportunity to discover the defects. The order as formally drawn up should be very carefully examined. It should be noticed whether any provision has been made for ensuring to the defendants an early opportunity to be heard or whether the order made *ex parte* has been limited to take effect for a substantial or for an indefinite time. A very important matter for inquiry is whether or not the court granting the injunction *ex parte* has been played with by the plaintiff failing to pay the process fee, failing to supply an identifier or failing to serve some *pro forma* defendant in the same interest. * * * An inspection which is worth anything will always disclose the merits of the way in which injunction matters have been handled. So far as comparatively junior officers are concerned, we are convinced that no great improvement will be effected in this matter unless they are made to appreciate that the granting of an *ex parte* injunction is a serious responsibility; that having granted the injunction they are under a duty to take the greatest pains to do every thing possible to protect the absent defendant; and that they will in general be called upon at inspections to show that they have handled injunction matters not merely without breach of the rules in Order XXXIX but in accordance with legal principle and commonsense." (*H.C. Dis.* 146 *of* 1926.)

33. *Proof of facts by affidavit.*—Any fact required to be proved upon an interlocutory proceeding shall, unless otherwise provided by these rules, or ordered by the court, be proved by affidavit; but the judge may, in any case, direct evidence to be given orally; and thereupon the evidence shall be recorded, and exhibits marked, in the same manner as in a suit and lists of the witnesses and exhibits shall be prepared and annexed to the judgment.

F.—AFFIDAVITS.

34. *Before whom may be sworn.*—* Affidavits intended for use in judicial proceedings may be sworn before any court or magistrate, including a village magistrate, or a sub-registrar, nazir, or deputy nazir or assistant nazir, or a member of the Legislative Council or of the Legislative Assembly of the Province or a member of a district educational council, or a district board member or municipal councillor, or any person upon whom a title has been conferred by Government, or a retired gazetted officer receiving pension from Government, or a Commissioned

* Subs. by *H.C.P. Dis.* 315 *of* 1935 *and* 321 *of* 1939.

Military Officer of the A.F.I., stationed in the Anamalais, or the manager of the office of the Board of Commissioners for Hindu Religious Endowments, or any superintendent or inspector working under the Board.

[*N.B.*—For forms of oath and affirmation prescribed under section 7 of the Indian Oaths Act, 1873, vide Appx. III-K, Part II of Vol. II.]

35. *Filing.*—Before any affidavit is used it shall be filed in court, but the judge may, with the consent of both parties, or in case of urgency, allow any affidavit to be presented to the court and read on the hearing of an application.

36. *Notice of filing.*—The party filing an affidavit intended to be read in support of an application shall give not less than two days' notice thereof to the other parties, who shall be entitled to inspect and obtain copies of the same, and to file counter-affidavits, and shall give notice thereof to the applicant, who may inspect and obtain copies of the same, and file affidavits in reply; but, except with the leave of the court no further affidavit shall be filed or read. If any party fails to give notice of filing an affidavit, the court may grant an adjournment of the hearing and order the party in default to pay the costs thereof.

37. *Form.*—Every affidavit shall be drawn up in the first person, and divided into paragraphs numbered consecutively; and each paragraph, as nearly as may be, shall be confined to a distinct portion of the subject.

38. *Description of deponent.*—Every affidavit shall state the full name, age, description, and place of abode of the deponent, and shall either be subscribed with his signature in his own hand or marked by him. Except in the case of a European, or Anglo-Indian, the description shall include the father's name, and the caste of the deponent.

39. *Alterations and interlineations.*—Alterations and interlineations shall, before an affidavit is sworn or affirmed, be authenticated by the initials of the officer before whom the affidavit is taken, and no affidavit having therein any alteration or interlineation not so authenticated, or any erasure, shall except with the leave of the court, be filed or made use of in any matter.

40. *Statement of officer before whom affidavit sworn.*—The officer before whom an affidavit is taken shall state the date on which, and the place where, the same is taken, and sign his name and description at the end, as in Form No. 14; otherwise the same shall not be filed or read in any matter without the leave of the court.

41. *Blind or illiterate deponent.*—When an affidavit is sworn or affirmed by any person who appears to the officer taking the affidavit to be illiterate, blind, or unacquainted with the language in which the affidavit is written, the officer shall certify that the affidavit was read, translated or explained in his presence to the

deponent, and that the deponent seemed to understand it, and made his signature or mark in the presence of the officer, as in Form No. 15; otherwise the affidavit shall not be used in evidence.

42. *Endorsement should state on whose behalf filed.*—Every affidavit shall bear an endorsement stating on whose behalf it is filed.

43. *Affidavit stating matter of opinion.*—Every affidavit stating any matter of opinion shall show the qualification of the deponent to express such opinion, by reference to the length of experience, acquaintance with the person or matter as to which the opinion is expressed, or other means of knowledge of the deponent.

44. *Affidavit on information and belief.*—Every affidavit containing statements made on the information or belief of the deponent shall state the source or ground of the information or belief.

45. *Documents referred to in affidavit.*—Documents referred to by affidavit shall be referred to as exhibits and shall be marked in the same manner as exhibits admitted by the court; and shall bear the certificate in Form No. 16, which shall be signed by the officer before whom the affidavit is taken.

46. *Cross-examination on affidavit.*—The court may at any time direct that any person shall attend to be cross-examined on his affidavit.

G.—Original Petitions.

47. (1) *Original Petition should state Act or authority under which it is presented.*—An original petition shall, in addition to the particulars required by rules 7 and 8, also state the Act, or other authority, under which it is presented, as in Forms Nos. 5 and 6. If it is not intended to serve any person with notice of the petition, it shall be so stated, and the petition shall be headed, as in Form No. 6; but if the court directs any person to be made a party, the cause-title shall be amended, and shall be in Form No. 1.

(2) *Hearing.*—Original petitions shall be heard and determined in the same manner as original suits.

Transfer of Suits.

48. (1) *Application for transfer.*—An application for the transfer of a suit from one court to another shall be made by original petition entitled in the matter of the pending suit, as in Form No. 17. Notice of the application, in Form No. 18 shall be issued and served on the other parties to the suit: provided that if, under section 24 of the Code a District Court transfers a suit of its own

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For forms—Vide Appx. III-A of Part II, Vol. II.

motion, without giving notice, it shall record in writing its reasons for dispensing with notice.

(2) *Affidavit in support.*—The application shall be supported by affidavit stating the respective residences of the several parties to the suit, the places in which the several portions of the subject matter of the suit are respectively situate, and the several jurisdictions within which the said residences and places are respectively situate, and any other facts on which the application is based.

(3) *Separate application.*—A separate application shall be presented in respect of each suit of which a transfer is sought, and the Court shall, in each case, record in writing its reasons for its order.

NOTE.—(1) *Contents of transfer application.*—Whenever an application is made to the High Court (section 23, cl. 2, Code of Civil Procedure) for permission to transfer a case from one District Court to another, or to hear in one District Court, a case in which a portion of the subject matter is within the jurisdiction of another District Court, the application should clearly state the proportion of the subject matter situate within each District Court. Where the application is made on account of the residence of some of the defendants out of the jurisdiction, the defendants so resident should be distinctly indicated. Otherwise it is impossible for the High Court to determine upon the expediency or inexpediency of the permission asked.

The same course shall be observed where the application is for permission to a Munsif to hear a case in which a portion of the subject matter is situate or some of the defendants are resident within the jurisdiction of another Munsif. (*H.C. Cir., d.* 21-12-1863.)

(2) (*a*) *Registering suits received by transfer.*—The courts to which suits are transferred should note the old numbers and the dates of institution in the Suit Register within brackets and when acknowledging the receipt of the records should intimate to the courts in which the suits were originally instituted the new numbers given to the suits.
(*H.C. Dis.* 707 *of* 1914.)

(*b*) *Calculation of duration of transferred suits.*—In calculating the duration of cases, the time that the suit has actually been pending in a particular court should alone be calculated. A case should be considered to begin to be pending when it is received in the court whether by institution or by transfer and to cease to be pending when it is no longer before the court whether as the result of disposal or of transfer to another court.
(*H.C.P. Dis.* 717 *of* 1934.)

(3) *No fresh vakalat necessary after transfer.*—It has been brought to the notice of the High Court that some of the subordinate courts are insisting on execution of fresh vakalats when original suits are transferred from one court to another for disposal. The High Court considers that such a procedure is unwarranted and that fresh vakalats should not be insisted on, if the pleader originally engaged is willing to act in the court to which the suit is transferred. (*H.C. Dis.* 262 *of* 1922.)

For forms—Vide Appx. III-A of Part II, Vol. II.

CHAPTER II.

Processes.

ISSUE OF SUMMONS OR NOTICE.

49. *Issue of summons or notice.*—In any proceeding in which summons or notice is to be issued by the court to any person, the party presenting the plaint, memorandum of appeal, cross-objection, or application shall also bring into court along with it a duly stamped application for service together with a sufficient number of copies of the plaint, concise statement, memorandum of appeal, cross-objection, or application and affidavit in support thereof for service on the party concerned along with the summons or notice.

The copies above referred to shall show the date of presentation of the original and the name of pleader, if any, who presented the same.

49-A. *Parties to file process forms duly filled up.*—(1) In districts * to which the rule is made applicable by the High Court, in all cases where processes of the nature of summonses or notices have to be issued, the parties or their pleaders on whose behalf such summonses or notices are issued, shall file with their applications for the issue of processes, printed forms of process in duplicate legibly filled up. The date of appearance and the date of the process will be left blank.

(2) In the case of a summons the combined form as in Form No. 19 shall be used and the party or his pleader shall leave the portion relating to the purpose of the summons intact, leaving it to the court, after it has determined the purpose for which the summons is to issue, to strike out the portions of the form which do not apply and thus convert the summons into one as per Form No. 1, or 1-A, or 2 of Appendix B to the First Schedule to the Code of Civil Procedure.

(3) The parties or their pleaders shall sign the forms in the left bottom corner, and will be responsible for the accuracy of the entries.

(4) Where orders for the issue of process are passed by the court, the date fixed for appearance will be inserted in the form and the processes will be dated and signed by an officer of the court duly authorized.

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* The rule was made applicable to all districts by H.C.R.O.C. 429/29-B-1, d. 15-5-1930. (*H.C.P. Dis.* 40 *of* 1931.)

For forms—Vide Appx. III-A of Part II, Vol. II.

(5) The necessary number of printed forms of process will be supplied to the parties or their pleaders free of cost on application to such officer of the court as the presiding judge shall direct.

(6) The presiding officer may, in his discretion, direct in any particular case that the forms of process be entirely filled up in the office of the court.

NOTE.—*Sufficient time to be allowed in—*

(1) *Suits against Government.*—In suits against Government not less than three months should be allowed between the date of the summons and that fixed for hearing.

[*H.C. Pro. d.* 10-9-1861—vide also Order XXVII, rule 5, C.P.C.]

(2) *Suits against Court of Wards.*—Complaints having been received from the Court of Wards, through the Government, that civil courts do not allow sufficient time between the service of notice and the first hearing, in cases in which estates under their management are concerned, and that consequently officers of Government entrusted with the management of private estates find themselves at a disadvantage as compared with private parties, in the matter of collection of facts and evidence, required for the successful conduct or defence of suits, the High Court observes that courts should exercise their discretion properly in each case, so as not to give room for such complaints.

[*H.C. Cir.* 1741 *of* 1896—vide also Order XXXII, rule 17, C.P.C.] *

(3) *Suits by paupers.*—The notice to be allowed to Government in proceedings under Order XXXIII, rule 6 of the Code of Civil Procedure (receiving evidence of an applicant's pauperism) should in no case fall short of 21 days and in the majority of cases, it might without impropriety be extended to six weeks. (*H.C. Cir.* 108 *of* 1880.)

(4) *Cases against military men—General.*—Long dates should usually be fixed for the hearing of cases in which sepoys on service out of India are interested and, unless the sepoys are represented by properly authorized agents or pleaders, further adjournments *sine die* with leave to either party to move the court to fix a date, may, if necessary, be granted. The cost of such adjournments should be adjusted according to the circumstances of each particular case. Ordinarily the sepoys concerned would be liable to pay such costs, the adjournments being made solely in their interests. (*H.C. Cir.* 795 *of* 1903.)

[*N.B.*—For time to be allowed in certain specific cases—vide pages 26-27 *infra.*]

SUMMONSES TO WITNESSES.

50. (1) *Summons to witness.*—A party who desires the attendance of any witness before the court, or a commissioner appointed to take evidence, shall bring into the court, a list in Form No. 20, of the persons whose attendance he requires, stating the full name, residence, and description, of each person and whether he is required to give evidence as an expert or otherwise or to produce any document, and in the latter case, specifying the date if any, and description of the document so as to identify it; and shall with such list deposit in court the prescribed fees for service of summons and the total amount of the allowances to which the said persons are entitled for travelling, attendance at the court and, in the case of an expert or scientific witness qualifying to give evidence.

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* Vide local amendment—Madras.

For forms—Vide Appx. III-A of Part II, Vol. II.

(2) *Allowances.*—The said allowances shall be calculated according to the scale set out below :—

(3) *Scale of allowances to ordinary witnesses*— *

Class of witnesses.	Travelling allowances.				Allowance for subsistence and other expenses; not exceeding per diem.
	By rail.	By public motor service.	By road.	By sea or canal.	
					RS. A.
1st class.	First-class fare.	First-class fare.	8 annas per mile.	Actual expense of passage.	4 8
2nd class.	Second-class fare.	Second-class fare, or where there are only two classes, the higher class fare.	4 annas per mile.	Do.	3 0
3rd class.	Intermediate, or if there be no intermediate, 3rd class fare.	The lower or lowest class fare.	2 annas per mile.	Do.	1 8
4th class.	Third-class fare.	Do.	2 annas for every 10 miles, or if witness is unable to walk, 1 anna per mile.	Do.	0 12

NOTE.—In calculating travelling allowance by road for distances exceeding ten miles, fractions of the ten-mile unit less than five miles are to be neglected, while distances of five miles and above may be treated as equivalent to the unit of ten miles.

(4) *Scale of allowances to expert or scientific witnesses.*—There shall be allowed such fees not less than Rs. 10 or more than Rs. 100 as the court may fix for qualifying to give evidence, and such fees not less than Rs. 10 or more than Rs. 30 per diem as the court may fix for attending the trial or hearing, provided that the witness is also entitled to the travelling allowances prescribed for ordinary witnesses of his class.

CIRCULAR ORDERS.

SUMMONS TO DEFENDANTS AND WITNESSES.

A.—Service in British Indian Courts and on Soldiers and Public Officers.

I. SERVICE OF PROCESSES WITHIN THE JURISDICTION OF A COURT IN ANOTHER DISTRICT—

It has been brought to the notice of the High Court that it is the practice in some courts when sending a process to a court in another

* The scale was revised by G.O. 3247, H. (J.), d. 30-11-1920, and was further revised by G.O. Ms. 119, L. (G.), d. 15-1-1924.

(*H.C. Dis.* 238 *of* 1921 *and* 275 *of* 1924.)

district for service, to send such process *direct* to the central or deputy nazir, who is charged with the service of processes of such court, instead of to the presiding officer of the court by which the process has to be served. This practice, the High Court considers, is opposed to Order V, rule 21 of the Code of Civil Procedure. The High Court, therefore, directs that when a court forwards a process for service by a court in another district, such process shall be addressed to the presiding officer of the court by which the process has to be executed. (*H.C. Dis.* 640 *of* 1901.)

(*N.B.*—As regards the proper officer to whom processes should be sent under Order V, rule 9 of the Code of Civil Procedure, 1908, see rule V of the rules for service of processes in Chapter I-C of Part II *infra*.)

II. SERVICE OF SUMMONS ON PUBLIC OFFICERS—

The attention of all courts is invited to Order V, rule 29-A * of the First Schedule of the Code of Civil Procedure, 1908, regarding the service of summons on public officers sued in their official capacity. Every summons or notice coming within the scope of this rule, whether issued by a court or received by it from an appellate court, for service on persons within or beyond its local jurisdiction, should invariably be served by being sent by registered post prepaid for acknowledgment.

(*H.C. Dis.* 1483 *of* 1914.)

III. SERVICE OF SUMMONS ON RAILWAY COMPANIES—

(1) *Bengal-Nagpur Railway.*—The Agent, Bengal-Nagpur Railway, has drawn attention to the inconvenience his administration is put to by the delay that results partly from the adoption by courts of the procedure prescribed in Order V, rule 21, Schedule I of the Civil Procedure Code, 1908, for the service of summonses on the company and partly from the mistake they too frequently make of sending such summonses for service to the Small Cause Court at Calcutta instead of to the courts at Alipur in the district of 24 Parganas within whose jurisdiction the head offices of the company are situate. He points out that summonses are thus frequently served too late to allow the company's officers a reasonable period in which to make the necessary preparations for its representation in courts and suggests that a copy of the summons may be simultaneously posted direct to the head offices of the company leaving the legal service to be made through the regular channel.

The High Court sees no objection to the adoption of the suggestion. Courts issuing summonses to the company will in future note the jurisdiction within which the head offices of the company are situate and post a copy of the summons direct to its head office leaving the legal service to be effected as now under Order V, rule 21, C.P.C.

(*H.C. Dis.* 1721 *of* 1916 *and* 256 *of* 1919.)

(2) *South Indian Railway.*—Courts issuing summonses to the South Indian Railway Company will in future post a copy of the summons direct to its Agent at Trichinopoly, leaving the legal service to be effected under Order V, rule 21 of Schedule I of the Civil Procedure Code, 1908.

(*H.C. Dis.* 2415 *of* 1916.)

IV. SERVICE ON SOLDIERS—

Order V, rule 28 of the Code of Civil Procedure provides only for the transmission of summons against military officers and soldiers to their Commanding Officers in India, and there is no warrant for sending a summons to the India Office or to any authority in England for the purpose of being served on an officer.

(*G.O.* 952, *J.*, *d.* 17-5-1892, *and G.O.* 56 *J.*, *d.* 8-1-1910. *H.C. Dis.* 220 *of* 1910.)

V. TIME ALLOWED IN CASES AGAINST MILITARY MEN—

(1) *Serving in China.*—The attention of the Government of India has recently been drawn to the insufficiency of the notice which is given by subordinate civil courts in this country for the hearing of suits to which soldiers of the Indian Army serving at stations in China are parties.

From information supplied to them by the military authorities at Hongkong, it appears that summonses and other notices sent to that place

* Vide local amendment—Madras.

not infrequently reach the individuals to whom they are addressed on or after the day of hearing. A liberal allowance of time is, moreover, required in the case of notices, etc., sent to Shanghai, Tientsin, Shanhaikwan, Pekin, or other northern ports, especially in winter when they are ice-bound and navigation is interrupted.

The Government of India are of opinion that, in order to enable men serving at these stations to appear themselves or to appoint a representative or make such other arrangements as may be necessary, a minimum period of four months from the date of posting the summons or notice would not be excessive.

(*G.O.* 836, *J.*, *d.* 10–5–1907. *H.C. Dis.* 590 *of* 1907.)

(2) *Serving in Burma and other places.*—The military authorities have represented that summonses and other notices sent to places in Burma not infrequently reach the soldiers to whom they are addressed so late as to make it impossible for them to appear themselves or to appoint a representative to appear on their behalf on the date fixed for the hearing. They have therefore suggested that arrangements similar to those already introduced in cases of Indian soldiers serving in China should be made applicable to soldiers serving in Burma, in the East and Central Africa Protectorates, the Persian Gulf, Aden and other distant places. They propose that the minimum period noted against each of the places named on the margin, calculated from the date of posting the summons or notice, should be allowed.

	Months.
1. All stations on the Persian Gulf, except Tabriz.	4
2. Tabriz	5
3. Somaliland	3
4. Uganda	
5. Straits Settlements ..	
6. Nyasa land	4
7. Ceylon	2
8. Andaman Islands ..	
9. Aden	
10. Burma	

The Government of India think that the periods proposed would not be excessive. (*H.C. Dis.* 760 *of* 1911.)

VI. TIME ALLOWED IN SUMMONS TO A PUBLIC OFFICER—

(1) *General.*—In fixing the time for the attendance of a public officer as a witness or in granting the indulgence of an adjournment for that purpose, the fullest consideration must be given to the exigencies of the public duties of the officer summoned. (*H.C. Pro.* 2154 *of* 1870.)

(2) *Railway officials.*—Whenever a court has occasion to issue a summons to any person in the employment of any railway company, or to any public servant, the court issuing the summons shall fix such a reasonable time for compliance with the summons as will enable the person summoned, to inform his official superior of the fact of his having been summoned, and as will enable the latter to make arrangements for the discharge of the duties of the person summoned.

(*H.C. Pro.* 1103 *of* 1878 *and* 792 *of* 1893.)

(3) *Post Office officials.*—It has been brought to the notice of the High Court that much public inconvenience may result from summoning a Post Office official to attend court, unless such notice is given as will enable the person summoned to communicate with his departmental superior in time to allow due arrangements to be made for his work during his absence.

The High Court accordingly directs the attention of all subordinate courts to its proceedings No. 2154, dated 28th November 1870. The provisions of the rules should be carefully observed.

(*H.C. Cir.* 792 *of* 1893.)

(4) *Officials of the Ceylon Government.*—Courts issuing summons for the attendance of officials of the Ceylon Government as witnesses will, when forwarding the summons for legal service on the official in question under rule 21, Order V of Schedule I of the Code of Civil Procedure, 1908, also forward, in future, a copy of the summons direct to the Hon'ble the Colonial Secretary to the Government of Ceylon with a covering letter. The summons should allow sufficient time to enable the Ceylon Government to decide whether the official can be spared at the time specified, and if not, to ask the court to fix a more convenient date.

(*H.C. Dis.* 1585 *of* 1917.)

VII. CERTIFICATE OF ATTENDANCE—

(1) *Where the witness is a Government servant or is employed under a local board.*—The summons should be served through the head of the office in which the witness is employed and with the summons should be tendered the expenses of the witness whether the witness is required to give his evidence in his public or private capacity. Should further payments to the witness become necessary at the court, they should be made to the witness himself by the court and, at the same time, an advice of such payment having been made should be sent to the head of the office in which the witness is employed. In this advice the amount paid as batta and the period during which the attendance of the witness in court was necessary should be stated. (*H.C. Dis.* 346 *of* 1902 *and P. Dis.* 126 *of* 1927.)

(2) *Where the witness is employed under the Court of Wards.*—When an official of the Court of Wards appears before a civil court as a witness in a suit or proceeding connected with an estate under the superintendence of the Court of Wards, the presiding judge is authorized to furnish such official with a certificate showing the days on which he attended to give evidence and the amount of batta and travelling allowance paid to him on that account. (*H.C. Dis.* 1096 *of* 1906.)

(3) *Signing of the certificate.*—Certificates * of attendance required to be granted to official witnesses by courts need not be signed by the judge or presiding officer unless expressly required by the rules to be so signed but may be signed by the head clerk. (*H.C. Dis.* 385-*A of* 1907.)

(4) *Credit to Government of witness batta.*—When money is paid to a civil court on account of travelling or subsistence allowance of a witness it should be credited in the court's accounts under the head "witness batta."

VIII. EXPERT WITNESSES—

(1) It has been brought to the notice of the Honourable the Judges that civil courts not infrequently summon Government officials as expert witnesses without carefully considering whether it will be possible to take their evidence on the dates specified in the summons, with the result that they are unnecessarily detained. It is most undesirable that the time of Government servants so summoned should be wasted at the instance of private parties. The attention of all courts is accordingly invited to the importance of not summoning such witnesses unless it is reasonably clear that their evidence can be taken on the date on which they are asked to attend. (*H.C. Dis.* 471 *of* 1920.)

(2) *Fees for witnesses from the Finger-print Bureau.*—(*a*) In civil cases where private parties apply for the service of the Manager in charge of the Criminal Identification Department, attached to the office of the Inspector-General of Police, Madras, a fee of Rs. 50 a day with all expenses should be paid in advance.
(*G.O.* 718, *J.*, *d.* 3-5-1905. *H.C. Dis.* 663 *of* 1905 *and* 856 of 1906.)

(*b*) Any member of the staff of the Finger-print Bureau certified as a "Proficient" by the Deputy Inspector-General of Police may be deputed to give evidence when an expert is asked for by the courts. In that case a fee of Rs. 25 a day with all expenses will be sufficient.
(*G.O.* 924, *J.*, *d.* 6-6-1911. *H.C. Dis.* 804 *of* 1911.)

(*c*) Fees for the services and expenses of expert witnesses from the Finger-print Bureau should be credited to Government, except the travelling allowance which should be paid to the experts. In cases where the opinion of a finger-print expert is disputed, a second opinion may be obtained from an expert attached to another Finger-print Bureau.
(*H.C. Dis.* 473 *and* 1781 *of* 1922; 1720 *of* 1923.)

(3) *Rules regulating applications for and payment of the services of the Government Examiner of Questioned Documents.*—1. Applications should be sent direct to the Government Examiner of Questioned Documents, Intelligence Bureau, Home Department, New Delhi or Simla, as the case may be, according to the location of the headquarters of the Government of

* For form—Vide Appx. III-L, Part II of Vol. II.

India at the time. (The Simla season ordinarily begins about the middle of April and ends about the middle of October.)

2. Applications received direct from private individuals will not be entertained.

3. Acceptable applications fall into two classes—

A. Official applications from Local Governments or officers subordinate to them, including the presiding officers of criminal courts, and from High Courts.

B. Other applications. These include—

(i) Cases from private parties in civil suits in British Indian courts.

These will be accepted only on application from the court in which the case is being heard. The party concerned must move the court and it will rest with the court to take the further steps necessary to obtain the services of the Government Examiner of Questioned Documents.

* * * * *

4. Applications falling under class B will ordinarily be accepted but may be refused at the discretion of the Government Examiner of Questioned Documents if they cannot be undertaken without detriment to his other work.

5. An inclusive fee will be charged in each case in which an opinion is given and will normally cover the opinion, the cost of photographs and the giving of evidence, limited in class B cases to one day. The inclusive fee for class A cases (see rule 3) will be Rs. 185 and for class B cases Rs. 200. (This fee does not cover travelling allowance which is governed by rule 15 below.)

6. Subject to the exception stated at the end of this rule, the fee is payable in advance in all cases and each application should be accompanied by a certificate in the following form:—

"Certified that the sum of rupees $\frac{\text{one hundred and eighty-five (Rs. 185)}}{\text{two hundred (Rs. 200)}}$ has been deposited in the Treasury on 19 . on account of the Government Examiner of Questioned Documents' fees in [*here fill in the details of the case*]; and that this amount has been shown under head XLVI—Miscellaneous—Central—Other fees, fines, and forfeitures—Fees for the services of the Government Examiner of Questioned Documents—in the cash account of Central subjects for the month of 19 , and appears at item No. in the relevant Receipt Schedule.

Signature of Treasury Officer.

Countersigned.

Signature of officer submitting the case."

In special circumstances, which should be stated in the application, class A cases will be accepted without this certificate, but the certificate should be forwarded as soon as possible.

7. In cases where the cost of photographs is exceptionally heavy the fee will, with the concurrence of the Director, Intelligence Bureau, Home Department, be Rs. 150 *plus* the actual cost of the photographs.

In class B cases the authority submitting the case will be informed of the extra cost involved before it is incurred and will be required to certify that it has been deposited before the Government Examiner of Questioned Documents proceeds with the case.

8. In cases in which an opinion is given but no photographs are taken, the fee will be Rs. 150 only.

9. In cases in which no opinion is given but photographs are taken, only the actual cost of the photographs will be charged.

10. No reduction in the fee will be allowed if evidence is not required or is taken on commission.

11. In class B cases an additional fee of Rs. 150 will be charged for each day after the first day on which evidence is given, whether in court or on commission, or on which the officer is detained. The presiding officer or the commissioner will be requested to certify, before the second and each subsequent day's work is begun, that the fee for that day and also for any intervening day or days of detention has been deposited, and subsequently to furnish a certificate as in rule 6 above.

12. In cases falling under class B the Government Examiner or his Assistant will be prepared to attend courts, provided that he can do so without detriment to his other work. When evidence is taken on commission, the commission should be issued to the senior Sub-Judge, Delhi or Simla, as the case may be, and normally should be so worded that either the Government Examiner or his Assistant can give evidence.

13. Presiding officers of courts are requested to detain the Government Examiner of Questioned Documents or his Assistant for the least possible time compatible with the requirements of the case. They are also requested to accept, so far as possible, the time and dates for attendance offered by these officers, because the latter frequently have to attend several courts in the course of one tour.

14. The Government of India in the Home Department reserve the right to impose an extra charge in any case in which they consider that the usual fee is incommensurate with the time and labour spent on the case.

15. When the Government Examiner of Questioned Documents or his Assistant is required to travel in order to give evidence or for any other purpose, the authority or party employing his services will be required to pay travelling allowance at the rates laid down for the first-grade officers in the Supplementary Rules of the Government of India for journeys on tour. The travelling allowance will also be payable for the peon accompanying the officer at the rates fixed for Government of India peons. These payments will be adjusted as directed in the Home Department letter No. F. 128/VII/27-Police, dated the 12th January 1928.

In class B cases the presiding officer of the court concerned will be required to certify that the cost of travelling allowance has been deposited before the Government Examiner of Questioned Documents or his Assistant undertakes the journey.

[*G.Os.* 1790, *L.* (*G.*), *d.* 14–1–1934; 145, *L.* (*G.*), *d.* 17–1–1935 *and* 3138, *H.*, *d.* 10–8–1937. *H.C.P. Dis.* 427 *of* 1934; 128 *of* 1935 *and* 927 *of* 1938.]

(4) *Fees for the expert opinion by Master, Security Printing, India, on forged stamps.*—The Government of India have directed that in any case of doubt in which the opinion of an expert may be required on the question whether stamps are genuine or forged, reference should be made to the Master, Security Printing, India, Nasik Road, for his or his nominee's report. The Government of India have fixed the following fees to be charged by the Master, Security Printing, India, for the examination of stamps and for giving evidence on commission:—

(i) For each stamp examined Rs. 10, but where the stamps to be examined consist of a block or blocks from the same sheet this fee will be charged for the examination of each block, as any one of the stamps is representative of the whole block.

(ii) For stamps examined on commission, Rs. 20 per document, irrespective of the number of stamps requiring examination on each document; provided that where more than one document relating to the same case is to be examined on the same day, the charge will be Rs. 20 for the first and Rs. 10 for each subsequent document.

These fees will be credited to VII. Stamps—Central Security Printing Press—Miscellaneous.

(*G.O. Ms.* 1171, *Rev.*, *d.* 20–5–1935. *H.C.P. Dis.* 331 *of* 1935.)

No. 47.

Pages 31 *to* 48.—*Substitute* the following *for* item "II. Reciprocal arrangement with Indian States" under B :—

(*a*) Applicability of section 29 of the Code of Civil Procedure to Courts in Indian States.

In pursuance of the proviso to section 29 of the Code of Civil Procedure, 1908 (V of 1908), and in supersession of all previous notifications on the subject, His Excellency the Governor of Madras is pleased to direct that the provisions of the said section shall apply to the Courts specified in the schedule hereto annexed.

ANNEXURE.

Schedule.

Agency.	State.	Court.
1. BARODA AND GUJARAT STATES AGENCY.	Baroda ..	All Civil and Revenue Courts.
	Agar	Court of the Thakore.
	Balasinor ..	High Court, Balasinor.
		Court of the Sar Nyayadhish.
		Court of the Nyayadhish.
		Court of the Subordinate Judge, Birpur.
	Bansda ..	Huzur Court.
		Court of the District and Sessions Judge.
		Court of the Nyayadhish.
	Baria	Huzur Court.
		Court of the Sar Nyayadhish.
		Court of the Nyayadhish.
	Bhaderwa ..	Huzur Court.
		Court of the Nyayadhish.
	Cambay ..	Court of the Sar Nyayadhish.
		Court of the Nyayadhish.
	Chhaliar ..	Court of the Thakore.
	Chhota Udepur.	Huzur Court.
		High Court.
		Court of the Sar Nyayadhish.
		Court of the Nyayadhish.
	Dharampur ..	Court of the Judge.
		Court of the District Judge.
	Gad Boriad ..	Court of the Manager.

Agency.	State.	Court.
1. BARODA AND GUJARATA STATES AGENCY—*cont.*	Jambughoda ..	Huzur Court.
		Court of the Sar Nyayadhish.
		Court of the Nyayadhish.
	Jawhar ..	Court of the Sar Nyayadhish.
		Court of the Nyayadhish.
	Kadana ..	Court of the Manager, Kadana.
		Court of the Nyayadhish, Kadana.
	Lunawada ..	Huzur Court.
		Court of the Sar Nyayadhish.
		Court of the Nyayadhish.
	Mandwa ..	Court of the Thakore.
		Court of the Karbhari.
		First-class Sub-Judge's Court.
		Nyayadhish's Court.
	Naswadi ..	Court of the Thakore.
		Court of the Nyayadhish.
	Palasni.. ..	Court of the Thakore.
	Rajpipla ..	Huzur Court.
		Court of the Sar Nyayadhish.
		Court of the Munsif of Nandod.
		Court of the Munsif of Jhagadia.
	Sachin ..	High Court of Sachin.
		District and Sessions Judge, Sachin.
		District Magistrate and Sub-Judge of Sachin.
	Sanjeli ..	Court of the Manager, Sanjeli.
	Sant	Huzur Court.
		Court of the Nyayadhish.
	Shanor ..	Court of the Thakore.
	Sihora ..	Do.
	Surgana ..	Court of Magistrate, Surgana.
	Uchad ..	Court of the Thakore.
	Umeta ..	Court of the Manager.
	Vajiria.. ..	Court of the Thakore.

Agency.	State.	Court.
		Civil Courts.
2. CENTRAL INDIA— (*i*) *Bhopal.*	Bhopal ..	The High Court, Bhopal.
		District Court, Eastern district (including Tehsils Nasrullaganj and Madanpur and excluding Tehsils Dewanganj and Piklon), Bhopal.
		District Court, Bhopal City.
		District Court, Western district (including Tehsils, Dewanganj and Piklon and excluding Tehsils, Nasrullaganj and Mardanpur), Sehore.
		Sub-Judge, Bhopal City.
		Sub-Judge, Begamganj.
		Sub-Judge, Bereli.
		Sub-Judge, Goharganj.
		Sub-Judge, Dewanganj, Bhopal.
		Sub-Judge, Berasia.
		Sub-Judge, Huzur, Bhopal.
		Sub-Judge, Sehore.
		Munsif, Sehore.
		Munsif, Bhopal City.
		Munsif, Raisen.
		Munsif, Bamhori.
		Munsif, Udaipura.
		Munsif, Nasrullaganj.
		Munsif, Dewanganj, Bhopal.
		Munsif, Piklon.
		Munsif, Huzur, Bhopal.
		Revenue Courts.
		Revenue Member's Court, Bhopal.
		Nazim of Eastern district, Raisen.
		Nazim of Western district, Sehore.
	Dewas, Senior..	Sub-Judge's Court, Dewas Senior Branch.
	Dewas, Junior.	District Court, Dewas Junior Branch.
	Khilchipur ..	Civil Judge's Court, Khilchipur.
		Court of the Dewan, Khilchipur.
	Kurwai ..	Civil Court, Kurwai.
		Revenue Court, Kurwai.
	Makrai ..	All Civil and Revenue Courts.
	Mohammadgarh.	Court of the Superintendent, Mohammadgarh.
	Narsingarh ..	District Judge, Narsingarh.
		Munsif, Sadar, Narsingarh.
		Munsif, Khujner.
		Court of the Revenue Officer, Narsingarh.
	Pathari ..	Civil Court, Pathari.
		Court of the Superintendent, Pathari.
	Rajgarh ..	Sub-Judge's Court, Biaora.
		Munsif's Court, Rajgarh.
		Munsif's Court, Talen.
		Munsif's Court, Kotra.
(*ii*) *Bunelkhand.*	Ajaigarh ..	Darbar's Court, Ajaigarh.
	Baoni	Court of the Diwan, Baoni State, Kadaura.
	Baraundha ..	Court of the Dewan, Baraundha.
	Bijawar ..	Court of the Darbar, Bijawar.
	Charkhari ..	Court of the Darbar, Charkhari.
	Chhatarpur ..	Court of the Darbar, Chhatarpur.
	Datia	High Court, Datia.
		Chief Revenue Officer's Court, Datia.
	Maihar ..	Court of the Diwan, Maihar.
	Nagod ..	Court of the Diwan, Nagod.

Agency.	State.	Court.
2. CENTRAL INDIA—*cont.*	Indore ..	*Civil Courts.*
(*iii*) *Indore* ..		High Court of Judicature, Indore.
		District Court, Nimar, Mandlesar.
		First Grade Munsif's Court, Mandlesar.
		District Court, Rampura, Banpura Garote.
		District Court, Mahidpur.
		District Court, Nimawar, Kannod.
		District Court, Indore.
		Nazim Adalat Court, Indore.
		First Grade Munsif's Court, Khargone.
		First Grade Munsif's Court, Manasa.
		Revenue Courts.
		All Revenue Courts in the Indore State.
	Rewa	*Civil Courts.*
		Chief Court, Rewa State, Rewa.
		District and Sessions Judge, North Rewa, Rewa.
		Deputy Magistrate and Munsif, Rewa, Rewa.
		Deputy Magistrate and Munsif, Raghurajnagar, Satna.
		Deputy Magistrare and Munsif, Teonthar, Teonthar.
		Deputy Magistrate and Munsif, Mauganj, Mauganj.
		District and Sessions Judge and Deputy Revenue Commissioner, East Rewa, Baghaun.
		Deputy Magistrate and Munsif, Gopad Banas, Sidhi.
		District and Sessions Judge, and Deputy Revenue Commissioner, South Rewa, Umaria.
		District Magistrate and Munsif, Sohagur, Burhar.
		Revenue Courts.
		Court of the Revenue Minister, Rewa.
		Deputy Revenue Commissioner, Rewa.
		Tahsildar, Hazoor Tahsil, Rewa.
		Tahsildar, Raghurajnagar, Satna.
		Tahsildar, Teonthar, Teonthar.
		Tahsildar, Sirmour, Sirmour.
		Tahsildar, Mauganj, Mauganj.
		District and Sessions Judge and Deputy Revenue Commissioner, East Rewa, Baghaun.
		Tahsildar, Gopad, Banas, Sidhi.
		Tahsildar, Beohari, Beohari.
		Tahsildar, Deosar, Deosar.
		District and Sessions Judge and Deputy Revenue Commissioner, South Rewa, Umaria.
		Tahsildar, Sire Bandhogarh, Umaria.
		Tahsildar, Sohagpur, Sohagpur.
(*iv*) *Malwa* ..	Alirajpur ..	Munsif's Court, Alirajpur.
	Barwani ..	Chief Judge's Court, Barwani.
		Revenue Officer's Court, Barwani.
	Dhar	District Magistrate's Court, Dhar.
		Chief Revenue Officer's Court, Dhar.
	Jaora	Chief Judge's Court, Jaora.
		Chief Court of the Suba of Jaora.

Agency.	State.	Court.
2. CENTRAL INDIA—*cont.* (*iv*) *Malwa*—cont.	Jhabua ..	Nazim's Court, Jhabua.
	Jobat	Court of the Kamdar, Jobat.
	Kathiwara ..	Court of the Thakur of Kathiwara, Post office Kathiwara via Alirajpur.
	Mathwar ..	Court of the Kamdar, Mathwar State, Post office Kanvat, Chhota Udepur State.
	Piploda ..	Court of the Superintendent, Piploda State.
	Ratanmal ..	Court of the Kamdar, Ratanmal State, Post office Devgad, Baria.
	Ratlam ..	Judge's Court, Ratlam.
	Sailana ..	Court of the Sar Nyayadhish of Sailana.
	Sitamau ..	Court of the Sar Nyayadhish, Sitamau.
3. EASTERN STATES—	Cooch Behar ..	All Civil and Revenue Courts.
(*i*) *Bengal States.*	Mayurbhanj ..	Do.
	Tripura ..	Do.
(*ii*) *Chhattisgarh States.*	Bastar ..	Do.
	Changbhakar ..	Do.
	Chhuikhadan ..	Do.
	Jashpur ..	Do.
	Kalahandi (Karond).	Do.
	Kanker ..	Do.
	Kawardha ..	Do.
	Khairagarh ..	Do.
	Korea	Do.
	Nandgaon ..	Do.
	Patna	Do.
	Raigarh ..	Do.
	Sakti	Do.
	Sarangarh ..	Do.
	Surguja ..	Do.
	Udaipur ..	Do.
(*iii*) *Orissa States.*	Athgarh ..	Do.
	Athmalik ..	Do.
	Bamra ..	Do.
	Baramba ..	Do.
	Baudh ..	Do.
	Bonai	Do.
	Daspalla ..	Do.
	Dhenkanal ..	Do.
	Gangpur ..	Do.
	Hindol	Do.
	Keonjhar ..	Do.
	Khandpara ..	Do.
	Kharsawan ..	Do.
	Narsinghpur ..	Do.
	Nayagarh ..	Do.
	Nilgiri ..	Do.
	Pal-Lahara ..	Do.
	Rairakhol ..	Do.
	Ranpur ..	Do.
	Seraikela ..	Do.
	Sonepur ..	Do.
	Talcher ..	Do.
	Tigiria ..	Do.
4. GWALIOR ..	Benares ..	*Civil Courts.*
		Chief Court, Ramnagar.
		District Judge's Court, Gyanpur, District Bhadohi.
		District Judge's Court, Chakia.
		District Judge's Court, Ramnagar.
		Munsif's Court, Gyanpur, District Bhadohi.
		Munsif's Court, Chakia.

Agency.	State.	Court.
4. GWALIOR—*cont.*	Benares—*cont.*	*Revenue Courts.*
		Collector's Court, Gyanpur, District Bhadohi.
		Collector's Court, Chakia.
		Collector's Court, Ramnagar.
		Deputy Collector's Court, Gyanpur, District Bhadohi.
		Assistant Collector's Court, Tahsil, East Gyanpur, District Bhadohi.
		Assistant Collector's Court, Tahsil, West Gyanpur, District Bhadohi.
		Assistant Collector's Court, Ramnagar.
		Assistant Collector's Court, Chakia.
	Gwalior ..	All Civil and Revenue Courts.
	Rampur ..	Civil and Revenue Courts—Ijlas Humayun.
		Judicial Committee of the Ijlas Humayun.
		The High Court of Judicature.
		Court of Civil Judge.
		Court of Additional Civil Judge.
		Board of Revenue.
		Nizamat.
		Court of Assistant Collector, Tehsil, Huzur.
		Court of Assistant Collector, Tehsil, Shahabad.
		Court of Assistant Collector, Tehsil, Milak.
		Court of Assistant Collector, Tehsil, Bilaspur.
		Court of Assistant Collector, Tehsil, Suar.
		Court of Assistant Collector, Tehsil, Tanda.
5. HYDERABAD.	Hyderabad ..	All Civil and Revenue Courts.*
6. KASHMIR ..	Kashmir ..	Do.
7. KOLHAPUR AND DECCAN STATES.	Akalkot ..	Court of the Raja of Akalkot.
		High Court of Judicature, Akalkot.
		Court of District and Sessions Judge, Akalkot.
		Court of the Nyayadhish, Akalkot.
		Court of the Joint Nyayadhish, Akalkot.
		Court of the Subordinate Judge at Piliv.
		Court of the Subordinate Judge at Kurla.
	Aundh ..	Court of the Nyayadhish, Aundh State.
		Court of the Subordinate Judge, Aundh Taluka.
		Court of the Subordinate Judge, Gundal Taluka.
		Court of the Subordinate Judge, Atpadi Taluka.
		Court of the Subordinate Judge, Kundal Taluka.
	Bhor	High Court, Bhor.
		Court of the District Judge, Bhor.
		Court of the Munsif at Bhor.
		Court of the Munsif at Pirangut.
		Court of the Munsif at Pali.
	Jamkhandi ..	Huzur or Court of the Raja of Jamkhandi.
		High Court, Jamkhandi.
		Court of Sar Nyayadhish or the District Judge, Jamkhandi.
		Court of the Nyayadhish and First-class Sub-Judge, Jamkhandi.
		Court of the Munsif, and First-class Sub-Judge, Kundgol.
		Court of Munsif or Vahiwatdar, Thana Wathar.
		Court of Munsif or Vahiwatdar, Thana Patkal.

* Summonses for service in Hyderabad State shall be forwarded to the City Civil Court and District Civil Courts only.

Agency.	State.	Court.
7. KOLHAPUR AND DECCAN STATES—*cont.*	Janjira ..	High Court, Janjira.
		Court of the Sar Nyayadhish of Janjira.
		Court of the Munsif of Janjira.
		Court of the Munsif at Jafrabad at Kathiawar.
		Court of the Mamlatdar at Jafrabad in Kathiawar.
	Jath	Supreme Court of the Ruler.
		High Court of Judicature, Jath State.
		Court of the District Judge.
		Court of the First-class Subordinate Judge.
		Court of the Second-class Subordinate Judge.
	Kolhapur ..	(1) *Courts in the Kolhapur State Proper.*
		The Combined Court of the Resident for Kolhapur and the Deccan States and His Highness the Chhatrapati Maharaja of Kolhapur.
		The Supreme Court of His Highness.
		The High Court of Judicature at Kolhapur.
		The Court of the District Judge, Kolhapur.
		The Court of the Assistant Judge, Kolhapur.
		The Court of the First-class Sub-Judge, Kolhapur.
		The Court of the Second-class Sub-Judge, Kolhapur.
		The Court of the Second-class Sub-Judge, Shirol.
		The Court of the Second-class Sub-Judge, Gadhingalaj.
		The Court of the Second-class Sub-Judge, Radhanagari.
		The Court of the Second-class Sub-Judge, Panhala.
		The Court of the Second-class Sub-Judge, Katkol.
		The Court of the Second-class Sub-Judge, Shahuwadi.
		The Court of the Second-class Sub-Judge, Raibag.
		The Court of the Second-class Sub-Judge, Hatkanangale.
		The Second-class Sub-Judge, Meh. Malharrao Gaikwad Vishwasrao.
		The Second-class Sub-Judge, Meh. Kshatra Jagadguru.
		The Second-class Sub-Judge. Meh. Chinchalikar.
		The Second-class Sub-Judge, Meh. Khanawatkar.
		The Second-class Sub-Judge, Meh. Patankar.
		(2) *Courts in the Feudatory Jaghirdars.*
		The Court of the Jaghirdar of Ichalkaranji.
		The Court of the Jaghirdar of Kagal (Senior).
		The Court of the Jaghirdar of Vishalgad.
		The Court of the Jaghirdar of Bavada.
		The Court of the Jaghirdar of Kagal (Junior).
		The Court of the Jaghirdar of Kapshi.
		The Court of the Jaghirdar of Himat Bahadur.

Agency.	State.	Court.
7. KOLHAPUR AND DECCAN STATES—*cont.*	Kolhapur—*cont.*	The Court of the Jaghirdar of Sarlashkar Bahadur.
		The Munsif's Court, Ichalkaranji.
		The Munsif's Court, Ajra.
		The Munsif's Court, Kagal (Senior).
		The Munsif's Court, Bavada.
		The Munsif's Court, Kagal (Junior).
		The Munsif's Court, Vishalgad.
		The Munsif's Court, Sarlashkar Bahadur.
		The Munsif's Court, Torgal.
		The Munsif's Court, Kapshi.
		The Munsif's Court, Himat Bahadur.
		The Court of Joint Officer, Mahagaon.
	Kurundwad (Senior).	Chief's Court or High Court.
		Sar Nyayadhish Court and the District Judge's Court.
		First-class Sub-Judge's Court.
		Court of the Munsif, Taluka Kurundwad.
		Court of the Munsif, Taluka Angol.
		Court of the Munsif, Taluka Tikota.
	Kurundwad (Junior).	All Civil and Revenue Courts.
	Miraj (Senior)..	Privy Council (The Court of the Raja of Miraj, Senior).
		High Court.
		District Court, Miraj.
		Court of the Second-class Sub-Judge, Miraj.
		Court of the Second-class Sub-Judge Laxmeshwar.
		Court of the Second-class Sub-Judge, Modnimb.
	Miraj (Junior)..	Huzur Court.
		Court of the District Judge.
		Court of the Munsif of Gudgari.
		Court of the Munsif of Budhgaon.
		Court of the Munsif of Khandali.
	Mudhol ..	Court of the Council of Regency.
		High Court.
		Court of the District Judge.
		Court of the First-class Sub-Judge.
		Court of the Second-class Sub-Judge.
		Court of the Small Causes Judge.
	Phaltan ..	High Court.
		Court of the District Judge.
		Court of the First-class Subordinate Judge.
	Ramdurg ..	Huzur Court.
		Court of the District Judge.
		Court of the First-class Subordinate Judge.
		Court of the Second-class Subordinate Judge.
	Sangli	All Civil and Revenue Courts.
	Savanur ..	High Court, Savanur.
		Court of the District Judge, Savanur.
		Court of the First-class Subordinate Judge, Savanur.
	Sawantwadi ..	Huzur Court, Sawantwadi.
		High Court (Civil), Sawantwadi.
		Court of the Sar Nyayadhish.
		Court of the Nyayadhish, Sawantwadi.
		Court of the Nyayadhish, Kudal.
8. MADRAS STATES.	Cochin ..	High Court of Cochin, Ernakulam.
		District Court (Principal), Anjikaimal.
		District Court (Additional), Anjikaimal.
		District Court (Principal), Trichur.
		District Court (Additional), Trichur.
		Munsif's Court, Chitur.

Agency.	State.	Court.
8. MADRAS STATES—*cont.*	Cochin—*cont.*	Munsif's Court, Cochin.
		Munsif's Court, Cranganur.
		Munsif's Court, Ernakulam.
		Munsif's Court, Irinjalakuda.
		Munsif's Court (Principal), Trichur.
		Munsif's Court (Additional), Trichur.
		Munsif's Court, Vadakkancheri.
	Pudukkottai ..	Chief Court, Pudukkottai.
		Second Appeals Court, Pudukkottai.
		Court of the Registrar and Small Cause Judge, Chief Court, Pudukkottai.
		Court of the Small Cause Judge and Sub-Registrar, Alangudi.
		Court of the Small Cause Judge and Sub-Registrar, Annavasal.
		Court of the Small Cause Judge and Sub-Registrar, Karambakudi.
		Court of the Small Cause Judge and Sub-Registrar, Keelanilai.
		Court of the Small Cause Judge and Sub-Registrar, Keeranur.
		Court of the Small Cause Judge and Sub-Registrar, Perungalur.
		Court of the Small Cause Judge and Sub-Registrar, Ponnamaravathi.
		Court of the Small Cause Judge and Sub-Registrar, Tirumayam.
		Court of the Small Cause Judge and Sub-Registrar, Viralimalai.
	Travancore ..	High Court of Travancore, Trivandrum.
		District Court, Alleppey.
		District Court, Kottayam.
		District Court, Mavelikara.
		District Court, Nagerkoil.
		District Court, Parur.
		District Court, Quilon.
		District Court, Trivandrum.
		Munsif's Court (District), Adoor.
		Munsif's Court (Principal), Alleppey.
		Munsif's Court (Additional), Alleppey.
		Munsif's Court (District), Attungal.
		Munsif's Court (Temporary), Attungal.
		Munsif's Court (District), Changanacherry.
		Munsif's Court (District), Chengannoor.
		Munsif's Court (District), Devicolam.
		Munsif's Court (District), Ettumanur.
		Munsif's Court (District), Haripad.
		Munsif's Court (District), Kanjirapalli.
		Munsif's Court (District), Karunagapalli.
		Munsif's Court (District), Kottarakara.
		Munsif's Court (Principal), Kottayam.
		Munsif's Court (Temporary), Kottayam.
		Munsif's Court, Kuzhithurai.
		Munsif's Court (District), Mavelikara.
		Munsif's Court (District), Meenachil.
		Munsif's Court (District), Muvattupuzha.
		Munsif's Court (Principal), Nagercoil.
		Munsif's Court (Additional), Nagercoil.
		Munsif's Court, Nedumangad.
		Munsif's Court, Neyyattinkara.
		Munsif's Court (Principal), Padmanabhapuram.
		Munsif's Court (Additional), Padmanabhapuram.
		Munsif's Court (District), Parur.
		Munsif's Court (District), Pathanamthitta.
		Munsif's Court (District), Perumbavur.

Agency.	State.	Court.
8. MADRAS STATES—*cont.*	Travancore—*cont.*	Munsif's Court (Additional), Quilon. Munsif's Court (District), Shencottah. Munsif's Court (Principal), Shertallai. Munsif's Court (Temporary), Shertallai. Munsif's Court (District), Thiruvellah. Munsif's Court (Temporary), Thiruvellah. Munsif's Court (District), Todupuzha. Munsif's Court (Principal), Trivandrum. Munsif's Court (Additional), Trivandrum. Munsif's Court (Temporary), Trivandrum. Munsif's Court (District), Vaikom.
9. MYSORE ..	Banganapalle ..	*Revenue Courts.* Dewan's Court, Banganapalle. Revenue Officer's Court, Banganapalle. *Civil Courts.* Chief Court of Banganapalle. Court of the Civil and Sessions Judge, Banganapalle. Munsif's Court, Banganapalle.
	Mysore ..	All Civil and Revenue Courts.
	Sandur ..	All Civil and Revenue Courts.
10. PUNJAB STATES.	Bahawalpur ..	High Court of Judicature at Baghdad-ul-Jadid. District Judge, Bahawalpur at Bahawalnagar. District Judge, Rahimyarkhan. Deputy Commissioner, Bahawalpur. Deputy Commissioner, Rahimyarkhan at Bahawalpur. Additional District Magistrate, Rahimyarkhan at Ahmadpur East. Additional District Magistrate, Bahawalpur. Assistant Commissioner, Bahawalpur. Assistant Commissioner, Bahawalnagar. Assistant Commissioner, Allahabad. Assistant Commissioner, Rahimyarkhan. Munsif, Sadiqabad. Tehsildar, Sadiqabad. Munsif, Rahimyarkhan. Tahsildar, Rahimyarkhan. Munsif, Khanpur. Tahsildar, Khanpur. Munsif, Allahabad. Tahsildar, Allahabad. Sub-Judge, Ahmadpur, East. Tahsildar, Ahmadpur, East. Munsif, Bahawalpur. Tahsildar, Bahawalpur. Munsif, Chistian. Tahsildar, Chistian. Munsif, Bahawalnagar. Tahsildar, Bahawalnagar. Munsif, Minchinabad. Tahsildar, Minchinabad. * Tahsildar, Fort Abbas.
	Chamba ..	Chief Court. Court of the District and Sessions Judge. Court of the State Vakil at Dalhousie. Court of the Sub-Judge No. 1. Court of the Sub-Judge No. 2. Court of the Sub-Judge No. 3. Court of the Sub-Judge No. 4.

* As amended by G.O. No. 3147, Home, dated 31st August 1942.

Agency.	State.	Court.
10. PUNJAB STATES—*cont.*	Dujana ..	The Dewan, Dujana State. The Nazim, Dujana State. The Tahsildar of Dujana. The Tahsildar of Nahar. Bench of Honorary Magistrates at Nahar.
	Faridkot ..	*Civil Courts.* Chief Justice, High Court. District Judge. Senior Sub-Judge. Junior Sub-Judge. *Revenue Courts.* Chief Justice, High Court. Judicial and Revenue Secretary. Revenue Assistant. Naib Tahsildar, Kotkapura. Naib Tahsildar, Nehianwala. Naib Tahsildar, Faridkot.
	Jind	*Civil Courts.* High Court, Sangrur. Sessions Court, Sangrur. Nazim's Court, Jind. Nazim's Court, Dalmia Dadri. Faujdari Naib Nazim's Court, Sangrur. Faujdari Naib Nazim's Court, Jind. Diwani Naib Nazim's Court, Sangrur. Diwani Naib Nazim's Court, Jind. Diwani Naib Nazim's Court, Dalmia Dadri. Honorary Magistrate's Court, Badrukhan. Bench of Honorary Magistrates, Dadri. Bench of Honorary Magistrates, Baund Kalan. *Revenue Courts.* Revenue Commissioner's Court, Sangrur. Nazim and Collector's Court (District Jind), Jind. Nazim and Collector's Court (District Sangrur), Sangrur. Nazim and Collector's Court (Dadri district), Dalmia Dadri. Tahsil, Sangrur. Tahsil, Jind. Tahsil, Dalmia Dadri. Tahsil, Safidon. Niabat Tahsil, Sangrur. Niabat Tahsil, Jind. Niabat Tahsil, Dalmia Dadri.
	Kapurthala ..	Sadr. Revenue Minister's Court. High Court. Collector's Court. Sub-Judge. District Magistrate, Kapurthala. Bench of Honorary Magistrates, Kapurthala. Magistrate, Phagwara. Magistrate, Sultanpur.

Agency.	State.	Court.
10. PUNJAB STATES—*cont.*	Khairpur ..	High Court, Khairpur. Court of the District Magistrate, Khairpur. Court of the District and Sessions Judge, Khairpur. Court of the Sub-Judge and Subdivisional Magistarte, Khairpur. Court of the Sub-Judge and Subdivisional Magistrate, Gambat. Court of the Mukhtiarkar and First-class Magistrate, Khairpur. Court of the Mukhtiarkar and First-class Magistrate, Gambat. Court of the Mukhtiarkar and First-class Magistrate, Mirwah. Court of the Mukhtiarkar and First-class Magistrate, Faiz Ganj. Court of the Mukhtiarkar and First-class Magistrate and Second-class Sub-Judge, Nara. Court of the Mukhtiarkar and First-class Magistrate, Kot Diji. Court of the Naib Dafterdar and First-class Magistrate, Khairpur Division. Court of the Naib Dafterdar and First-class Magistrate, Mirwah Division.
	Loharu ..	*Civil Courts.* Court of the Ijlas-i-khas. Court of Nazim. *Revenue Courts.* Court of the Dewan. Court of the Tahsil.
	Malerkotla ..	*Civil Courts.* High Court. Adalat (District and Sessions Judge's Court). Sub-Judge's Court. *Revenue Courts.* Revenue Minister's Court. Collector's Court. Tehsildar Sadar's Court. Tehsildar Ahmadgarh's Court.
	Mandi	*Civil Courts.* Judge, Ijlas-i-Alia. Court of Appeal. Senior Judge, Court of Appeal. Junior Judge, Court of Appeal. Sub-Judge and Magistrate, First Class, Sadar. Treasury Officer (Magistrate, First Class, and Sub-Judge, Second Class). Revenue Assistant (Magistrate, First Class, and Sub-Judge, Second Class). Honorary Magistrate, Second Class, and Sub-Judge, Third Class. Sub-Judge, Second Class, and Magistrate, First Class, Jogindernagar.

Agency.	State.	Court.
10. PUNJAB STATES—*cont.*	Mandi—*cont.*	Sub-Judge, First Class, and Magistrate, First Class, Sarkaghat.
		Tehsildar, Sadar (Magistrate, Second Class).
		Tehsildar, Jogindernagar (Magistrate, Second Class).
		Tehsildar, Sarkhaghat (Magistrate, Second Class).
		Tehsildar, Chachiot (Sub-Judge and Magistrate, Second Class).
		Revenue Courts.
		Chief Minister's Court.
		Revenue Secretary's Court.
		Revenue Assistant.
		Tehsildar, Sadar.
		Tehsildar, Jogindernagar.
		Tehsildar, Sarkaghat.
		Tehsildar, Chachiot.
	Nabha ..	High Court, Nabha.
		District and Sessions Judge, Nabha.
		Nazim of Amloh District, Nabha.
		Nazim of Phul District, Phul.
		Nazim of Bawal District, Bawal.
	Pataudi ..	High Court and Financial Commissioner. (These powers are exercised by the Ruler.)
		(Dewan exercising the powers of District Magistrate, Sessions Judge, Collector and District Judge.)
		Two Sub-Judges.
		Tehsildar.
	Patiala ..	*Civil Courts.*
		Minister of Law, Patiala.
		High Court, Patiala.
		District and Sessions Judge, Patiala.
		District and Sessions Judge, Sunam.
		District and Sessions Judge, Bhatinda.
		Naib Nazim, Dewani, Patiala.
		Naib Nazim, Dewani, Bassi.
		Naib Nazim, Dewani, Sunam.
		Naib Nazim, Dewani, Barnala.
		Naib Nazim, Dewani, Bhatinda.
		Naib Nazim, Dewani, Mansa.
		Naib Nazim, Dewani, Rajpura.
		Naib Nazim, Dewani, Bhawanigarh.
		Naib Nazim, Dewani, Dhuri.
		Naib Nazim, Dewani, Narwana.
		Naib Nazim, Dewani, Narnaul.
		Revenue Courts.
		Revenue Minister, Patiala.
		Revenue Commissioner, Patiala.
		Nazim, Patiala, District Patiala.
		Nazim, Barnala, District Barnala.
		Nazim, Sunam, District Sunam.
		Nazim, Narnaul, District Narnaul.
		Nazim, Bassi, District Bassi.
		Nazim, Kohistan, Kandaghat.
		Naib Nazim Mal, Barnala, District Barnala.
		Naib Nazim Mal, Patiala, District Patiala.
		Tehsildar, Patiala.
		Tehsildar, Rajpura.
		Tehsildar, Bhawanigarh.

Agency.	State.	Court.
10. PUNJAB STATES—*cont.*	Patiala—*cont.*	Tehsildar, Narwana. Tehsildar, Barnala. Tehsildar, Bhatinda. Tehsildar, Mansa. Tehsildar, Sirhind. Tehsildar, Dhuri. Tehsildar, Narnaul. Tehsildar, Kandaghat.
	Suket ..	Chief Court. District Judge's Court. Sub-Judge, Suket State, Sundarnagar. Tehsildar, Balh, Sundarnagar. Judicial Bench, Suket State.
Punjab Hill States.	Bilaspur ..	*Civil Courts.* Ijlas-a-Alia. The Sessions and District Judge's Court. The Court of the Magistrate, First Class. The Court of the Magistrate, Second Class. The Court of the Sub-Judge, First Class. The Court of the Sub-Judge, Second Class. *Revenue Courts.* The Revenue Secretary's Court. The Collector's Court. The Tehsildar of Suddar's Court. The Tehsildar of Ghumarvin's Court.
	Kalsia	Ijlas Khas. High Court. District and Sessions Court. Court of the Magistrate, First Class, Chachrauli. Court of the Magistrate, First Class, Dera Bassi. Court of the Magistrate, First Class, Chirak. Court of the Sub-Judge, Chachrauli. Court of the Sub-Judge, Dera Bassi. Court of the Sub-Judge, Chirak. Court of the Financial Commissioner. Court of the Chief Revenue Officer. Court of the Collector, Chachrauli. Court of the Collector, Dera Bassi. Court of the Collector, Chirak. Court of the Tehsildar, Chachrauli.
	Sirmur ..	Raj Niya Sabha. High Court. District and Sessions Judge. Collector and District Magistrate. Magistrate, First Class. Tehsildar, Ranika. Tehsildar, Pachhad. Tehsildar, Paunta. Tehsildar, Nahan.
	Tehri (Garhwal).	All civil courts of the State through the Judicial Secretary, Tehri (Garhwal) State.
11. RAJPUTANA—		
(i) *Rajputana Agency.*	Bikaner ..	All Civil and Revenue Courts.
(ii) *Eastern Rajputana States Agency.*	Bharatpur ..	Do.
	Bundi ..	Do.
	Dholpur ..	Do.
	Jhalawar ..	Do.
	Karauli ..	Do.
	Kotah ..	Do.

Agency.	State.	Court.
11. RAJPUTANA—*cont.*	Alwar	All Civil and Revenue Courts.
	Jaipur ..	Do.
(iii) *Jaipur Residency.*	Kishangarh ..	Do.
	Shahpura ..	Do.
	Tonk	Do.
(iv) *Mewar Residency and Southern Rajputana States Agency.*	Banswara ..	Do.
	Dungarpur ..	Do.
	Mewar ..	Do.
	Partabgarh ..	Do.
(v) *Western Rajputana States Residency.*	Danta	Huzur Court. Diwan's Court Naib Diwan's Court. State Munsif's Court. Court of the Munsif at Shri Mataji. Court of the Munsif at Hadad. Court of the Munsif at Tarsang. Court of the Munsif at Joita.
	Jaisalmer ..	All Civil and Revenue Courts.
	Jodhpur ..	Do.
	Palanpur ..	Huzur Court. Sar Nyayadhish Court. Palanpur Small Causes Court. Palanpur Diwani. Nyayadhish Court. Deesa Dhanera Munsif's Court. Dhanera Nyayadhish Court. Panthawada Nyayadhish Court. Dabhela Nyayadhish Court. Bapla Kamdars' Diwani Court.
	Sirohi	All Civil and Revenue Courts.
12. SIKKIM ..	Sikkim ..	The Chief Court of Sikkim in the exercise of its civil jurisdiction.
13. WESTERN INDIA STATES—		
(i) *Western India States Agency.*	Bhavnagar ..	Darbar, Huzur Court, Bhavnagar. Sar Nyayadhish Court, Bhavnagar. Joint Sar Nyayadhish Court, Bhavnagar. City Bhavnagar Diwani Nyayadhish Court, Bhavnagar. City Bhavnagar Fouzdari Nyayadhish Court, Bhavnagar. City Bhavnagar Honorary Magistrates' Bench Court, Bhavnagar. Mahuva Nyayadhish Court, Mahuva. Kundla Nyayadhish Court, Kundla. Talaja Nyayadhish Court, Talaja. Lilia Nyayadhish Court, Lilia. Sihor Nyayadhish Court, Sihor. Umrala Nyayadhis Court, Umrala. Gaghada Nyayadhish Court Gaghada. Botad Nyayadhish Court, Botad. Victor Nyayadhish Court, Rajula.
	Cutch	Huzur Court. Varisht Jadehja Court. Varisht Khalsa Court. Bhuj Court. Mandvi Court. Mundra Court. Anjar Court. Bhachau Court. Rahpur Court. Nakhtrana Court. Abdasa Court. Lakhpat Court.

Agency.	State.	Court.
13. Western India States—*cont.* (i) *Western India States Agency*—cont.	Cutch—*cont.*	Jakhau Court. Madh Court. Court of Small Causes, Bhuj. Court of Small Causes, Mandvi. Court of Small Causes, Mundra. Court of Small Causes, Anjar. Court of Small Causes, Bhachau. Court of Small Causes, Rahpur. Court of Small Causes, Abdasa. Court of Small Causes, Lakhpat. Court of Small Causes, Nakhtrana.
	Dhrangadhra ..	High Court of Judicature, Dhrangadhra. District and Sessions Court, Dhrangadhra. First-class Sub-Judge's Court, Dhrangadhra. Second-class Sub-Judge's Court, Dhrangadhra. First-class Magistrate, Dhrangadhra. Second-class Sub-Judge, Halvad First-class Magistrate, Halvad. Second-class Sub-Judge, Rajsitapur. First-class Magistrate, Rajsitapur. Court of Small Causes, Dhrangadhra. Court of Small Causes, Halvad. Court of Small Causes, Rajsitapur. Raj Prakarni Bhayati Court at Dhrangadhra. Survey and Settlement Court at Dhrangadhra.
	Dhrol	Huzur Court. Court of the Sar Nyayadhish. Small Causes Court. Court of the Nyayadhish, Dhrol. Sarapdad Nyayadhish's Court.
	Gondal ..	Huzur Court, Gondal. Court of the Sar Nyayadhish, Gondal. Munsif's Court, Gondal. Munsif's Court, Dhoraji. Munsif's Court, Upleta. Court of the Diwani Nyayadhish, Sarsai.
	Idar	Court of the Sar Nyayadhish.
	Jafrabad ..	Court of Mamlatdar and Sub-Judge, Jafrabad. Court of Munsif and Sub-Judge, Jafrabad.
	Junagadh ..	Huzur Court, Junagadh. Sadar Court, Junagadh. Civil Court, Junagadh. City Magistrate's Court, Junagadh. Nageshri Court, Junagadh. Una Court, Una. Veraval Court, Veraval. Malia Court, Malia. Shil Court, Shil. Kutiyana Court, Kutiyana. Vanthali Court, Vanthali. Bhesan Court, Bhesan. Visavadar Court, Visavadar. Talala Court, Talala. Huzur Court, Mangrol. Nyayadhish Court, Mangrol. Small Causes Court, Mangrol. District Judge's Court, Mangrol.
	Limbdi * ..	Huzur Court, Limbdi. Court of Small Causes, Limbdi. Court of the Sar Nyayadhish, Limbdi. Munsif's Court, Limbdi.

* All summonses for the Courts of this State are to be addressed to the Huzur Court, Limbdi.

Agency.	State.	Court.
3. WESTERN INDIA STATES—*cont.* (i) *Western India States Agency*—cont.	Morvi	Huzur Court, Morvi.
		Court of the Sar Nyayadhish, Morvi.
		Court of the First-class Magistrate, Morvi.
		Court of the Diwani Nyayadish, Morvi.
		Small Causes Court, Morvi.
		Court of the Nyayadish, Adhoi.
	Nawanagar ..	Nawanagar Judicial Secretary's Court (High Court), Jamnagar.
		Nawanagar Sar Nyayadhish and Sessions Court, Jamnagar.
		Nawanagar Small Causes Court, Jamnagar.
		Nawanagar Nyayadhish's Court, Jamnagar.
		Nawanagar Joint Nyayadhish's Court, Jamnagar.
		The Bhayati Court, Jamnagar.
		Nawanagar City First-class Magistrate's Court, Jamnagar.
		Munsif and First-class Magistrate's Court, Khambhalia.
		Munsif and First-class Magistrate's Court, Kalyanpur.
		Munsif and First-class Magistrate's Court, Bhanvad.
		Munsif and First-class Magistrate's Court, Lalpur.
		Munsif and First-class Magistrate's Court, Jodia.
		Munsif and First-class Magistrate's Court, Kandorna.
		Munsif's Court, Kalvad.
		Munsif's Court, Atkot.
	Palitana ..	Huzur Court, Palitana.
		Court of the Sar Nyayadhish, Palitana.
		Court of the First-class Magistrate, Palitana.
		Small Causes Court, Palitana.
	Porbandar ..	Huzur Court, Porbandar.
		Court of the Sar Nyayadhish, Porbandar.
		Court of the Nyayadhish, Porbandar.
		Munsif's Court, Porbandar.
		Munsif's Court, Ranavav.
		Munsif's Court, Navibander.
	Radhanpur ..	Court of the Sar Nyayadhish.
		Court of the Radhanpur Munsif.
		Court of the Sami Munjpur Munsif.
	Rajkot * ..	Huzur Court.
		Court of the Sar Nyayadhish, Rajkot.
		Court of the Diwani Nyayadhish, Rajkot.
		First-class Magistrate's Court, Rajkot (which exercises the powers of a Small Causes Court).
		Sardhar Thana Court, Sardhar.
		Kuvadva Thana Court, Kuvadva.
	Vijaynagar ..	Court of the Sar Nyayadhish, Vijaynagar.
	Wadhwan ..	Huzur Court, Wadhwan.
		Court of the Sar Nyayadhish, Wadhwan.
		Court of the Nyayadhish, Wadhwan.
	Wankaner ..	Huzur Court, Wankaner, Wankaner.
		Court of the Sar Nyayadhish, Wankaner.
		Court of the Nyayadhish, Wankaner.
		Court of Small Causes, Wankaner.
(ii) *Sabar Kantha Agency.*	Adesar-Santalpur.	Court of the Kamdar of Adesar-Santalpur.
	Ambaliara ..	Court of Thakor of Ambaliara.
	Bolundra ..	Court of Thakor of Bolundra.

Agency.	State.	Court.
13. WESTERN INDIA STATES—*cont.* (ii) *Sabar Kantha Agency—cont.*	Deodar, W. S. Viramsinhji's taluka.	Court of Waghela Shri Viramsinhji of Deodar.
	Deodar, W. S. Himatsinhji's taluka.	Court of Waghela Shri Himatsinhji of Deodar.
	Dedhrota ..	Court of Thakor of Dedhrota.
	Derol	Court of Thakor of Derol.
	Gabat	Court of Thakor of Gabat.
	Ghodasar ..	Court of Thakor of Ghodasar.
	Hapa	Court of Thakor of Hapa.
	Ilol	Court of Manager of Ilol.
	Kadoli ..	Court of Thakor of Kadoli.
	Katosan ..	Court of Manager of Katosan.
	Khadal ..	Court of Thakor of Khadal.
	Khedavada ..	Court of Thakor of Khedavada.
	Likhi	Court of Thakor of Likhi.
	Magodi ..	Court of Manager of Magodi.
	Malpur ..	Court of Raolji of Malpur.
	Mansa ..	Court of Raolji of Mansa.
	Mohanpur ..	Court of Thakor of Mohanpur.
	Prempur ..	Court of Thakor of Prempur.
	Punadra ..	Court of Thakor of Punadra.
	Ramas ..	Court of Thakor of Ramas.
	Ranasan ..	Court of Thakor of Ranasan.
	Rupal	Court of Manager of Rupal.
	Sathamba ..	Court of Manager of Sathamba.
	Sudasna ..	Court of Thakor of Sudasna.
	Tervada ..	Court of the Judicial Kamdar, Tervada.
	Thara	Court of the Judicial Kamdar, Thara.
	Tharad ..	Court of Sar Manager of Tharad. Court of the Sar Nyayadhish, Tharad. Court of Morwada Tahsildar. Court of the Bhorole Talukdar.
	Vadagam ..	Court of the Thakor of Vadagam.
	Vakhtapur ..	Court of Manager, Vakhtapur.
	Valasna ..	Court of Thakor of Valasna.
	Varahi, Malek Shri Husseinyavarkhanji's taluka.	Court of Manager, Malek Shri Husseinyavarkhanji's taluk, Varahi.
	Varsoda ..	Court of Thakor of Varsoda.
	Vasna	Court of Thakor of Vasna.
	Wao	Huzur Court, Wao State. Court of the Karbhari, Wao. Court of the Sar Nyayadhish, Wao. Court of the Naayadhish, Wao.
(iii) *Eastern Kathiawar Agency.*	Anandpur (khachar Shri Hathia Desa).	The Court of K. S. Hathia Desa Estate of Anandpur.
	Anandpur (Khachar Shri Dada Jiwa).	The Court of K. S. Dada Jiwa Estate of Anandpur.
	Bajana ..	Huzur Office, Bajana. First-class Magistrate's Office, Bajana.
	Chuda ..	Huzur Court, Chuda. Court of the Nyayadhish, Chuda.
	Lakhtar ..	Court of the Judicial Karbhari, Lakhtar. Court of the Nyayadhish, Lakhtar. Court of the Nyayadhish, Than.
	Lathi	Huzur Court, Lathi. Court of the Sar Nyayadhish, Lathi. Court of the Nyayadhish, Lathi.

Agency.	State.	Court.
13. Western India States—*cont.* (iii) *Eastern Kathiawar Agency*—cont.	Muli	Huzur Court, Muli.
		Court of the Nyayadhish, Muli.
	Patdi	Huzur Court, Patdi.
		Bhayati Court, Patdi.
		Court of the Sar Nyayadhish, Patdi.
		Court of the Nyayadhish, Patdi.
	Rai Sankli ..	The Court of the Manager, Rai Sankli Taluka.
	Rajpar ..	The Court of the Talukdar, Rajpar.
	Sayla	Huzur Court, Sayla.
		Court of the Nyayadhish, Sayla.
		Sara Thandar Court, Sayla.
	Vala	Huzur Court, Vala.
		Court of the Sar Nyayadhish, Vala.
		Court of the Nyayadhish, Vala.
	Vanod ..	The Huzur Court, Vanod.
		Court of the Nyayadhish, Vanod.
	Vithalgadh ..	Huzur Court, Vithalgadh.
		The Court of the First-class Magistrate, Vithalgadh.
	Zainabad ..	The Court of the Talukdar, Zainabad.
		Court of the Nyayadhish, Zainabad.
(*iv*) *Western Kathiawar Agency.*	Alidhra ..	Nyayadhish, Alidhra Taluka.
	Anida	Nyayadhish, Anida Taluka.
	Bagasra (Ram Mulu) (Khari).	Nyayadhish, Khari Taluka.
	Bantwa ..	Taluka Nyayadhish, Bantwa Taluka.
	Barwala ..	Kamdar, Barwala Taluka.
	Bhadwa ..	Kamdar, Bhadwa Taluka.
	Bhayavadar ..	Manager, Bhayavadar Taluka.
	Bilkha ..	Huzur Court, Bilkha.
		Court of the Sar Nyayadhish, Bilkha.
	Champrajpur.	Nyayadhish, Champrajpur Taluka.
	Dedan ..	Court of K. S. Unad Bhan, Talukdar of Dedan.
	Gadhka ..	Kamdar, Gadhka Taluka.
	Gavridad ..	Manager, Gavridad Taluka.
	Hadala-Bagasra.	Nyayadhish, Hadala-Bagasra Taluka.
	Jalia Devnani.	Kamdar, Jalia Devnani.
	Jasdan ..	Huzur Court, Jasdan.
		Court of the Sar Nyayadhish, Jasdan.
		Court of the Nyayadhish and First-class Magistrate, Jasdan.
	Jetpur ..	Sar Nyayadhish and Nyayadhish, Jetpur State.
	Khijadia ..	Manager, Khijadia Taluka.
	Khirasara ..	Nyayadhish, Sar Nyayadhish and Huzur Courts, Khirasara State.
	Kotda-Pitha ..	Majmu Nyayadhish, Kotda-Pitha Taluka.
	Kotda-Sangani.	Huzur Court, Kotda-Sangani.
		Karbhari Court, Kotda-Sangani.
		Court of the Nyayadhish, Kotda-Sangani.
	Kotharia ..	Talukdar of Kotharia, Kotharia Taluka.
	Lodhika (T. S. Mulwaji).	Mulwaji Estate, Lodhika Taluka.
	Lodhika (T. S. Vijaysinhji).	Vijaysinhji Estate, Lodhika Taluka.
	Malia	Nyayadhish, Malia State.
	Manavadar ..	Huzur Court, Manavadar.
		Court of the Sar Nyayadhish, Manavadar.
		Court of the Nyayadhish, Manavadar.
	Manpur ..	Nyayadhish and First-class Magistrate, Court of the Nyayadhish, Manpur Taluka.
	Mayapadar ..	Court of the Nyayadhish, Mayapadar Taluka.
	Mengani ..	Second-class Magistrate, Mengani.

Agency.	State.	Court.
13. Western India States—*cont.* (*iv*) *Western Kathiawar Agency*—cont.	Natwarnagar ..	Nyayadhish, Natwarnagar Taluka.
	Pal	Talukdar, Pal Taluka.
	Rajpara ..	Kamdar, Rajpara Taluka.
	Sanala ..	Manager, Sanala Taluka.
	Sardargadh ..	Nyayadhish, Sardargadh.
	Sardarpur ..	Nyayadhish, Sardarpur.
	Shahpur ..	Shahpur Taluka.
	Thana-Devli ..	Huzur Court, Thana-Devli State.
		Court of the Nyayadhish, Thana-Devli State.
	Thumbala ..	Nyayadhish, Thumbala Taluka.
	Vadia	Huzur Court, Vadia State.
		Court of the Sar Nyayadhish, Vadia.
	Vasavad ..	Majmu Nyayadhish, Vasavad.
	Virpur ..	Huzur Court, Virpur.
		Court of the Sar Nyayadhish, Virpur.

Notification No. 692, at pages 661–666, Part I, *Fort St. George Gazette*, dated 30th June 1942—(G.O. Ms. No. 2149, Home, dated 11th June 1942) as amended by Notifications Nos. 796 and 963 at pages 741 and 897, Part I, *Fort St. George Gazette*, dated 21st July 1942 and 8th September 1942, respectively (G.Os. Ms. No. 2538 and No. 3147, Home, dated 13th July 1942 and 31st August 1942, respectively) and by G.O. Ms. No. 430-S, Home, dated 30th December 1942.

(*b*) Validity of service of summons issued by a Court of the Province of Madras by any Civil Court in the foreign territory.

In pursuance of clause (*b*) of rule 26 of Order V of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), His Excellency the Governor of Madras is pleased to declare that service by any Civil Court specified in the schedule annexed to the Home Department Notification No. 692, dated 11th June 1942 of any summons issued under the said Code by a Court of the Province of Madras shall be deemed to be valid service.

(*H.C. P. Dis. No.* 415 *of* 1942.)

[VII list, 12–1–43]

No. 48.

Pages 154–162.—Notification No. 694 at page 667 in Part I, *Fort St. George Gazette*, dated 30th June 1942 (G.O. Ms. No. 2151, Home, dated 11th June 1942)—*Substitute* the following *for* the matter printed under IV (*a*) :—

In exercise of the powers conferred by Section 44 of the Code of Civil Procedure, 1908 (V of 1908) and in supersession of all previous notifications on the subject, His Excellency the Governor of Madras is pleased to declare that the decrees of the Courts specified in the second column of the schedule hereto annexed, being Courts in the Indian States, respectively, mentioned in the first column of the said schedule and not established or continued by the authority of the Central Government or of the Crown Representative may be executed in the Province of Madras as if they had been passed by Courts of British India.

2. It is also notified for general information that the Indian States mentioned in the first column of the said schedule have agreed that the decrees passed by Civil Courts in the Province of Madras may be executed in their respective territories by the Courts specified in the third column of the said schedule.

ANNEXURE.

Schedule.

States.	Names of courts of the States in column (1)	
	Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.
(1)	(2)	(3)
1 BENARES ..	Chief Court, Ramnagar	All Courts specified in the second column.
	District Judge's Court, Gyanpur.	
	Civil Judge's Court, Chakia.	
	Civil Judge's Court, Ramnagar.	
	Munsif's Court, Gyanpur.	
	Munsif's Court, Chakia.	
	Munsif's Court, Ramnagar.	
	Collector's Court, Gyanpur.	
	Collector's Court, Chakia.	
	Collector's Court, Ramnagar.	
	Deputy Collector's Court, Gyanpur.	
	Assistant Collector's Court, Tahsil. East Gyanpur.	
	Assistant Collector's Court, Tahsil. West Gyanpur.	
	Assistant Collector's Court, Chakia..	
	Assistant Collector's Court, Ramnagar.	
2 WESTERN INDIA STATES—		
Adesar ..	All Civil Courts	Court of the Talukdar, Adesar, Santalpur.
Ambaliara ..	Do.	Court of the Sar Nyayadhish, Ambaliara State.
Bolundra ..	Do.	Court of the Nyayadhish, Bolundra.
Dabha ..	Do.	Court of the Manager of Dabha.
Dadhalia ..	Do.	Court of the Manager of Dadhalia.
Derol ..	Do.	Court of the Karbhari, Derol Taluka.
Gabat ..	Do.	Court of the Karbhari, Gabat Taluka.
Hapa ..	Do.	Court of the Nyayadhish, Hapa.
Ilol ..	Do.	Court of the Nyayadhish, Ilol Taluka.
		Court of the Manager, Ilol Taluka.
Katosan ..	Do.	Court of the Manager, Taluka Katosan.
Khedawada ..	Do.	Court of the Nyayadhish, Khedawada Taluka.
Likhi ..	Do.	Court of the Thakor of Likhi.
Magodi ..	Do.	Court of the Manager, Magodi.

States.	Names of courts of the States in column (1). Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.
(1)	(2)	(3)
2 WESTERN INDIA STATES—*cont.*		
Mansa ..	All Civil Courts	Court of the Karbhari of Mansa.
Prempur ..	Do.	Court of the Nyayadhish, Prempur Taluka.
Ramas ..	Do.	Court of the Nyayadhish, Ramas Taluka.
Ranasan ..	Do.	Court of the Nyayadhish, Ranasan Taluka.
Rupal ..	Do.	Court of the Manager, Rupal Taluka.
Sathamba ..	Do.	Court of the Manager, Sathamba Taluka.
Terwada ..	Do.	Court of the Judicial Kamdar, Terwada.
Vadagam ..	Do.	Court of the Karbhari, Vadagam Taluka.
Vakhtapur ..	Do.	Court of the Manager, Vakhtapur Taluka.
Varsoda ..	Do.	Court of the Nyayadhikari, Varsoda Taluka.
Wao	Do.	Court of the Sar Nyayadhish, Wao State.
3 BARODA AND THE GUJARAT STATES—		
Baroda ..	All Civil Courts	All Civil Courts.
Balasinor ..	High Court, Balasinor	All Courts specified in the second column.
	Court of the District Judge, Balasinor.	
	Court of the Nyayadhish, Balasinor.	
Baria ..	Huzur Court, Baria	Do.
	Court of the Sar Nyayadhish, Baria.	
	Court of the Nyayadhish, Baria.	
Cambay ..	High Court, Cambay	D
	Court of the Sar Nyayadhish.	
	Court of the Nayadhish.	Do.
Chhota ..	Huzur Court, Chhota Udepur	Do.
Udepur ..	High Court, Chhota Udepur.	
	District Judge's Court, Chhota Udepur.	
	Court of the Nyayadhish, Chhota Udepur.	
Jambughoda ..	Huzur Court, Jambughoda	Do.
	Court of the Sar Nyayadhish, Jambughoda.	
	Court of the Nyayadhish, Jambughoda.	
Rajpipla ..	Huzur Court, Rajpipla	Do.
	Court of the Sar Nyayadhish, Rajpipla.	
	Munsif's Court, Nandod.	
	Munsif's Court, Jhagadia.	
Sachin ..	District Judge, Sachin State, Dumas	Do.
	Sub-Judge, Sachin.	
Sant ..	Huzur Court of the Sant State	Do.
	Court of the Dewan of the Sant State.	
	Court of the Nyayadhish of the Sant State.	
Surgana ..	Court of the Magistrate, Surgana	Do.
4 KOLHAPUR AND THE DECCAN STATES—		
Akalkot ..	Court of the Raja of Akalkot	All Courts specified in the second column.
	High Court of Judicature, Akalkot.	
	Court of the District and Sessions Judge, Akalkot.	
	Court of the Nyayadhish, Akalkot.	
	Court of the Joint Nyayadhish, Akalkot.	
	Court of the Sub-Judge, Piliv.	
	Court of the Sub-Judge, Kurla.	
Aundh ..	High Court, Aundh State.	
	Court of the District and Sessions Judge, Aundh.	Do.
	Court of the Sub-Judge for Atpadi, Kundal and Gundal Talukas.	
	Court of the Sub-Judge, Aundh Taluka.	
Jamkhandi ..	Huzur Court of the Raja of Jamkhandi ..	Do.
	High Court, Jhamkandi.	
	Court of the District Judge, Jamkhandi.	
	Court of the Nyayadhish, Jamkhandi.	
	Court of the Sub-Judge, Kundgol.	
	Court of the Munsif, Wathar.	
	Court of the Munsif, Patkal.	

States.	Names of courts of the States in column (1). Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.
(1)	(2)	(3)
4 KOLHAPUR AND THE DECCAN STATES—*cont.*		
Janjira ..	High Court, Janjira..	Court of the Sar Nyayadhish—Janjira.
	Court of the Sar Nyayadhish, Janjira. Court of the Munsif, Janjira.	
Kolhapur ..	(1) *Courts in the Kolhapur State proper.*	All Courts specified in the second column.
	The combined Court of the Resident for Kolhapur and the Deccan States and His Highness the Chhatrapati Maharajasaheb of Kolhapur. The Supreme Court of His Highness. The High Court of Judicature at Kolhapur. The Court of the District Judge, Kolhapur. The Court of the Assistant Judge, Kolhapur. The Court of the First-class Sub-Judge, Kolhapur. The Court of the Second-class Sub-Judge, Kolhapur. The Court of the Second-class Sub-Judge, Shirol. The Court of the Second-class Sub-Judge, Gadhinglaj. The Court of the Second-class Sub-Judge, Radhanagari. The Court of the Second-class Sub-Judge, Panhala. The Court of the Second-class Sub-Judge, Katkol. The Court of the Second-class Sub-Judge, Shahuwadi. The Second-class Sub-Judge, Meh. Melhrarao Gaikwad Vishwasrao. The Second-class Sub-Judge, Meh. Kshatra-Jagatguru. The Second-class Sub-Judge, Meh. Chinchalikar. The Second-class Sub-Judge, Meh. Khanawatkar. The Second-class Sub-Judge, Meh. Patankar.	
	(2) *Courts in the Feudatory Jaghirdars.*	
	The Court of the Jaghirdar of Ichalkaranji. The Court of the Jaghirdar of Kagal (Senior). The Court of the Jaghirdar of Vishalgad. The Court of the Jaghirdar of Bavada. The Court of the Jaghirdar of Kagal (Junior). The Court of the Jaghirdar of Kapshi The Court of the Jaghirdar of Himat Bahadur. The Court of the Jaghirdar of Torgal. The Court of the Jaghirdar of Sarlashkar Bahadur. The Munsif's Court, Ichalkaranji. The Munsif's Court, Ajra.	
	(3) *Courts in the Feudatory Jaghirdars.*	
	The Munsif's Court, Kagal (Senior). The Munsif's Court, Bavada. The Munsif's Court, Kagal (Junior). The Munsif's Court, Vishalgad. The Munsif's Court, Sarlashkar Bahadur. The Munsif's Court, Torgal. The Munsif's Court, Kapshi. The Munsif's Court, Himat Bahadur. Tue Court of Joint Officer, Mahagaon.	
Kurundwad (Junior).	Huzur Court, Kurundwad (Junior)	All Civil Courts.
	Court of the Nyayadhish, Kurundwad (Junior).	
Kurundwad (Senior).	High Court, Kurundwad (Senior) State	All Courts specified in the second column.
	Court of the Sar Nyayadhish (District Judge), Kurundwad.	
	Court of the Nyayadhish (First-class Sub-Judge,) Kurundwad.	
Miraj (Senior).	The Court of the Raja of Miraj (Senior)	Do.
	High Court, Miraj. District Court, Miraj. The Court of the Second-class Sub-Judge, Miraj. The Court of the Second-class Sub-Judge, Laxmeshwar. The Court of the Second-class Sub-Judge, Modnimb.	

States.	Names of courts of the States in column (1). Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.
(1)	(2)	(3)
4 KOLHAPUR AND THE DECCAN STATES—*cont.*		
Miraj (Junior).	Huzur Court, Miraj (Junior)	All courts specified in the second column.
	Court of the District Judge, Miraj (Junior).	
	Court of the Munsif, Budhgaon.	
	Court of the Munsif, Gudgeri.	
	Court of the Munsif, Khandali.	
Phaltan ..	The High Court of Judicature at Phaltan	Do.
	Court of the District Judge, Phaltan.	
	Court of the First-class Sub-Judge, Phaltan.	
Ramdurg ..	Huzur Court, Ramdrug	Do.
	Court of the Chief.	
	Court of the District Judge.	
	Court of the First-class Subordinate Judge.	
	Court of the Second-class Subordinate Judge.	
Sangli ..	All Civil and Revenue Courts	Do.
Savantwadi ..	Huzur Court, Savantwadi	Do.
	Court of the Minister of Justice and Finance, Savantwadi.	
	Court of the Sar Nyayadhish, Savantwadi.	
	Court of the Nyayadhish, Savantwadi.	
	Court of the Nyayadhish, Kudal.	
5 COOCH BEHAR.	All Civil and Revenue Courts	All civil courts.
6 KASHMIR ..	All Civil Courts	Do.
7 MADRAS STATES—		
Cochin ..	High Court of the State of Cochin	Do.
	All District Courts.	
	All Munsifs' Courts and Village Panchayat Courts [provided that the documents mentioned in Order XXI, rule 6, of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908) bear the countersignature of the Judge of the District Court to which the Court of the Munsif or the Village Panchayat Court is subordinate].	
Pudukkottai ..	Chief Court of the State of Pudukkottai	Do.
	The Court of the Registrar of the Chief Court, and the Small Cause Courts of the State of Pudukkottai [provided that the documents mentioned in Order XXI, rule 6 of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908) bear the counter-signature of a judge of the Chief Court].	
Travancore ..	High Court of the State of Travancore	Do.
	All District Courts.	
	All Munsifs' Courts and Village Panchayat Courts [provided that the documents mentioned in Order XXI, rule 6 of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908) bear the countersignature of the Judge of the District Court to which the Court of the Munsif or the Village Panchayat Court is subordinate].	
8 MYSORE ..	All Civil and Revenue Courts	Do.
9 SIKKIM ..	Chief Court of Sikkim in the exercise of its Civil jurisdiction.	Chief court of Sikkim.
10 MANIPUR ..	All Civil Courts	All civil courts.

Notification No. 693 at pages 666 and 667, Part I, *Fort St. George Gazette*, dated 30th June 1942 (G.O. Ms. No. 2150, Home, dated 11th June 1942) as amended by Notification No. 938, pages 873 to 875, Part I, *Fort St. George Gazette*, dated 1st September 1942 (G.O. Ms. No. 2957, Home, dated 17th August 1942) and Notification No. 1293, page 1182, Part I, *Fort St. George Gazette*, dated 24th November 1942 (G.O. Ms. No. 340-S, Home, dated 9th November 1942).

(*H.C. P. Dis. No.* 415 *of* 1942.)

[VII list, 12-1-43]

IX. POSTAGE FOR TRANSMISSION OF PROCESSES—

(1) Under the Resolution of the Government of India, No. 225, dated 12th April 1882, the charges on all processes, notices and such other documents as are issued from any judicial or revenue court and are required to be transmitted by post, shall be paid by means of service postage stamps, without any additional charge being levied from the parties at whose instance the processes are issued.

The cost of the service postage stamps required for transmission by post of processes are to be treated as a portion of the cost of the process-serving establishment and must be paid from general revenues.
(*H.C. Cir.* 2124 *of* 1882.)

(2) Under the Post Office Rules, court summonses, notices, etc., cannot be sent through the post by packet post, but must be prepaid as letters.
(*H.C. Dis.* 1032 *of* 1920.)

(3) It has been decided by the Director-General of Posts and Telegraphs that revenue and judicial processes from one court to another or to individuals are of the nature of personal communications, and, therefore, their transmission by book post or the inclusion of more than one such process in a parcel is prohibited. (*Letter I.M.-556/36-T.L., d.* 20–1–1937, *from the Deputy Director-General, Postal Services. H.C.P. Dis.* 177 *of* 1937.)

(4) The High Court considers that transmission of processes by private agencies like bus or railway is neither practicable nor desirable. District Judges should, therefore, use their discretion in transmitting processes from one court to another, either by letter post (meeting additional cost on account of postage) or through process-servers, whichever is cheaper and more convenient. (*H.C.P. Dis.* 697 *of* 1937.)

X. SERVICE OF SUMMONS ON EMPLOYEES OTHER THAN THOSE OF GOVERNMENT AND SEMI-GOVERNMENT DEPARTMENTS—

The Employers' Federation of Southern India, Madras, invites the attention of the High Court to the fact that judicial authorities are in the habit of casting on large employers of labour the burden of serving summonses and subpœnas on their employees. The Federation objects to this practice and its members decline to accept the responsibility for the service of processes on their employees. The High Court therefore considers that the practice where it is in vogue should stop and that employees (other than those of Government and semi-Government departments) should be served direct instead of through their employers. (*H.C. Dis.* 1161 *of* 1926.).

B.—Service of processes of and through Foreign Courts in India.

I. SERVICE IN FOREIGN TERRITORIES (IN INDIA) THROUGH POLITICAL AGENT OR COURTS ESTABLISHED OR CONTINUED BY THE GOVERNOR-GENERAL IN COUNCIL—

See Government of India Notification Nos. 786, 787 and 788, dated 9th April 1913 at pp. 162 to 165 *infra*.

II. RECIPROCAL ARRANGEMENT WITH INDIAN STATES—

(*N.B.*—These are courts which have neither been established, nor continued by the Governor-General in Council; but to which the Governor-General in Council has by notification in the *Gazette of India*, declared the provisions of section 29 and Order V, rule 26 (*b*) of the Code of Civil Procedure to apply.)

In pursuance respectively of section 29 and of clause (*b*) in rule 26 of Order V in the First Schedule of the Code of Civil Procedure, 1908 (Act V of 1908), and in supersession of the notifications mentioned in the Second Schedule annexed hereto and of all notifications amending the same, the Governor-General in Council is pleased to declare—

(1) that the provisions of section 29 of the said Code shall apply to the courts specified in the First Schedule hereto annexed; and

(2) that service by the said courts of any summons issued by a court in British India under the said Code shall be deemed to be valid service.

FIRST SCHEDULE.

In States in direct relations with the Government of India.

Agency.	State.	Court.	Notification.
1 BARODA ..	Baroda	All civil and revenue courts of the Baroda State.	No. 323-I (F and P), dated 15th May 1929.
2 CENTRAL INDIA—		*(Civil Courts.)*	
Indore	Indore	High Court of Judicature, Indore. District Court, Nimar, Mandlesar. 1st Grade Munsif's Court, Mandlesar. District Court, Rampura Bhanpura, Garote. 1st Grade Munsif's Court, Garote. District Court, Mahidpur. District Court, Nimawar, Kannod. District Court, Indore. Nazim Adalat Court, Indore. 1st Grade Munsif's Court, Khargone. 1st Grade Munsif's Court, Manasa.	
		(Revenue Courts.)	
		All revenue courts in the Indore State.	
		(Civil and Revenue Courts.)	
Bundelkhand ..	Datia	Darbar Court, Datia.	
	Panna	Darbar Court, Panna.	
	Charkhari ..	Darbar Court, Charkhari.	
	Ajaigarh ..	Darbar Court, Ajaigarh.	
	Bijawar	Darbar Court, Bijawar.	
	Chhatarpur ..	Darbar Court, Chhatarpur.	
	Baoni	Darbar Court, Kadaura.	
		(Civil Courts.)	
Bhopal ..	Bhopal	The High Court, Bhopal .. .. District Court, Eastern district (including Tahsils Nasrullahganj and Mardanpur and excluding Tahsils Diwanganj and Piklon), Bhopal. District Court, Bhopal City. District Court, Western district (including Tahsils Diwanganj and Piklon and excluding Tahsils Nasrullahganj and Mardanpur), Sehore. Sub-Judge, Bhopal City. Sub-Judge, Garhi. Sub-Judge, Bareli. Sub-Judge, Goharganj. Sub-Judge, Dewanganj, Bhopal. Sub-Judge, Berasia. Sub-Judge, Huzur, Bhopal. Sub-Judge, Sehore. Sub-Judge, Ashta. Munsif, Sehore. Munsif, Bhopal City. Munsif, Begumganj. Munsif, Bamhori. Munsif, Udaipura. Munsif, Nasrullaganj. Munsif, Dewanganj, Bhopal. Munsif, Piklon. Munsif, Huzur, Bhopal.	Amended by No. 732-I (F and P), dated 22nd December 1931.
	Rajgarh	Judge's Court, Biaora.	
	Narsingarh ..	Civil Judge, Narsingarh.	

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
2 CENTRAL INDIA—*cont.*		(*Civil Courts*)—cont.	
Bhopal—cont.	Khilchipur ..	Court of Superintendent, Khilchipur.	
	Kurwai	Court of Superintendent, Kurwai.	
	Pathari	Court of Superintendent, Pathari.	
	Muhammadgarh.	Court of Superintendent, Muhammadgarh.	
	Basoda	Court of Nawab of Basoda (Haidergarh and Basoda), Basoda.	
		(*Revenue Courts.*)	
	Bhopal	Revenue Member's Court, Bhopal .. Nazim of Eastern District, Raisen. Nazim of Western District, Sehore.	Amended by No. 732-I. (F. and P.), dated 22nd December 1931, and No. 221-I. (F. and P.), dated 27th April 1932.
	Rajgarh	Judge's Court, Biaora.	
	Narsingarh ..	Revenue Officer, Narsingarh.	
	Khilchipur ..	Court of Superintendent, Khilchipur.	
	Kurwai	Court of Superintendent, Kurwai.	
	Pathari	Court of Superintendent, Pathari.	
	Muhammadgarh.	Court of Superintendent, Muhammadgarh.	
	Basoda	Court of Nawab of Basoda (Haidergarh and Basoda), Basoda.	
	Makrai	All civil and revenue courts	Amended by No. 166-I. (F. and P.), dated 1st April 1933.
		(*Civil Courts.*)	
Baghelkhand ..	Rewa	Chief Court, Rewa State, Rewa .. District and Sessions Judge, North Rewa, Rewa. Deputy Magistrate and Munsif, Rewa, Rewa. Deputy Magistrate and Munsif, Raghurajnagar, Satna. Deputy Magistrate and Munsif, Teonthar, Teonthar. Deputy Magistrate and Munsif, Mauganj, Mauganj. District and Sessions Judge, and Deputy Revenue Commissioner, East Rewa, Baghaun. Deputy Magistrate and Munsif, Gopad Banas, Sidhi. District and Sessions Judge, and Deputy Revenue Commissioner, South Rewa, Umaria. Deputy Magistrate and Munsif, Sohagpur, Burhar.	Amended by No. 392-I. (F. and P.), dated 12th July 1932.
	Baraundha ..	Court of the Dewan, Baraundha.	
	Maihar	Court of the Dewan, Maihar.	
	Sohawal	Court of the Dewan, Sohawal.	
	Nagod	Court of the Dewan, Nagod.	
		(*Revenue Courts.*)	
	Rewa	Court of the Revenue Minister, Rewa. Deputy Revenue Commissioner, Rewa. Tahsildar, Hazoor Tahsil, Rewa. Tahsildar, Raghurajnagar, Satna.	Amended by No. 392-I. (F. and P.), dated 12th July 1932.

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
2 CENTRAL INDIA—*cont.*		(*Revenue Courts*)—cont.	
Baghelkhand—cont.	Rewa—*cont.*	Tahsildar, Teonthar, Teonthar. Tahsildar, Sirmour, Sirmour. Tahsildar, Mauganj, Mauganj. District and Sessions Judge, and Deputy Revenue Commissioner, East Rewa, Baghaun. Tahsildar, Gopad Banas, Sidhi. Tahsildar, Beohari, Beohari. Tahsildar, Deosar, Deosar. District and Sessions Judge, and Deputy Revenue Commissioner, South Rewa, Umaria. Tahsildar, Sire Bandhogarh, Umaria. Tahsildar, Sohagpur, Sohagpur.	
	Baraundha ..	Court of the Dewan, Baraundha.	
	Maihar	Court of the Dewan, Maihar.	
	Sohawal	Court of the Dewan, Sohawal.	
	Nagod	Court of the Dewan, Nagod.	
		(*Civil Courts.*)	
Southern States and Malwa.	Dhar	District Magistrate's Court, Dhar.	
	Barwani ..	Chief Judge's Court, Barwani.	
	Jhabua	Nazim's Court, Jhabua.	
	Ali Rajpur ..	Munsif's Court, Ali Rajpur.	
	Jobat	Court of the Kamdar, Jobat.	
	Dewas (Senior Branch).	Civil Judge's Court, Dewas.	
	Dewas (Junior Branch).	District Court, Dewas.	
	Jaora	Chief Judge's Court, Jaora.	
	Ratlam	Judge's Court, Ratlam.	
	Sitamau	Sar Nyayadhish Court, Sitamau.	
	Sailana	Court of the Sar Nyayadhish of Sailana.	
		(*Revenue Courts.*)	
	Dhar	Chief Revenue Officer's Court, Dhar.	
	Barwani	Revenue Officer's Court, Barwani.	
	Jhabua	Nazim's Court, Jhabua.	
	Ali Rajpur ..	Munsif's Court, Ali Rajpur.	
	Jobat	Court of the Kamdar, Jobat.	
	Dewas (Senior Branch).	Civil Judge's Court, Dewas.	
	Dewas (Junior Branch).	District Court, Dewas.	
	Jaora	Chief Court of the Suba of Jaora.	
	Ratlam	Judge's Court, Ratlam.	
	Sitamau	Sar Nyayadhish Court, Sitamau.	
	Sailana	Court of the Sar Nyayadhish of Sailana.	

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
		(*Civil Courts.*)	
3 GWALIOR ..	Gwalior	*District Gird, Gwalior*— High Court, Gwalior. Prant Court, Gwalior. District Court, Gird, Gwalior. Sub-Judge's Court, Lashkar. Additional Sub-Judge's Court, Lashkar. Cantonment Magistrate's Court, Lashkar. Cantonment Magistrate's Court, Morar. Pargana Court, Gird, Gwalior. Pargana Court, Antri. Pargana Court, Mastura. Pargana Court, Bhander. *District Bhind*— District Court, Bhind. Sub-Judge's Court, Bhind. Pargana Court, Mehgaon. Pargana Court, Lahar. Pargana Court, Gohad. *District Towarghar*— District Court, Towarghar (Morena). Pargana Court, Jora. Pargana Court, Noorabad (Morena). Pargana Court, Sabalgarh. Pargana Court, Ambah. *District Sheopur*— District Court, Sheopur. Pargana Court, Bijeypur. *District Esagarh*— Prant Court, Esagarh (Goona). Pargana Court, Mungaoli. Pargana Court, Bajrangarh (Goona). Pargana Court, Pachhar. Pargana Court, Chanderi. Pargana Court, Kumbhraj (Chachaura). *District Narwar*— District Court, Narwar (Shivpuri). Sub-Judge's Court, Shivpuri. Pargana Court, Kolaras. Pargana Court, Pichhore. Pargana Court, Karera. *District Bhilsa*— District Court, Bhilsa. Sub-Judge's Court, Bhilsa. Pargana Court, Basoda. *District Ujjain*— Prant Court, Malwa (Ujjain). Sub-Judge's Court, Ujjain. District Court, Ujjain. Pargana Court, Ujjain. Pargana Court, Khachrod. Pargana Court, Barnagar. Pargana Court, Sonkatch. *District Shajapur*— District Court, Shajapur. Pargana Court, Shajapur. Sub-Judge's Court, Agar. Sub-Judge's Court, Susner. Sub-Judge's Court, Shujalpur. *District Mandsaur*— District Court, Mandsaur. Sub-Judge's Court, Neemuch. Pargana Court, Mandsaur. Pargana Court, Suvasara. Pargana Court, Jawad. Pargana Court, Gangapur. Pargana Court, Singoli.	

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
3 GWALIOR—*cont.*	Gwalior—*cont.*	(*Civil Courts*)—cont. *District Amjhera*— District Court, Amjhera (Sardarpur). Pargana Court, Bakaner (Manawar). (*Revenue Courts.*) *District Gird, Gwalior*— Revenue Appeal Bench, Gwalior. Suba, District Gird, Gwalior. Tahsildar, Gird, Gwalior. Tahsildar, Pichore (Gird). Tahsildar, Mastura, Ghatigaon. Tahsildar, Bhander. *District Bhind*— Suba, District Bhind, Bhind. Tahsildar, Bhind. Naib-Tahsildar, Tappa Ater. Tahsildar, Mehgaon. Tahsildar, Gohad. Tahsildar, Lahar. *District Tawarghar (Morena)*— Suba, District Tawarghar (Morena). Tahsildar, Nurabad, Morena. Tahsildar, Jora, Jora-Alapur. Tahsildar, Ambah. Tahslidar, Sabalgarh. *District Sheopur*— Suba, District Sheopur. Tahsildar, Sheopur. Tahsildar, Bijeypur. *District Narwar (Shivpuri)*— Suba, District Narwar (Shivpuri). Tahsildar, Shivpuri. Tahsildar, Pichore (Narwar). Tahsildar, Karera. Tahsildar, Kolaras. *District Isagarh, Guna*— Suba, District Isagarh, Guna. Tahsildar, Bajrangarh, Guna. Tahsildar, Pachar. Tahsildar, Mungaoli. Tahsildar, Kumbhraj, Chachonda. Naib-Tahsildar, Tappa Isagarh. Naib-Tahsildar, Tappa Chanderi. Naib-Tahsildar, Tappa Bamori, Fatehgarh. *District Bhilsa*— Suba, District Bhilsa. Tahsildar, Bhilsa. Tahsildar, Basoda. Naib-Tahsildar, Tappa Samshabad. Naib-Tahsildar, Tappa Bhonrasa. *District Ujjain*— Revenue Appeal Bench, Malwa, Ujjain. Suba, District Ujjain. Tahsildar, Ujjain. Tahsildar, Khachrod. Tahsildar, Badnagar. Tahsildar, Sonkach. *District Shajapur*— Suba, District Shajapur. Tahsildar, Shajapur. Tahsildar, Shujalpur. Tahsildar, Agar. Tahsildar, Susner. Naib-Tahsildar, Tappa Sundersi. Naib-Tahsildar, Tappa Gulana.	

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
		(*Revenue Courts*)—cont.	
3 GWALIOR—*cont.*	Gwalior—*cont.*	*District Shajapur*—cont.	
		Naib-Tahsildar, Tappa Barodia. Naib-Tahsildar, Tappa Barod. Naib-Tahsildar, Tappa Kanad. Naib-Tahsildar, Tappa Nalkheda. Naib-Tahsildar, Tappa Soyat.	
		District Mandsaur— Suba, District Mandsaur. Tahsildar, Mandsaur. Tahsildar, Suvasara. Tahsildar, Neemuch. Tahsildar, Jawad. Naib-Tahsildar, Tappa Gangapur. Naib-Tahsildar, Tappa Bhensoda. Naib-Tahsildar, Tappa Singoli.	
		District Amjhera (*Sardarpur*)— Suba, District Amjhera, Sardarpur. Tahsildar, Bakaner, Manawar. Naib-Tahsildar, Tappa Bagh.	
	Benares	Chief Court, Ramnagar .. .. District Judge's Court, Gyanpur. Collector's Court, Gyanpur. Collector's Court, Chakia. Collector's Court, Ramnagar. Civil Judge's Court, Chakia. Civil Judge's Court, Ramnagar. Deputy Collector's Court, Gyanpur. Assistant Collector's Court, Tahsil East Gyanpur. Assistant Collector's Court, Tahsil West Gyanpur. Assistant Collector's Court, Chakia. Assistant Collector's Court, Ramnagar.	No. 323-I. (F. and P.), dated 15th May 1929, as amended by No. 261-I.B., dated 4th November 1937.
	Rampur * ..	Ijlas-i-Humayun .. .. .. Adalat-ul-Alia Appeal. Court of the District Judge. Court of the Council of Khandan. Court of the Mufti Diwani. Court of the Small Causes. Court of the Munsif, Hazur Tahsil. Court of the Munsif, Shahabad. Court of the Munsif, Milak. Court of the Munsif, Bilaspur. Court of the Munsif, Suar. Court of the Munsif, Tanda. Court of the Munsif, Noabadi. Court of the Revenue Secretary. Court of Nazim. Court of the Assistant Collector, 1st Class (Settlement Officer). Court of the Assistant Collector (Tahsildar, Hazur Tahsil). Court of the Assistant Collector (Tahsildar, Shahabad). Court of the Assistant Collector (Tahsildar, Milak). Court of the Assistant Collector (Tahsildar, Bilaspur). Court of the Assistant Collector (Tahsildar, Suar). Court of the Assistant Collector (Tahsildar, Tanda). Court of the Assistant Collector (Tahsildar, Noabadi).	Do.
4 HYDERABAD ..	Hyderabad ..	All civil and revenue courts.†	
5 KASHMIR ..	Kashmir ..	All civil and revenue courts.	

* The channel of service for all Courts in this State is the Chief Secretary to His Highness the Nawab of Rampur.

† Summons for service in the Hyderabad State shall be forwarded to the City Civil Court and District Civil Courts only. For additional instructions see Note (1) at pages 49 to 51 *infra*.

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
6 MADRAS STATES.	Travancore ..	For list of courts and instructions see Note (3) at pages 53 to 58 infra.	
	Cochin	For list of courts and instructions see Note (4) at pages 58 to 63 infra.	
	Pudukkottai ..	For list of courts and instructions see Note (5) at page 63 infra.	
	Banganapalle ..	Sadr Courts, Banganapalle. Adalat Court, Banganapalle.	
	Sandur	Dewan's Court, Sandur.	
7 MYSORE ..	Mysore	All civil and revenue courts of the Mysore State.*	
8 PUNJAB STATES.	Patiala	Minister of Law and Justice, Patiala. High Court, Patiala. Revenue Minister, Patiala. Revenue Commissioner, Patiala. Nazim Patiala District, Patiala. Nazim Anahadgarh District Headquarters, Barnala. Nazim Karamgarh District, Headquarters, Sunam. Nazim Mohindergarh District Headquarters, Narnaul. Nazim Bassi District Headquarters, Bassi. Naib Nazim Mal, Kohistan (Kandaghat). Naib Nazim Mal, Barnala District. Naib Nazim Mal, Patiala District. Naib Nazim Mal, Sunam District. Tahsildar, Patiala. Tahsildar, Rajpura. Tahsildar, Bhawanigarh. Tahsildar, Sunam. Tahsildar, Narwana. Tahsildar, Barnala. Tahsildar, Bhatinda. Tahsildar, Mansa. Tahsildar, Sirhind. Tahsildar, Dhuri. Tahsildar, Narnaul. Tahsildar, Kandaghat. Settlement Collector.	
	Bahawalpur ..	Chief Court, Bahawalpur. District Judge, Bahawalpur. District Judge, Khanpur (District Rahimyarkhan). District Judge, Minchinabad, District Khairpur. Munsif, Minchinabad. Tahsildar, Minchinabad. Tahsildar, Bahawalnagar. Munsif, Bahawalnagar. Nazim, Bahawalnagar. Tahsildar, Khairpur. Munsif, Khairpur. Special Judicial Officer, Bahawalpur. Munsif, Bahawalpur. Nazim, Bahawalpur. Tahsildar, Bahawalpur. Munsif, Ahmadpur East. Tahsildar, Ahmadpur East. Munsif, Allahabad. Tahsildar, Allahabad. Munsif, Khanpur. Tahsildar, Khanpur. Nazim, Rahimyar Khan. Munsif, Rahimyar Khan. Tahsildar, Rahimyar Khan. Munsif, Ahmadpur Lama. Tahsildar, Ahmadpur Lama.	

* For list of Courts and instructions see Note (2) at pages 51 to 53 *infra*.

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
8 PUNJAB STATES—*cont.*	Jind	(*Civil Courts.*) High Court. Nazim and Sessions Judge, Sangrur. Nazim and Sessions Judge, Jind. Naib Nazim, Sangrur. Naib Nazim, Jind. Naib Nazim, Charkhi Dadri. Tahsildar, Sangrur. Tahsildar, Jind. Tahsildar, Charkhi Dadri. Tahsildar, Safidan. Bench of Honorary Magistrates, Sangrur. Bench of Honorary Magistrates, Dyalpura. Bench of Honorary Magistrates, Charkhi Dadri. Bench of Honorary Magistrates, Bond Kalan. (*Revenue Courts.*) Revenue Minister. Nazim and Sessions Judge, Sangrur. Nazim and Sessions Judge, Jind. Land Revenue Officer. Naib Nazim, Sangrur. Naib Nazim, Jind. Naib Nazim, Charkhi Dadri. Nazim Anhar, Sangrur. Naib Nazim, Nahar Sangrur. Naib Nazim, Nahar Jind. Tahsildar, Sangrur. Tahsildar, Jind. Tahsildar, Safidon. Tahsildar, Charkhi Dadri.	
	Nabha	Chief Judicial Officer's Court, Nabha. Nazim, Amloh District, Amloh. Nazim of Phul District, Phul. Nazim of Bawal District, Bawal. Revenue Officer's Court, Nabha. Nazim Nahar's Court, Nabha.	
	Kapurthala ..	Sadr. Judicial Secretary. Chief Court. Nazim (for subordinate courts also). Magistrate, Kapurthala. Honorary Magistrate, Kapurthala. Magistrate, Phagwara. Honorary Magistrate, Phagwara. Magistrate, Sultanpur. Honorary Magistrate, Sultanpur. Magistrate, Dhilwan. Honorary Magistrate, Dhilwan. Tahsildar, Bhunga.	
	Mandi	(*Civil Courts.*) Chief Court. District Judge. Treasury Officer as Sub-Judge, 1st Class. Treasury Officer as Magistrate, 1st Class. Sub-Judge, 2nd Class. Munsif. Tehsil Sadar Tahsildar. Tehsil Sarkaghat Tahsildar. Tehsil Chachiot Tahsildar. Tehsil Harabagh Tahsildar. Naib Tahsildar, Harabagh. Civil Judge, Joginder Nagar.	

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
8 PUNJAB STATES—*cont.*	Mandi—*cont.*	(*Revenue Courts.*) Chief Minister's Court. Chief Revenue Officer. Tahsildar, Sadar. Tahsildar, Sarkaghat. Tahsildar, Chachiot. Tahsildar, Harabagh. Naib-Tahsildar, Harabagh.	
	Sirmur	Ijlas Khas. District and Sessions Judge. Collector and District Magistrate. Magistrate, 1st Class. Tahsildar, Rainka. Tahsildar, Pachhad. Tahsildar, Paunta. Tahsildar, Nahan. Sub-Judge's Court	Amended by No. 732-I. (F. and P.), dated 22nd December 1930.
	Bilaspur ..	The Council of Administration. The Revenue and Judicial Member. The Magistrate. The Tahsildar, Sadar, Bilaspur. The Tahsildar, Ghumarvin.	
	Maler Kotla ..	(*Civil Courts.*) High Court. Adalat (District and Sessions Judge's Court). Sub-Judge's Court. Munsif's Court.	
		(*Revenue Courts.*) Collector's Court. Tahsildar, Sadar's Court. Tahsildar, Ahmadgarh's Court. Tahsildar, Fatehgarh's Court.	
	Faridkot ..	(*Civil Courts.*) President, Council of Administration. Judicial Member, Council of Administration. Senior Sub-Judge. Junior Sub-Judge.	
		(*Revenue Courts.*) President, Council of Administration. Revenue Member, Council of Administration. Tahsildar. Naib-Tahsildar, Faridkot. Naib-Tahsildar, Kot Kapura.	
	Chamba	Court of H.H. the Raja, Chamba. Court of the Chief Judicial Officer, Chamba. Court of the State Vakil, Dalhousie. Court of the Sub-Judge, No. 1 Chamba. Court of the Sub-Judge, No. 2 Chamba. Court of the Sub-Judge, No. 3 Chamba. Court of the Sub-Judge, No. 4 Chamba.	
	Suket	Chief Court. District and Sessions Judge's Court. Sub-Judge, Suket State, Sundarnagar. Tahsildar Balh, Sundarnagar.	
	Loharu	(*Civil Courts.*) Court of the Council of Regency. Court of Nazim.	

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
		(*Revenue Courts.*)	
8 PUNJAB STATES—*cont.*	Loharu—*cont.*	Court of the Council of Regency. Court of Finance Member. Court of Tahsil.	
	Khairpur ..	High Court, Khairpur. Court of the Wazir and District Magistrate, Khairpur. Court of the District and Sessions Judge, Khairpur. Court of the Sub-Judge and Resident Magistrate, Khairpur. Court of the Sub-Judge and Resident Magistrate, Gambat. Court of the Mukhtiarkar and First-class Magistrate, Mirwah. Court of the Mukhtiarkar and First-class Magistrate, Faizganj. Court of the Mukhtiarkar and First-class Magistrate and Second-class Sub-Judge, Nara. Court of the Head Munshi and Second-class Magistrate, Khairpur.	
9 RAJPUTANA—			
Eastern Rajputana States Agency.	Bharatpur .. Bundi. Dholpur. Jhalawar. Karauli. Kotah.	*All civil and revenue courts of the States in Rajputana.	Amended by No. 485-I. B., dated 4th October 1934.
Jaipur Residency.	Alwar. Jaipur. Kishangarh. Shahpura. Tonk.		
Mewar Residency and Southern Rajputana States Agency.	Banswara. Dungarpur. Mewar. Partabgarh.		
Rajputana Agency.	Bikaner.		
Western Rajputana States Residency.	Jaisalmear ..	Huzur Court	Amended by No. 126-I. B., dated 20th February 1935.
	Jodhpur ..	Sar Nyayadhish Court.	
	Palanpur ..	Palanpur Small Causes Court. Palanpur Diwani Nyayadhish Court. Deesa Dhanera Munsif Court. Dhanera Nyayadhish Court. Pauthawada Nyayadhish Court. Dabheia Nyayadhish Court. Bapla Kamdars' Diwani Court.	
	Sirohi .. .. Danta.	Huzur Court .. .. Dewan's Court. Naib Dewan's Court. State Munsif's Court. Court of the Munsif at Shri Mataji. Court of the Munsif at Hadad. Court of the Munsif at Tarsang. Court of the Munsif at Joita.	Amended by No. 108-I. B., dated 13th February 1935.
10 SIKKIM ..	Sikkim ..	The Chief Court of Sikkim in the exercise of its Civil jurisdiction.	
11 WESTERN INDIA STATES AGENCY.	Bhavnagar ..	Darbar Huzur Court, Bhavnagar. Sar Nyayadhish Court, Bhavnagar. Joint Sar Nyayadhish Court, Bhavnagar. City Bhavnagar Divani Nyayadhish Court, Bhavnagar.	

* For channel of service see Note (6) below,

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
		(*Revenue Courts*)—cont.	
11 WESTERN INDIA STATES AGENCY—*cont.*	Bhavnagar—*cont.*	City Bhavnagar Fouzdari Nyayadhish Court, Bhavnagar. City Bhavnagar Honorary Magistrate's Bench Court, Bhavnagar. Mahuva Nyayadhish Court, Mahuva. Kundla, Nyayadhish Court, Kundla. Talaja, Nyayadhish Court, Talaja. Lilia Nyayadhish Court, Lilia. Sihor Nyayadhish Court, Sihor. Umrala Nyayadhish Court, Umrala. Gadhada Nyayadhish Court, Gadhada. Botad Nyayadhish Court, Botad.	
	Cutch	Huzur Court. Varisht Jadehja Court. Varisht Khalsa Court. Bhuj Court. Mandvi Court. Mundra Court. Anjar Court. Bhachau Court. Rahpar Court. Nakhtrana Court. Abdasa Court. Lakhpat Court. Khavda Court. Khadir Court. Jakhau Court. Madh Court. Court of Small Causes at Bhuj. Court of Small Causes at Mandvi. Court of Small Causes at Mundra. Court of Small Causes at Anjar. Court of Small Causes at Bhachau. Court of Small Causes at Rahpar.	
	Dhrangadhra ..	Huzur Judicial Court, Dhrangadhra. Sar Nyayadhish Court, Dhrangadhra. First-class Sub-Judge's Court, Dhrangadhra. Second-class Sub-Judge's Court, Dhrangadhra. Nyayadhish Court, Halvad. Nyayadhish Court, Raj-Sitapur.	
	Dhrol	Nyayadhish Court, Dhrol. Huzur Court .. .. Karbhari Court. Sar Nyayadhish Court. Nayab Karbhari Court including Small Cause Court. Sarpdad Nyayadhish Court.	No. 176-I., dated 13th March 1930.
	Gondal * ..	Huzur Court, Gondal. Sar Nyayadhish Court, Gondal. Munsif Court, Gondal. Munsif Court, Dhoraji. Munsif Court, Upleta. Diwani Nyayadhish Court, Sarsai.	
	Jafrabad ..	Court of Mamlatdar and Sub-Judge, Jafrabad. Court of Madadnis Kamgar of Sub-Judge, Jafrabad.	
	Junagadh ..	Huzur Court, Junagadh. Sadar Court, Junagadh. Civil Court, Junagadh.	

* Fees will be charged by the Gondal Darbar for the service of summons in civil suits at the rate of 4 annas for every Rs. 25 of the value of the suit or part thereof up to a maximum of Rs. 10. The fees should be remitted by postal money order. The process and the fees due thereon should be sent to the Sar Nyayadhish of the State. (*H.C.P. Dis. No.* 24 *of* 1940.)

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
		(*Revenue Courts*)—cont.	
11 WESTERN INDIA STATES AGENCY—*cont.*	Junagadh—*cont.*	City Magistrate's Court, Junagadh. Nageshri Court, Junagadh. Una Court, Una. Veraval Court, Veraval. Malia Court, Malia. Shil Court, Shil. Kutiyana Court, Kutiyana. Vanthali Court, Vanthali. Bhesan Court, Bhesan. Visvadar Court, Visvadar. Talala Court, Talala. Huzur Court (Mangrol under Junagadh State). Nyayadhish Court (Mangrol under Junagadh State). The Small Causes Court (Mangrol under Junagadh State). District Judge Court (Mangrol under Junagadh State).	
	Limbdi * ..	Huzur Court, Limbdi. Court of Small Causes, Limbdi. Sar Nyayadhish Court, Limbdi. Munsif Court, Limbdi.	
	Morvi	Huzur Court, Morvi. Sar Nyayadhish Court, Morvi. First-class Magistrate's Court, Morvi. Diwani Nyayadhish Court, Morvi. Small Causes Court, Morvi.	
	Nawanagar ..	Nawanagar Huzur Court, Jamnagar. Nawanagar Sar Nyayadhish and Sessions Court, Jamnagar. Nawanagar Small Causes Court, Jamnagar. Nawanagar Nyayadhish Court, Jamnagar. Nawanagar City First-class Magistrate Court, Jamnagar. Khambhalia Munsif and First-class Magistrate Court, Khambhalia. Kalyanpur Munsif and First-class Magistrate Court, Kalyanpur. Bhanvad Munsif and First-class Magistrate Court, Bhanvad. Lalpur Munsif and First-class Magistrate Court, Lalpur. Jodiya Munsif and First-class Magistrate Court, Jodiya. Kandorna Munsif and First-class Magistrate Court, Kandorna. Kalvad Munsif Court, Kalvad. Atkot Munsif Court, Atkot. Forest Superintendent, Nawanagar State.	Amended by No. 438-I. (F. and P.), dated 21st July 1931.
	Palitana ..	Sar Nyayadhish Court, Palitana. Nyayadhish Court, Palitana.	
	Porbandar ..	Huzur Court, Porbandar. Sar Nyayadhish Court, Porbandar. Nyayadhish, Court, Porbandar. Munsif Court, Ranavav. Munsif Court, Navibandar.	
	Radhanpur ..	Court of the Sar Nyayadhish. Court of Radhanpur Munsif. Court of the Sami Munjpur Munsif.	
	Rajkot † ..	Huzur Court, Rajkot. Revenue Karbhari's Court, Rajkot. Sar Nyayadhish Court, Rajkot. Nyayadhish Court, Rajkot. Second Nyayadhish Court, Rajkot.	

* All summonses for the courts of this State are to be addressed to the Huzur Court, Limbdi.
† All summonses for the courts of this State are to be addressed to the Huzur Court, Rajkot.

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
		(*Revenue Courts*)—cont.	
11 WESTERN INDIA STATES AGENCY—*cont.*	Rajkot—*cont.*	Sardhar Thana Court, Sardhar. Kuvadva Thana Court, Kuvadva.	
	Wadhwan ..	Sar Nyayadhish Court, Wadhwan. Nyayadhish Court, Wadhwan.	
	Wankaner ..	Huzur Court, Wankaner, Wankaner. Sar Nyayadhish Court, Wankaner. Nyayadhish Court, Wankaner.	
Banas Kantha Agency.	Tharad	Huzur Court. Sar Nyayadhish Court. Morwada Tahsildar's Court. Bhorole Talukdar's Court.	
	Wao	Huzur Court. Court of the Karbhari. Court of Sar Nyayadhish. Court of the Nyayadhish. Dhima Talukdar's Court.	
	State of Malek Jorawarkhanji of Warahi.	Huzur Court. Karbhari's Court. Nyayadhish Court.	
	Deodar	Azam Waghela Himat Singji's Court. Azam Khanji's Court.	
	Thara	Court of the Thara Judicial Kamdar.	
	Warahi	Malek Muridkhanji's Court.	
	Terwada ..	Court of the Terwada Judicial Kamdar.	
	Idar	Court of the Sar Nyayadhish	No. 154-I (F. and P.), dated 1st April 1933.
	Vijayanagar ..	Court of the Rao of Vijayanagar.	
	Malpur	Court of the Raolji of Malpur.	
	Mansa	Court of the Raolji of Mansa. Court of the Nyayadhish of Mansa.	
	Mohanpur ..	Court of the Thakor of Mohanpur.	
	Varsoda	Court of the Thakor of Varsoda.	
	Pethapur ..	Court of the Thakor of Pethapur.	
	Ranasan ..	Court of the Thakor of Ranasan.	
	Punadra ..	Court of the Thakor of Punadra.	
	Khadal	Court of the Thakor of Khadal.	
	Ghodasar ..	Court of the Thakor of Ghodasar.	
	Katosan ..	Court of the Thakor of Katosan. Court of the Nyayadhish of Katosan.	
	Ilol	Court of the Thakor of Ilol.	
	Ambaliara ..	Court of the Thakor of Ambaliara.	
	Sudasna	Court of the Thakor of Sudasna.	
	Valasna	Court of the Thakor of Valasna.	
	Dabha	Court of the Thakor of Dabha.	
	Wasna	Court of the Thakor of Wasna.	
	Rupal	Court of the Thakor of Rupal.	
	Dadhalia ..	Court of the Thakor of Dadhalia.	
	Magodi	Court of the Thakor of Magodi.	

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
		(*Revenue Courts*)—cont.	
11 WESTERN INDIA STATES AGENCY—*cont.*	Vadagam ..	Court of the Thakor of Vadagam.	
	Sathamba ..	Court of the Thakor of Sathamba.	
Banas Kantha Agency—cont.	Ramas	Court of the Thakor of Ramas.	
	Khedawada ..	Court of the Thakor of Khedawada.	
	Kadoli	Court of the Thakor of Kadoli.	
	Vakhtapur ..	Court of the Thakor of Vakhtapur.	
	Hapa	Court of the Thakor of Hapa.	
	Satlasna ..	Court of the Thakor of Satlasna.	
	Gabat	Court of the Thakor of Gabat.	
Eastern Kathiawar Agency.	Bajana	Huzur Office, Bajana. First-class Magistrate's Office, Bajana.	
	Chuda	Huzur Court, Chuda. Nyayadhish Court, Chuda.	
	Lakhtar	Judicial Karbhari's Court, Lakhtar. Nyayadhish Court, Lakhtar. Nyayadhish Court, Than.	
	Lathi	Huzur Court, Lathi. Nyayadhish Court, Lathi.	
	Muli	Huzur Court, Muli. Nyayadhish Court, Muli.	
	Patdi	Huzur Court, Patdi. Bhayati Court, Patdi. Sar Nyayadhish Court, Patdi. Nyayadhish Court, Patdi.	
	Sayla	Huzur Court, Sayla. Nyayadhish Court, Sayla. Sara Thandar Court, Sayla.	
	Vala	Huzur Court, Vala. Court of Sar Nyayadhish, Vala. Nyayadhish Court, Vala.	
Western Kathiawar Agency.	Jetpur Bulka Durbar Sri Rawat Vala.	Huzur Court, Bilkha. Kanthadwala Nyayadhish Court, Bilkha.	
	Jetpur Pithadia Darbar, Sri Mulu-Vala of—	Huzur Court, Pithadia. Nyayadhish Court, Pithadia.	
	Jetpur (Thana Devli).	Huzur Court, Thana Devli Taluka. Nyayadhish Court, Thana Devli Taluka.	
	Jasdan	Huzur Court, Jasdan. Sar Nyayadhish Court, Jasdan. Nyayadhish and First-class Magistrate's Court, Jasdan.	
	Kotda Sanghani.	Huzur Court, Kotda Sanghani. Karbhari Court, Kotda Sanghani. Nyayadhish Court, Kotda Sanghani.	
	Malia	Huzur Court, Malia. Nyayadhish Court, Malia.	
	Manavadar ..	Huzur Court, Manavadar. Sar Nyayadhish Court, Manavadar. Nyayadhish Court, Manavadar.	
	Vadla	Huzur Court, Vadia. Sar Nyayadhish Court, Vadia.	

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
		(*Revenue Courts*)—cont.	
11. WESTERN INDIA STATES AGENCY—*cont.* *Western Kathiawar Agency*—cont.	Virpur	Huzur Court, Virpur. Sar Nyayadhish Court, Virpur. Thandar's Court, Kharedi.	
12 EASTERN STATES AGENCY.	Athgarh	All civil and revenue courts of the States within the political charge of the Agent to the Governor-General, Eastern States.	No. 323-I. (F. and P.), dated 15th May 1929, amended by No. 166-I. (F. and P.), dated 1st April 1933, and No. 50-I. B., dated 29th April 1937.
	Athmalik.		
	Bamra.		
	Baramba.		
	Baud.		
	Bonai.		
	Daspalla.		
	Dhenkanal.		
	Gangpur.		
	Hindol.		
	Kalahandi.		
	Keonjhar.		
	Khandpara.		
	Kharsawan.		
	Mayurbhanj.		
	Narsinghpur.		
	Nayagarh.		
	Nilgiri.		
	Pal Lahera.		
	Patna.		
	Ranpur.		
	Rairakhol.		
	Seraikela.		
	Sonepur.		
	Talcher.		
	Tigiria.		
	Bastar.		
	Changbhakar.		
	Chhuikhadan.		
	Jashpur.		
	Kanker.		
	Kawardha.		
	Khairagarh.		
	Korea.		
	Nandgaon.		

Courts in Indian States—cont.

Agency.	State.	Court.	Notification.
		(*Revenue Courts*)—cont.	
12 EASTERN STATES AGENCY—*cont.*	Raigarh.		
	Sakti.		
	Sarangarh.		
	Surguji.		
	Udaipur.		
	Cooch Behar.		
	Tripura.		

In States in direct relation with Local Governments.

13 BARODA RESIDENCY AND GUJARAT STATES AGENCY—	Cambay	Nyayadhish Court	No. 323-I. (F. and P.), dated 15th May 1929, amended by Nos. 154-I. and 166-I. (F. and P.), dated 1st April 1933, and No. 408-I. (F. and P.), dated 1st July 1933.
		Sar Nyayadhish Court.	
(1) *Gujarat States Agency and Baroda Residency.*	Sachin	Court of the Diwan of Sachin.	
		Court of the Judicial Commissioner of Sachin.	
	Dharampur ..	Court of the Diwan.	
		Court of the Nyayadhish.	
	Bansda ..	Court of the Diwan.	
	Jawhar	Court of the Sar Nyayadhish.	
		Court of the Nyayadhish.	
	Surgana	Court of the Deshmukh.	
(2) *Rewa Kantha, Surgana and the Dangs Agency.*	Savantvadi ..	Huzur Court, Savantvadi	No. 323-I. (F. and P.), dated 15th May 1929, amended by Nos. 154-I. and 166-I, (F. and P.), dated 1st April 1933, and No. 408-I. (F and P.), dated 1st July 1933.
		Court of the Minister of Justice and Finance, Savantvadi.	
		Court of the Sar Nyayadhish, Savantvadi.	
		Court of the Nyayadhish of Savantvadi.	
		Court of the Nyayadhish of Kudal.	
13-A KOLHAPUR RESIDENCY AND DECCAN STATES AGENCY.	Jath	Huzur Court of the Chief District Judge.	
		Court of the First-class Subordinate Judge.	
		Court of the Second-class Subordinate Judge.	
	Savanur	Court of the Diwan.	
		Court of the First-class Subordinate Judge.	
	Janjira	Court of the Sar Nyayadhish of Janjira.	
		Court of the Munsif of Janjira.	
		Court of the Madatnis Kamqar (at Jafrabad in Kathiawar).	
		Court of the Mamlatdar (at Jafrabad in Kathiawar).	
	Bhor	Court of the Diwan.	
	Aundh	Huzur Court, Aundh.	
		Court of the District Judge, Aundh.	
		Court of the Subordinate Judge, Aundh.	
		Court of the Subordinate Judge, Gundal.	
		Court of the Subordinate Judge, Atpadi.	
		Court of the Subordinate Judge, Kundal.	

In States in direct relation with Local Governments—cont.

Agency.	State.	Court.	Notification.
		(*Revenue Courts*)—cont.	
13-A KOLHAPUR RESIDENCY AND DECCAN STATES AGENCY—*cont.*	Phaltan	Huzur Court. Court of the District Judge. Court of the First-class Subordinate Judge.	
	Akalkot	High Court of the Regent-in-Council, Akalkot. Court of the Sar Nyayadhish, Akalkot. Court of the Nyayadhish of Akalkot. Court of the Nyayadhish at Pilio. Court of the Nyayadhish at Kurla.	
15 GOVERNMENT OF THE UNITED PROVINCES.	Tehri	All civil courts of the Tehri State ..	No. 323-I. (F. and P.), dated 15th May 1929.
		(*Civil and Revenue Courts.*)	
16 GOVERNMENT OF THE PUNJAB.	Pataudi	The Senior Sub-Judge, Pataudi State. The Junior Sub-Judge, Pataudi State.	No. 694-I, dated 20th November 1929.
	Dujana	The President in Council, Dujana State. The Tahsildar of Dujana.	
	Kalsia	The Tahsildar of Nahar. The Diwan of Kalsia State. The Sub-Judge, Chachrauli. The Tahsildar, Chachrauli. The Munsif, Chachrauli. The Tahsildar, Dera Basi. The Naib-Tahsildar, Chirak.	

SECOND SCHEDULE.

Notification No. 232-I. J., dated the 25th November 1881.
Notification No. 1990-I., dated the 20th June 1895.
Notification No. 752-I. B., dated the 17th March 1899.
Notification No. 3095-I. A., dated the 16th August 1901.
Notification No. 4229-I. A., dated the 16th November 1901.
Notification No. 2806-I. B., dated the 10th July 1908.
Notification No. 1568-I. B., dated the 10th August 1909.
Notification No. 2302-I. B., dated the 29th November 1910.
Notification No. 2303-I. B., dated the 29th November 1910.
Notification No. 1340-I. B., dated the 30th June 1911.
Notification No. 1344-I. B., dated the 30th June 1911.
Notification No. 1345-I. B., dated the 30th June 1911.
Notification No. 663-I. B., dated the 15th March 1912.
Notification No. 1037-I. B., dated the 9th May 1912.
Notification No. 2621-I. B., dated the 24th December 1912.
Notification No. 929-I. B., dated the 23rd April 1913
Notification No. 835-D., dated the 12th February 1915.
Notification No. 2235-I. B., dated the 28th September 1915.
Notification No. 246-D., dated the 25th November 1915.
Notification No. 3978-I B., dated the 28th August 1919.
Notification No. 2856-I. B., dated the 26th August 1920.
Notification No. 332-I., dated the 23rd June 1924.
Notification No. 476-I., dated the 3rd October 1924.
Notification No. 521-I., dated the 2nd November 1925.
Notification No. 303-I., dated the 21st May 1928.

NOTE 1.—HYDERABAD—

(*a*) *Rules framed by the Government of His Exalted Highness the Nizam for the guidance of the courts situated in his territories*—

(1) All processes issued by the district civil courts in H.E.H. the Nizam's Dominions and intended for service in British India shall be forwarded direct to the District Court within whose local jurisdiction the person to whom the process is addressed resides. Processes intended for service within the limits of the towns of Calcutta, Madras and Bombay shall be sent to the Court of Small Causes, within whose jurisdiction the processes are to be served.

(2) Munsifs' and Tahsildars' courts, issuing processes for service in British India, shall forward them for service through the District Court to whom they are subordinate.

(3) Any processes that are forwarded by the civil courts, in British India to any district civil courts for service in the districts, or to the City Civil Court for service in the City of Hyderabad and suburbs, shall be duly served by the district civil courts concerned or the City Civil Court, as the case may be, as if such processes had been originally issued by those courts, and returned direct to the courts issuing them.

(4) Processes issued by the courts in H.E.H. the Nizam's Dominions and intended for service in those courts in British India, the language of which is not Urdu, shall be accompanied by translations in English, or in the language of the courts in question. Similarly when any process received for service within H.E. Highness's Dominions is in a language other than Urdu, or Marathi, or Telugu, or Kanarese (i.e., in the language of the country in which the court is situated), the court issuing it may be asked to forward an Urdu or English translation of the same.

(5) No remittance on account of fees for the service of processes shall accompany such processes; but a note shall be entered thereon that the necessary fee has been levied and shall be attested by the signature of the judge and the seal of the court issuing the process.

(6) The courts in H.E.H. the Nizam's Dominions, receiving processes for service from the civil courts in British India, shall accept the certificate endorsed on the process by the court issuing the same as sufficient proof that the proper fee for the issue thereof has been paid and shall deliver such process to the proper officer of the court for service and shall return the process to the court by which such process was transmitted, with the endorsement of the process-server, showing in what manner service has been effected, and if service has not been effected, the reason for the non-service, and such endorsement shall be verified by the oath or affirmation of the process-server.

[A translation of the process-server's endorsement in English or in the language of the court issuing the process should also be attached to returns to processes.] (*H.C. Dis.* 801 *of* 1907.)

(7) The return, etc., referred to in rule (6) shall be transmitted to the court which issued the process by British post, and the covers shall be franked by the District Civil Judge or any of the Judges of the City Civil Court, as the case may be.

General orders have already been circulated throughout India that duly franked official correspondence on the service of His Exalted Highness the Nizam is to be delivered free and those orders will now apply to processes returned after service by the Hyderabad courts. The covers containing the processes should of course no longer be marked "service bearing" but should be duly franked by the courts and marked as on His Exalted Highness the Nizam's service. (*H.C. Dis.* 538-*A of* 1901.)

(8) On processes to be forwarded to British India for service, the process fees prescribed by the rules in force, for processes to be served within H.E.H. the Nizam's Dominions, shall alone be levied and credited to Government.

(9) When the process issued for service in British India is for the appearance of any person as a witness, the amount of batta and travelling allowance he is entitled to under the rules in force shall be remitted with

the process, either in postage stamps, currency notes or by money order. (*H.C. Dis.* 1455 *of* 1899.)

(*b*) *Rules framed by the High Court of Madras*—

(1) All processes issued by the civil courts subordinate to the High Court, Madras, and intended for service in the territories of H.E.H. the Nizam, shall be forwarded direct to the District Court within whose local jurisdiction the person to whom the process is addressed resides. Processes intended for service in the City of Hyderabad and suburbs shall be sent to the City Civil Court, Hyderabad.

(2) Processes issued by the courts in the Madras Presidency and intended for service by the courts situated in the territories of H.E.H. the Nizam shall be accompanied by translations in English.

(3) When the process issued for service in the territories of H.E.H. the Nizam is for the appearance of any person as a witness, the amount of batta and travelling allowance to which such witness is entitled under the rules in force shall be remitted with the process, either in postage stamps, currency notes or by money order.

(4) The designations of the Judges of the District Courts in H.E.H. the Nizam's territories are shown in the following table—

Locality in which the process has to be served.	Designation of the Judge to whom the process should be addressed.	Designation of Judge for postal purposes.
The City of Hyderabad ..	Nazim-i-Adalat-Diwani-Balda-i-Hyderabad.	Nazim-i-Adalat-i-Diwani-i-Balda-i-Hyderabad, Hyderabad (Deccan).
The district of Hyderabad (i.e., excluding the City of Hyderabad).	Nazim-i-Adalat-i-Zilla-i-Atraf-i-Balda.	Nazim-i-Adalat-i-Zilla-i-Atraf-i-Balda Hyderabad (Deccan).
Any district in the Warangal Division of the Hyderabad State.	Nazim-i-Adalat-Zilla-i *. ..	Nazim-i-Adalat-i-*——Zilla-i-district (Hyderabad State).
Any district in the Aurangabad, Medak Gulshanabad or Gulburga Division.	Nazim-i-Adalat-i-Diwani-i-Zilla-i *.	Nazim-i-Adalat-i-Diwani-i-Zilla-i-*——district (Hyderabad State).

The districts in the four divisions referred to in column 1 of the foregoing table are—

Warangal Division.	Aurangabad Division.	Medak Gulshanabad Division.	Gulburga Division.
Warangal	Aurangabad ..	Nizamabad ..	Gulburga.
Karimnagar	Bhir	Medak	Raichur.
Asifabad	Parbhani ..	Mahbubnagar ..	Osmanabad.
	Nander	Nalgoonda ..	Bidar.

(5) When a process issued by a court in the Madras Presidency is sent for service to a court situated in the territories of H.E.H. the Nizam, a note shall be endorsed upon it under the signature of the judge and the seal of the court to the effect that the necessary process fee has been levied. (*H.C. Cir.* 1047 *of* 1903.)

(6) The arrangements for the reciprocal service of processes do not apply to the Paigah and Jagir *ilakas* in the territories of H.E.H. the Nizam. All civil processes intended for service on persons residing in these *ilakas* should be forwarded to the District Courts of H.E. Highness's Government in the jurisdiction of which the Paigah or Jagir villages are situated and not direct to the Paigah or Jagir authorities.

* Here specify name of Zilla, i.e., District.

As the Paigah and Jagir villages are too numerous to mention in detail a court when issuing a process should ascertain from the party concerned whether the person to be summoned resides in a Paigah or Jagir village, and if so, the name of the district within the jurisdiction of which the village is situated. (*H.C. Dis.* 992 *of* 1904.)

(7) All summonses or notices sent for service on persons residing in the Nizam's territory by the courts in this Presidency should contain full details as to the residence of the person to be served, *viz.*, the district, village and particular locality in which he resides. (*H.C. Cir.* 3283 *of* 1886.)

(8) The time to be fixed for the return of summonses or notices sent for service in H.E.H. the Nizam's territory should be not less than five weeks if they are to be served in the City of Hyderabad and not less than two months elsewhere. (*H.C. Cir.* 914 *of* 1890.)

(9) A translation of the process-server's endorsement in English or in the language of the court issuing the summons shall be attached to the returns to such summonses by the courts serving them.
(*H.C. Dis.* 799 *of* 1907.)

NOTE (2).—MYSORE—

(*a*) *Rules made by the Government of Mysore*—

(1) Processes received from the civil courts in the Madras Presidency for service in this Province shall be served by the courts in this Province free of charge.

(2) Processes issued by the courts in this Province to be served by the courts in the Madras Presidency shall be transmitted to those courts without any fee in the shape of postage labels or transfer receipt, as the courts in that Presidency have been instructed by the High Court to serve such processes free of charge.

(3) The courts in this Province, before issuing processes for service in the Madras Presidency, shall charge the fee prescribed for the service of such process in this Province to be paid in the form of court-fee labels affixed to the application. (*Rules, d. 26th August* 1878.)

(*b*) *Rules made by the Government of Madras*—

(1) Whenever a court in the Madras Presidency may have occasion to forward processes for service or execution by a court in the Mysore Province, the processes should be forwarded direct to the court exercising local jurisdiction at the place where the process is to be served or executed.
(*H.C. Dis.* 1920 *of* 1922.)

(2) In no instance should a process of a Madras court be forwarded to the Court of the Chief Judge of Mysore for service or execution.
(*H.C. Cir.* 1759 *of* 1879.)

(3) Judicial notices, summonses, and like judicial papers and notices in revenue appeals before the Durbar may be transmitted direct to British authorities concerned.
(*G.O.* 60 *J., d. 9th January* 1906. *H.C. Dis.* 146 *of* 1906.)

List of Civil Courts in the Mysore State with their territorial jurisdiction.

Serial number and courts.	Territorial limits.
1 High Court	The Mysore State.
2 District Judge, Bangalore ..	The Revenue Districts of Bangalore, Kolar and Tumkur.
3 District Judge, Mysore ..	The Revenue Districts of Mysore, Hassan and Mandya.
4 District Judge, Shimoga ..	The Revenue Districts of Shimoga, Kadur and Chitaldrug.
5 Subordinate Judge, Bangalore.	The Revenue Districts of Bangalore and Tumkur in respect of Original Suits and Miscellaneous Petitions.

Courts in Mysore State—cont.

Serial number and courts.	Territorial limits.
6 Court of Small Causes, Bangalore.	In respect of Small Cause Suits relating to Bangalore City and the taluks of Bangalore, Anekal, Hoskote and Magadi.
7 Subordinate Judge, Mysore ..	The Revenue Districts of Mysore and Mandya in respect of Original Suits and Miscellaneous Petitions.
8 Additional Subordinate Judge, Mysore.	In respect of Small Cause Suits relating to Mysore Town and the taluks of Mysore, T. Narasipur excluding Bannur Hobli, portion of Seringapatam taluk (south of the river Cauvery) and the portion of Nanjangud taluk (North of the Kapini river), and the taluk of Haggadadevankote.
9 Subordinate Judge, Shimoga ..	The Revenue District of Shimoga, in respect of Original Suits, and in respect of Small Causes within the local limits of the jurisdiction of the Munsif of Shimoga, viz., those in the taluks of Shimoga, Thirthahalli, Chennagiri and Honnali and the Kumsi sub-taluk.
10 Additional Subordinate Judge, Tumkur.	The Revenue District of Tumkur (in respect of appeals).
11 Additional Subordinate Judge, Kolar.	The Revenue District of Kolar.
12 Additional Subordinate Judge, Hassan.	Do. Hassan.
13 Additional Subordinate Judge, Chitaldrug.	Do. Chitaldrug.
14 Additional Subordinate Judge, Chickmagalur.	Do. Kadur.
15 First Munsif, Bangalore ..	Bangalore City.
16 Second Munsif, Bangalore ..	The taluks of Hoskote, Anekal, Magadi and Bangalore (except Bangalore City).
17 Munsif, Dodballapur	The taluks of Dodballapur, Nelamangala and Goribidnur (excluding the Manchenahalli Hobli).
18 Do. Closepet	The taluks of Closepet, Chennapatna and Kankanahalli.
19 First Munsif, Tumkur	The taluk of Tumkur excluding the Kolala Hobli and the taluk of Kunigal.
20 Second Munsif, Tumkur ..	The taluks of Gubbi, Tiptur, and Chiknaikanhalli and the sub-taluk of Turuvekere.
21 Munsif, Madhugiri	The taluks of Madhugiri, Sira, Pavagada and Kortagere including Kolala Hobli.
22 Do. Kolar	The taluks of Kolar and Chintamani (excluding the Chilakanerpur Hobli), Srinivaspur, Mulbagal and Malur.
23 Do. Kolar Gold Fields ..	The taluk of Bowringpet including the Gold Fields area.
24 Do. Chikballapur	The taluks of Chikballapur, Sidlaghatta, Devanhalli and Bagepalli and Gudibanda sub-taluk; Chelakalnerpur Hobli of Chintamani taluk and the Manchenahalli Hobli of Goribidnur taluk.
25 First Munsif, Mysore	Mysore City and taluk.
26 Second Munsif, Mysore ..	The taluks of T. Narasipur, except Bannur Hobli, portion of Seringapatam taluk (south of the river of Cauvery), and portion of Nanjangud taluk (north of the Kapini river) and the taluk of Heggadadevankote.

Courts in Mysore State—cont.

Serial number and courts.	Territorial limits.
27 Munsif, Seringapatam	Seringapatam taluk, excluding the portion south of the Cauvery river and Krishnarajapet taluk, and Bannur Hobli of T. Narasipur taluk and the taluk of French Rocks.
28 Do. Nanjangud	The taluks of Nanjangud, excluding the portion which lies to the north of Kapini river, Chamarajanagar, Gundlupet and Yelandur.
29 Do. Mandya..	The taluks of Nagamangala, Mandya, Malavalli and Maddur.
30 Do. Hunsur	The taluks of Hunsur, Krishnarajanagar and sub-taluk of Periyapatna.
31 Do. Hassan	The taluks of Hassan, Belur, Arasikere and Manjarabad.
32 Do. Holenarasipur	The taluks of Holenarasipur, Chennarayapatna and Arkalgud.
33 Do. Shimoga	The taluks of Shimoga, Thirthahalli, Chennagiri and Honnali and the Kumsi subtaluk.
34 Do. Sagar	The taluks of Sagar, Nagar, Sorab and Shikaripur.
35 Do. Chitaldrug	The taluks of Chitaldrug, Hiriyur, Chellakere and Malakamuru.
36 Do. Davangere	The taluks of Davangere, Jagalur, Holalkere and Hosadurga and the sub-taluk of Harihar.
37 Do. Chikmagalur	The whole of the district of Kadur excepting the Narasimharajapura sub-taluk and the taluks of Koppa and Tarikere.
38 Do. Narasimharajapura ..	The taluks of Koppa and Tarikere and the sub-taluk of Narasimharajapura.

(*H.C.P. Dis. No.* 24 *of* 1940.)

NOTE (3).—TRAVANCORE—

(1) All processes received from the civil courts in British India for service in Travancore shall be served by the courts in this State free of charge.

(2) All processes received from the civil courts aforesaid shall be served in Travancore by the District Courts or Munsifs' Courts within whose jurisdiction the person to whom they are addressed resides, as if such processes had been originally issued by those courts. Such processes shall be returned by the courts that served them direct to the British Indian courts from which they were received and the fact of such return shall be intimated to the District Courts in cases where processes have been received through the District Courts and not direct.

(3) When the process received for service within Travancore is in a language other than English, Malayalam or Tamil, the court issuing it may be requested to forward an English or Malayalam translation of the same.

(4) The courts of Travancore receiving processes for service from the civil courts in British India shall accept the certificate endorsed on the process by the court issuing the same as sufficient proof that the proper fee for the issue thereof has been paid, and shall deliver such process to the proper officer of the court for service and shall re-transmit the process to the court by which such process was transmitted with a return in the form prescribed and with the endorsement of the process-server showing in what manner service has been effected, and if service

has not been effected, the reason for the non-service and such endorsement shall be verified by the oath or affirmation of the process-server.

(5) All processes received from British Indian Civil Courts shall be returned to the said courts post paid, the expenses in connexion therewith being met from the contingencies allotted for ' postage.'

(6) The courts in Travancore shall send their processes for service in British India to the District Court *or the Munsif's Court* within whose local jurisdiction the person to whom the process is addressed resides and no remittance on account of process-service fees need accompany such processes; but a note shall be entered on it that the necessary fee has been levied and attested by the signature of the presiding judge and, in the High Court, by the Registrar.

Processes intended for service within the limits of the towns of Calcutta, Madras, and Bombay shall be sent to the Court of Small Causes within whose jurisdiction the processes are to be served.

(7) The processes of the Travancore courts for service in Malabar may be drawn up in Malayalam and those for service in the Tamil districts, such as Tinnevelly, Madura, etc., in pure Tamil characters. Processes for service in other districts shall invariably be accompanied by English translations.

(8) The processes of the Travancore courts for service in British India shall not be sent to the persons to whom they are addressed direct by post.

(9) On processes to be forwarded to British India for service, the process-fees prescribed by the rules in force for processes to be served within Travancore shall alone be levied.

(10) When the process issued for service in British India is for the appearance of any person as a witness, the amount of batta and travelling allowance he is entitled to under the rules should be remitted with the process either in postage stamps, or currency notes or by money order.

(11) Travancore processes forwarded for service in British India shall always be sent ' post paid.' All expenses in the way of postage, etc., incurred in connexion with service of processes shall be met from the contingencies allotted to the court for postage. (*H.C.P. Dis.* 914 *of* 1928.)

Territorial jurisdiction of the Courts of the Travancore State.

Names of District and Sessions Courts.	Names of Munsifs' Courts.	Taluks within their jurisdiction.	Pakuthies.
I. (*a*) District and Sessions Court, Nagercoil. (*b*) Temporary Second and Additional Sessions Judge's Court, Nagercoil.	(1) Principal District Munsif's Court, Nagercoil. (2) Additional District Munsif's Court, Nagercoil.	Taluks of Thovala and Agastheswaram.	Thovala, Chembagaramanputur, Thiruppathisaram, Tazhakudi, Boothapandi, Isanthimangalam, Chiramatom, Darisanamkoppu, Arumanallur, Azhagiapandipuram, Ananthapuram, Erachakulam, Kanyakumari, Agastheswaram, Tamarakulam Kulasekharapuram, Marunkur, Terur, Eravipudur, Suchindram Parakka, Temgampudur, Dharmapuram, Vadivisvaram, Nagercoil, Vadasseri and Neendakara A & B.
	(3) Principal Munsif's Court, Padmanabhapuram. (4) Additional Munsif's Court, Padmanabhapuram.	Whole Taluk of Kalkulam and certain pakuthies of Vilavancode taluk.	Kappiyara, Valvatchagnostom, Attur, Thuckalai, Kalkulam, Kothanallur, Mekkodu, Aruvikkara, Thiruvattar, Tripparappu, Ponmana, Aloor, Eraniel, Talakkulam, Kadiapattanam, Manavalakurichi, Colachel Tiruvankodu, Kilmidalam, Midalam and Milkuiam.

Courts in Travancore State—cont.

Names of District and Sessions Courts.	Names of Munsifs' Courts.	Taluks within their jurisdiction.	Pakuthies.
	(5) District Munsif's Court, Kuzhithurai.	Certain pakuthies of Vilavancode taluk.	Ezhudesapattu, Painkulam, Arudesapattu, Medukummal, Kunnathur, Nallur, Pakodu, Vilavancode, Idakkodu, Arumana, Kalial, Killiur and Nattalam.
II. (*a*) District and Sessions Court, Trivandrum. (*b*) Second and Additional Sessions Judge's Court, Trivandrum. (*c*) Temporary Additional Second and Sessions Judge's Court, Trivandrum.	(1) Principal Munsif's Court, Trivandrum. (2) Additional District Munsif's Court, Trivandrum. (3) Second Additional Munsif's Court, Trivandrum.	Certain Pakuthies of Trivandrum taluk and Three Pakuthies of Neyyattinkara taluk.	Kadakampalli, Palkulangara, Muttattara Iranimuttam, Vanchiyoor, Chengalacheri, Aramada, Anjamada, Randamada, Chettivilakom, Madattuvilagom, Oolloor, Uliyalattura, Pangappara, Cheruvikkal, Attupara, Menamkulam Kazhakuttam, Irurpara, Thiruvallam, Nemam and Vilappil.
	(4) District Munsif's Court, Neyyattinkata.	Two Pakuthies of Vilavancode; and certain Pakuthies of Neyyattinkara taluk.	Pallichal, Kollengode, Palukal, Kulathur, Chenkal, Parassala, Kolla, Kunnathukal, Ottasekharamangalam, Perunkadavila, Neyyattinkara, Adiyannur, Thirupuram, Karunkulam, Kottukal, Marukil and Maranallur.
	(5) District Munsif's Court, Attingal.	Certain Pakuthies of Trivandrum taluk and the whole taluk of Chirayinkil.	Andurkonam, Pallipuram, Kadinamkulam, Veilur, Melthonnakkal Kizhthonnakkal, Azhoor, Kilvallum, Idakodu, Ilampa, Mydakkal, Koduva Zhanoor, Pazhayakunnumel, Pulimattu, Kilimanur, Vellalur, Nagarur, Alamkode-Avanavamcheri, Attingal, Koonthalloor, Sarkara, Chira, Yinkil, Kadakkavoor, Keezhattingal, Madavoor, Manampoor, Ottur, Pallikkal, Karavaram, Navaikulam, Chemmaruti, Ayirur, Edava, Varkala, Vettur and Cheruniyur.
	(6) District Munsif's Court, Nedumangad.	The whole Taluk of Nedumangad.	Mannurkara, Arianad, Uzhamalakkal, Nedumangad, Anad, Vamanapuram, Nallanad, Manickal, Vembayam, Karakulam, Perumkulam, Kulathummel, Veeranakavu Vellanad, Palode and Pullampara.
III. (*a*) District and Sessions Court, Quilon. (*b*) Second and Additional Sessions Court, Quilon. (*c*) Temporary Second and Additional Sessions Judge's Court, Quilon.	(1) Principal District Munsif's Court, Quilon. (2) Additional District Munsif's Court, Quilon.	The whole of Quilon taluk and portions of Kunnathur and Karunagappally taluks.	Paravur, Meenad, Atichanallur, Nedumpara, Trikkovilvattom, Eravipuram, Vadakkevila, Quilon, Trikkadavur, Kolikollur, Kottankara, Perunadu, Eastern Kallada, Munro Island, West Kallada Pakuthy of Kunnathur taluk and Thekkumbhagom Pakuthi of Karunagapalli taluk.
	(3) District Munsif's Court, Karunagappalli.	Whole of Karunagapalli taluk, excepting certain Pakuthies.	Chavara, Ponmana, Thevalakara Minagappalli, Todiyur, Karunagappalli, Kulasekharapuram and Tazhava.
	(4) District Munsif's Court, Krishnapuram.	Portions of Mavelikara, Karunagappalli and Karthigappalli taluks.	Perungala Pakuthy of Mavelikara taluk, Krishnapuram, Perunadu and Pudupalli Pakuthies of Karunagapalli, Pathiyur, Kirikadu and Kandalur Pakuthies of Karthigappalli taluk.

Courts in Travancore State—cont.

Names of District and Sessions Courts.	Names of Munsifs' Courts.	Taluks within their jurisdiction.	Pakuthies.
	(5) District Munsif's Court, Adoor.	Portions of Pathanapuram, Mavelikara and Kunnathur taluks.	Pattazhi and Pathanapuram Pakuthies of Pathanapuram taluk, Palamel, Pandalam, Thekkekara, and Thonnallur Pakuthies of Mavelikara taluk and Churanadu, Poruvazhi, Kunnathur, Pallikkal, Adoor, Enadimangalam and Kodumon Pakuthies of Kunnathur taluk.
	(6) District Munsif's Court, Kottarakara.	Whole taluk of Kottarakara and certain pakuthies of Pathanapuram taluk.	Melila, Vettikavala, Kottarakara, Kulakkada, Ezhukone, Veliyam, Ummannur, Velinallur, Chadayamangalam, Kummili, Mailam, Villakudi, Punalur, Idamulakkal, Talavur and Anjal pakuthies of Pathanapuram taluk.
	(7) District Munsif's Court, Mavelikara.	Certain pakuthies of Mavelikara and Thiruvella taluks.	Vallikuunam, Tamarakulam, Bharanikavu, Kannamangalam, Tiruperuntura, Chennithala, Mavelikkara, Thekkekara, Chunakara, Tazhakkara, Nuranad pakuthies of Mavelikara taluk, Mannar and Kuratticheri pakuthies of Thiruvella taluk.
	(8) District Munsif's Court, Chengannur.	Certain pakuthies of Thiruvellah taluk.	Tiruvammandur, Pandanadu, Chengannur, Puliyur, Cherianadu, Ala, Vatakkekara, Puthenkavu, Venmani, Pandalam, Vadakkekara, Aranmula, Koippuram and Thottapuzhacheri pakuthies of Thiruvellah taluk.
	(9) District Munsif's Court, Pathanamthitta.	Whole of Pathanamthitta taluk and a portion of Tiruvellah taluk.	Elanthur, Omallur, Pathanamthitta, Ranni, Kumbazha, Cherukol, Vallikodu and Mullapuzhacheri of Pathanamthitta taluk and Ayirur pakuthi of Thiruvella taluk.
	(10) District Munsif's Court, Shencottah.	Whole taluk of Shencottah.	Shencottah, Karakkudi, Puliyara, Pudur, Sambur, Vadakara, Achenpudur, Ilatur, Kilangadu and Ayikudi.
IV. (*a*) District and Sessions Court, Alleppey.	(1) District Munsif's Court, Alleppey.	Certain pakuthies of Ambalapuzha taluk.	Pulinkunnu, Kainagari, Ariyad North, Ariyad South, Mararikulam South and Alleppey.
(*b*) Second and Additional Sessions Judge's Court, Alleppey.	(2) Additional District Munsif's Court, Alleppey.	....	....
	(3) District Munsif's Court, Ambalapuzha.	Remaining pakuthies of Ambalapuzha taluk.	Talavadi, Kozhimukku, Takazhi, Purakkad, Ambalapuzha, Nedumudi and Champakulam.
	(4) District Munsif's Court, Haripad.	Certain pakuthies of Karthigappalli taluk.	Arattupuzha, Mutukulam, Chingoli Cheppadu, Valiakuzhi, Nangiyarkulangara, Pallipadu, Kizhakkekara, Vijayapuram, Cherutana, Haripad, Kartigappalli, Trikunnapuzha, Kumarapuram and Karuvatta.
	(5) Principal District Munsif's Court, Shertallai.	Certain pakuthies of Shertallai taluk.	Mararikulam North, Thannirmukkom South, Thannirmukkom North, Kokkothamangalam, Shertallai South, Shertallai North, Vayalaru East, Vayalaru West, Turavur South, Thuravur North and Arur.

Courts in Travancore State—cont.

Names of District and Sessions Courts.	Names of Munsifs' Courts.	Taluks within their jurisdiction.	Pakuthies.
	(6) Temporary District Munsif's Court, Shertallai.	....	....
	(7) Principal District Munsif's Court, Vaikom.	The remaining pakuthies of Shertallai taluk and the whole taluk of Vaikom.	Vadathalamattathilbhagom, Pallipuram, Panavalli and Taikattucheri.
	(8) Temporary District Munsif's Court, Vaikom.	....	Vaikom, Manjur, Naduvila, Vadakkemuri, Talayalam, Vetchur, Kaduthuruthi, Manakunnam, Chembumuri, Kulasekharamangalam, Maravanthuruthu, Padinjarakkarai, Vadayar and Mulakkulam.
V. (*a*) District and Sessions Court, Kottayam.	(1) Principal District Munsif's Court, Kottayam.	Portions of Kottayam and Changanacherry taluks.	Pudupalli pakuthi of Changanacherry taluk.
(*b*) Second and Additional Sessions Judge's Court, Kottayam.	(2) Temporary District Munsif's Court, Kottayam.	....	Thiruvarpu, Kottayam, Nattakom, Panichakadu, Vijayapuram, Kumarakona, Aimmanan, Kummanam, Kudamalur, Perambaikadu, Kaipizha, Onamthuruthu, Ettumanur pakuthies of Kottayam taluk.
(*c*) Temporary and Additional Sessions Judge's Court, Kottayam.	(3) District Munsif's Court, Thiruvella.	Certain pakuthies of Thiruvella taluk.	Kizhakkumbhagom, Kadappra, Nedumpuram, Peringara, Kavumbhagom, Thiruvella, Iraviperoor, Kaviyoor, Kalluppara South and Ezhumattoor pakuthies of Thiruvella taluk.
(*d*) Additional Temporary and Additional Sessions Judge's Court, Kottayam.	(4) District Munsif's Court, Kanjirapalli.	Portions of Changanacherry and Kottayam taluks and the whole of Peermade taluk.	Valur, Vellavur, Manimala, Cheruvalli, Chirakadavu, Kanjirappalli North and South pakuthies of Changanacherry taluk, Pampadi and Akalakunnam pakuthies of Kottayam taluk, Malapara, Peruvantanam, Peermade, Periyar and Vandamettu.
	(5) District Munsif's Court, Changanacherry.	Certain pakuthies of Changanacherry taluk and some pakuthies of Thiruvellah taluk.	Ramankari, Muttar, Velianadu, Chanrankari, Nilamparur, Vazhapalli, Padinjarabhagom, Kurichi, Vazhappalli Kizhakkumbhagam, Changanacherry, Madappalli, Nedumkunnam and Kallupara North pakuthi of Thiruvellah taluk.
	(6) District Munsif's Court, Meenachil.	The whole taluk of Meenachil.	Puliyannur, Ramapuram, Lalam, Bharananganam, Meenachil, Kondur, Valavur, Kanagary, Kidangur, Ilakkadu and Poonjar.
VI. District and Sessions Court, Parur.	(1) District Munsif's Court, Parur.	The whole taluk of Parur.	Varapuzha, Ezhikkara, Kottuvalli, Parur, Vadakkekara, Puthenvelikkara, Puthenchira, Parakkadavu, Idappalli, Vadakkumbhagom, Aiyrur, Alangad, Kodugallur and Chengamanad.

Courts in Travancore State—cont.

Names of District and Sessions Courts.	Names of Munsifs' Courts.	Taluks within their jurisdiction.	Pakuthies.
	(2) District Munsif's Court, Muvattupuzha.	Whole of Muvattupuzha taluk and certain portions of Kunnathunad and Thodupuzha taluks.	Varappatti, Kuttamangalam, Tirumaradi, Koothattukulam, Piravom, Ramamangalam, Arakkulam, Muvattupuzha, Mulavur, Iramallur, Kothamangalam and Enanallur. Semmanad and Ayikkaranadu pakuthies of Kunnathunad taluk and Kanni Elam tract of the Thodupuzha taluk.
	(3) District Munsif's Court, Thodupuzha.	Whole of Thodupuzha taluk excepting Kanni Elam Tract.	Karikkodu, Thodupuzha, Manakkadu, Kumaramangalam and Karumannur.
	(4) District Munsif's Court, Perumpavur.	The whole of Kunnathunad taluk excepting Semmanad and Ayikkaranad pakuthies.	Manikkamangalam, Manjappira, Asamannur, Kalukkambalam, Malavannur, Kunnathunad, Vazhakulam, Vengola, Perumbavur, Vengoor, Cheranallur, Rayamangalam, Trikkakkara, Kothakulangara and Alwaye.
	(5) District Munsif's Court, Devicolam.	The whole of Devicolam taluk.	Natchivayal, Marayur, Keelandur, Kantalur, Kottakombu, Vattavadai, Kannan Devan Hills, Poopara, Udumbanchola, Pallivasal and Anakulam West.

(*H.C. P. Dis.* 24 *of* 1940.)

NOTE (4).—COCHIN—

(*a*) *Rules made by the Government of Cochin*—

(1) His Highness the Raja having been pleased to sanction the reciprocal service of processes between British India and the Cochin State, it is hereby ordered that all processes received from the civil courts in British India for service in the Cochin State shall be served by the courts in the State free of charge.

(2) All processes received from the civil courts in British India shall be served in Cochin by the Zilla Courts within whose local jurisdiction the persons to whom such processes are addressed reside.

(3) When any process received for service within Cochin is in a language other than English or Malayalam, the court issuing it may be requested to forward an English or Malayalam translation of the same.

(4) A court in Cochin receiving a process for service from a civil court in British India shall accept the certificate endorsed on the process by the court issuing the same as sufficient proof that the proper fee for the issue thereof has been paid, and shall deliver such process to the proper officer of the court for service, and shall re-transmit the process to the court by which such process was issued with a return in the form prescribed, and with the endorsement of the process-server showing in what manner service has been effected, and if service has not been effected, the reason for non-service, and such endorsement shall be verified by the oath or affirmation of the process-server.

(5) The return, etc., referred to in rule (4), shall be transmitted to the court which issued the process by British Post "Service bearing," and the cover shall be franked by the Zilla Judge or the Registrar of the Appeal Court as the case may be. The Darbar have issued orders authorizing the sarishtadar of the two District Courts in the State to frank such covers during the absence of the District Judges. (*G.O.* 200, *J., d.* 10–2–1912.)

(6) The courts in Cochin shall send their processes for service in British India to the District Courts within whose local jurisdiction the persons to whom the processes are addressed reside, and no remittance on account of process service fees need accompany such processes; but a note shall be entered on every such process that the necessary fee has been levied, and such note shall be attested by the signature of the presiding judge, and in the Appeal Court by the Registrar.

Processes intended for service within the limits of the towns of Calcutta, Madras and Bombay, shall be sent to the Courts of Small Causes within whose jurisdiction the processes are to be served.

(7) The processes of the Cochin courts for service in Malabar may be drawn up in Malayalam, but those for other districts shall invariably be accompanied by English translations.

(8) Munsifs' courts issuing processes for service in British India shall forward them for service through the Zilla Courts within whose jurisdiction they are.

(9) The practice of sending processes to parties direct by post shall be discontinued.

(10) On processes to be forwarded to British India for service, the process fee prescribed by the rules now in force for processes to be served within Cochin shall alone be levied.

(11) When a process issued for service in British India is for the appearance of any person as a witness, the amount of batta and travelling allowance such person is entitled to under the rules shall be remitted with the process either in postage stamps, currency notes or by money order.

(*G.O.* 1313, 14–9–1900 and 1462, 17–9–1901. *H.C. Dis.* 873 *of* 1901.)

(*b*) *Rules made by the High Court of Madras—*

(1) All processes issued by the courts subordinate to the High Court for service in Cochin shall, if not in English or Malayalam, be accompanied by translations in those languages.

(2) Every such process shall be sent for service to the Zilla Court within whose local jurisdiction the person to whom the process is addressed resides.

(3) When any process for service in Cochin is for the appearance of any person as a witness the amount of batta and travelling allowance he is entitled to under the rules shall be remitted with the process either in postage stamps or currency notes or by money order.

(4) The return, etc., referred to in rule 3 of the addendum to the Schedule of Process Fees published at page 628, Part I of the *Fort St. George Gazette*, dated 25th September 1885, and reproduced in Chapter I of Part II *infra* shall be re-transmitted to the court which issued the process in Cochin by post "Service bearing." (*H.C. Dis.*.944 *of* 1904.)

List of the Civil Courts in the Cochin State showing their territorial jurisdiction.

Appeal Court.	District Court.	Munsif's Court.	Taluk.	Villages comprised within the local limits of the jurisdiction of each Munsif's Court.
(1)	(2)	(3)	(4)	(5)
High Court..	1 Anjikaimal District Court.	1 Cochin ..	Cochin-Kanayanur.	1 Pallippuram. 2 Kuluppalli. 3 Edavanakad. 4 Nayarambalam. 5 Kadamakkudi. 6 Narakkal. 7 Elankunnapula. 8 Mulavukad. 9 Mattancheri. 10 Pallivirutti. 11 Kumbalangi. 12 Chellanam. 13 Rameswaram.
		2 Ernakulam.	Do.	1 Malayattur. 2 Kilakkumbhagom. 3 Thekkumbhagom (K3). 4 Vadakkumbhagom. 5 Chowwara. 6 Cheranellur. 7 Eranakulam. 8 Elankulam. 9 Vadavukod. 10 Kumbalam.

Courts in Cochin State—cont.

Appeal Court.	District Court.	Munsif's Court.	Taluk.	Villages comprised within the local limits of the jurisdiction of each Munsif's Court.
(1)	(2)	(3)	(4)	(5)
High Court—*cont.*	1 Anjikaimal District Court—*cont.*	2 Ernakulam—*cont.*	Cochin-Kanayannur—*cont.*	11 Maradu. 12 Punittura. 13 Tekkumbhagom (K13). 14 Nadamel. 15 Tiruvankulam. 16 Kurikkad. 17 Kanayannur. 18 Mulanturuttu. 19 Amballur. 20 Edakkattuvayal. 21 Kayappattur. 22 Kulayettikkara. 23 Kicheri.
		3 Cranganur ..	Cranganur ..	1 Alikode. 2 Eriyad. 3 Lokamaleswaran. 4 Mettala. 5 Pullut.
			Cochin-Kanayannur.	6 Chennamangalam.
			Mukundapuram.	7 Edavilangu. 8 Tirumukkulam. 9 Kakkulisseri. 10 Alattur. 11 Poyya. 12 Pallipuram. 13 Madattumpadi.
		4 Irinjalakuda.	Mukundapuram.	1 Alur. 2 Amballur. 3 Anandapuram. 4 Annallur. 5 Chengallur. 6 Edatirinji. 7 Elanjippara. 8 Irinjalakuda. 9 Kaduppasseri. 10 Kallettumkara. 11 Kallur. 12 Kallur Thekkummuri. 13 Kallur-Vadakkummuri. 14 Karalam. 15 Karumattara. 16 Kattur. 17 Kilakke Chalakudi. 18 Kilakkummuri. 19 Kodakara. 20 Kodasseri. 21 Kottanallur. 22 Kuruvilasseri. 23 Mattattur. 24 Manavalasseri. 25 Madayikkonam. 26 Melur. 27 Muppiliyam. 28 Muringur Thekkummuri. 29 Muringur Vadakkummuri. 30 Muriyad. 31 Nandipulam. 32 Nemminikkara. 33 Nellayi. 34 Padiyur. 35 Padinjare Chalakudi. 36 Parappukkara. 37 Pariyaram. 38 Perampara. 39 Porattusseri. 40 Potta. 41 Pullur. 42 Pumangalam. 43 Talakkad. 44 Tekkumkara. 45 Torava.

Courts in Cochin State—cont.

Appeal Court. (1)	District Court. (2)	Munsif's Court. (3)	Taluk. (4)	Villages comprised within the local limits of the jurisdiction of each Munsif's Court. (5)
High Court—*cont.*	1 Anjikaimal District Court—*cont.*	4 Irinjalakuda—*cont.*	Mukundapuram—*cont.*	46 Tottippal. 47 Trikkur. 48 Vadakkumbhagom. 49 Vadama. 50 Vallivattom. 51 Varandarappalli. 52 Vadakkumkara. 53 Velukkara.
	2 Trichur District Court.	5 Trichur ..	Trichur ..	1 Adat. 2 Alappad. 3 Anjur. 4 Anthikkad. 5 Aranattukara. 6 Arattupula. 7 Avanisseri. 8 Avannur. 9 Ayyanthol. 10 Chalakkal. 11 Chalur. 12 Cherpu. 13 Chovvoor. 14 Chittalappalli. 15 Chiyyaram. 16 Chulisseri. 17 Erava. 18 Edakkulattur. 19 Edakkunni. 20 Inchamudi. 21 Kainiyoor. 22 Kaypparambu. 23 Kanimangalam. 24 Karamukku. 25 Killannur. 26 Kilakkummuri. 27 Kiluppallikkara. 28 Kodanur. 29 Kolali. 30 Kolukkulli. 31 Kurkkancheri. 32 Kuruchikkara. 33 Kurumpilavu. 34 Kuttur. 35 Manakkodi. 36 Manalur. 37 Mannamangalam. 38 Marattakkara. 39 Matakkattara. 40 Mulayam. 41 Nadattara. 42 Nettisseri. 43 Ollur. 44 Ollurkara. 45 Pallippuram. 46 Palisseri. 47 Panancheri. 48 Parakkad. 49 Paralam. 50 Padiyam. 51 Peramangalam. 52 Perungavu. 53 Pottur. 54 Pullali. 55 Pulla. 56 Punkunnam. 57 Puranattukara. 58 Puttur. 59 Pulayakkal. 60 Tangalur. 61 Tanniyam. 62 Tolur. 63 Trichur. 64 Urakam. 65 Vallachira. 66 Vadakkummuri. 67 Vellanikkara.

Courts in Cochin State—cont.

Appeal Court.	District Court.	Munsif's Court.	Taluk.	Villages comprised within the local limits of the jurisdiction of each Munsif's Court.
(1)	(2)	(3)	(4)	(5)
High Court—*cont.*	2 Trichur District Court—*cont.*	5 Trichur—*cont.*	Trichur—*cont.*	68 Velappaya. 69 Veluttur. 70 Venginisseri. 71 Vilvattam. 72 Viyyur.
		6 Vadakkancheri.	Talappally ..	1 Agatiyur. 2 Alur. 3 Anjur. 4 Arangottukara. 5 Arthat. 6 Attur. 7 Chelakkara. 8 Chelakkod. 9 Chemmantatta. 10 Cheruvirutti. 11 Chiramanangad. 12 Chiranallur. 13 Chittanda. 14 Chundal. 15 Chovvannur. 16 Desamangalam. 17 Ealanad. 18 Enkakkad. 19 Eranallur. 20 Eyyal. 21 Kadavallur. 22 Kandanasseri. 23 Kanippayyur. 24 Kaniyarakkod. 25 Kanjirakkod. 26 Karikkad. 27 Kariyannur. 28 Karumattara. 29 Kattagampala. 30 Katangot. 31 Kilalur. 32 Killimangalam. 33 Kondali. 34 Kottappuram. 35 Kumaranallur. 36 Kunnamkulam. 37 Kurumala. 38 Manalittara. 39 Minalur. 40 Mangad. 41 Mayannur. 42 Mullurkara. 43 Mundattikod. 44 Nedumpura. 45 Nelluvay. 46 Paymkulam. 47 Pallur. 48 Pampadi. 49 Pangarappalli. 50 Panjal. 51 Paraiikkad. 52 Palanji. 53 Palayannur. 54 Perungandur. 55 Perumpilavu. 56 Porkkalam. 57 Pilakkad. 58 Pulakkod. 59 Puduviruthi. 60 Talasseri. 61 Tayyur. 62 Thekkumkara. 63 Tichur. 64 Tiruvilluamala. 65 Tonnurkara. 66 Vadakkancheri. 67 Vadakketara. 68 Varavur. 69 Vellarakkad. 70 Vellatanjur.

Courts in Cochin State—cont.

Appeal Court. (1)	District Court. (2)	Munsif's Court. (3)	Taluk. (4)	Villages comprised within the local limits of the jurisdiction of each Munsif's Court. (5)
High Court—*cont.*	2 Trichur District Court—*cont.*	6 Vadakkancheri—*cont.*	Talappally—*cont.*	71 Velur. 72 Venganellur. 73 Vennur. 74 Viruppakka.
		7 Chittur ..	Chittur ..	1 Adampadi. 2 Ayalur. 3 Chittur. 4 Eravattapparappadi. 5 Eruttempadi. 6 Kayradi. 7 Kolinjampara. 8 Kolippadi. 9 Kunnamkattupadi. 10 Kuttippallam. 11 Manchakunnupadi. 12 Mulattara. 13 Nalleppalli. 14 Nemmara. 15 Olalapadi. 16 Pattancheri. 17 Perumatti. 18 Pottundi. 19 Tattamangalam. 20 Thekkedesam. 21 Tenampadi. 22 Tiruvaliyad. 23 Vadakarappadi. 24 Valiyavallampadi. 25 Vallangi.

(*H.C.P. Dis.* 24 *of* 1940.)

NOTE (5).—PUDUKKOTTAI—

(1) Judicial processes issued by the civil courts in the Madras Presidency and intended for service within the Pudukkottai State should be sent direct to the Pudukkottai civil courts having local jurisdiction and not through the Political Agent for Pudukkottai. (*H.C. Dis.* 920 *of* 1904.)

(2) The following are the courts of the Pudukkottai State notified under section 29 and Order V, rule 26 (*b*) of the Code of Civil Procedure :—

Chief Court, Pudukkottai.
Court of Second Appeal, Pudukkottai.
Courts of the Small Cause Judge and of the Sub-Registrar of Tirumayam.
Courts of the Small Cause Judge and of the Sub-Registrar of Alangudi.
Courts of the Small Cause Judge and of the Sub-Registrar of Kolattur.
Courts of the Small Cause Judge and of the Sub-Registrar of Keelanilai.
Courts of the Small Cause Judge and of the Sub-Registrar of Viralimali.
Courts of the Small Cause Judge and of the Sub-Registrar of Karambakudi.
Courts of the Small Cause Judge and of the Sub-Registrar of Ponnamaravathi.
Courts of the Small Cause Judge and of the Sub-Registrar of Annavasal.
Courts of the Small Cause Judge and of the Sub-Registrar of Perungalur.
Courts of the Small Cause Judge and of the Sub-Registrar of Malayur.
Court of the Registrar of Assurances, Pudukkottai.
Court of the Sub-Registrar of Assurances, Keraiyur.

NOTE (6).—RAJPUTANA—

Name of State.	Officer, court or council to whom the summonses should be sent.
Jaipur	The Registrar, Chief Court, Jaipur.
Kishengarh ..	The Secretary, Darbar, Kishengarh.
Mewar	The Secretary, Mahendraj Sabha, Udaipur.
Dungarpur ..	The Civil Judge, Dungarpur State, Dungarpur.

Name of State.	Officer, court or council to whom the summonses should be sent.
Banswara ..	The Diwan, Banswara State, Banswara.
Partabgarh ..	The Diwan, Partabgarh State, Partabgarh.
Jodhpur ..	The Political and Judicial Member, State Council, Jodhpur.
Bikaner	The Secretary, Foreign and Political Department, Bikaner State, Bikaner.
Sirohi	The Chief Minister, Sirohi.
Jaisalmer ..	The Diwan, Jaisalmer State, Jaisalmer.
Bharatpur ..	The Court of Civil and Sessions Judge, Bharatpur (for civil processes), courts of the Deputy Collectors of Bharatpur and Dig (for revenue processes).
Karauli	The Chief Member, State Council, Karauli.
Dholpur ..	The Judicial Secretary, Dholpur.
Bundi	The State Council, Bundi.
Shahpura ..	The Musahib Ala, Shahpura.
Tonk	The State Council, Tonk.
	(NOTE.—The Tonk Darbar desire that to avoid delay in urgent cases communications on the subject should be addressed to the Judicial or Revenue Members of State Council, Tonk, according as they deal in the matters affecting a Judicial or Revenue Court.)
Alwar	Court of the District Judge, Alwar.
Kotah	The Judge at Kotah.
Jhalawar ..	The Chief Minister, Jhalawar State.
	(*H.C. Dis.* 1633 *of* 1926 *as amended by P. Dis.* 611 *of* 1934.)

C.—Service of Processes in Countries outside India.

(*N.B.*—Summonses may be sent by courts in British India for service to these courts which may also send their summonses for service to courts in British India.)

Serial number and territory.	Courts.	Remarks.
1 Ceylon	The civil courts ..	G.I. Notifn. 247, d. 16-2-1909 and F. 502/36, d. 20-8-1936. See also note (1) at pages 65 to 70.
2 Egypt	The Egyptian mixed courts.	G.I. Notifn. 369, H. (J), d. 31-5-1918, and F. 502/36, H. (J), d. 20-8-1936. H.C. Dis. 1227 of 1918 and P. Dis. 607 of 1936.
3 European Countries— Belgium France Portugal Russia Spain Sweden.	The civil courts ..	G.I. Notifn. 852-C.H., d. 3-2-1913, as amended by 1479, d. 29-10-1915, and F. 502/36-H (J), d. 20-8-1936. H.C. Dis. 524 of 1913 and P. Dis. 607 of 1936. G.I. Notifn. F. 12/17/35-H. (J), d. 20-1-1936, and 502/36-H. (J), d. 20-8-1936. H.C.P. Dis. 220 and 607 of 1936. See also note (2) at page 70.
4 The Federated Malay States and Johore.	Do. ..	G.O. Ms. 3074, H., d. 6-8-1937, and G.O. Ms. 47 H., d. 8-8-1939. See also note (3) at page 70.

C. Service of Processes in Countries outside India—cont.

Serial number and territory.	Courts.	Remarks.
5 French Colonial Courts— Pondicherry, Karaikal, Mahe, Yanam, Saigon, and French Indo-China.	The civil courts ..	G.O. 3421, L. (G.), d. 20–10–1933. See also note (4) at page 71.
6 Iran	Do. ..	G.I. Notifn. 840/25-H. (J.), d. 3–5–1928 as amended by 156-N. (F. & P.), d. 14–3–1935. See also note (5) at pages 71–2.
7 Iraq	The civil and revenue courts.	G.I. Notifn. F. 290/23-H. (J.), d. 6–6–1923. See also note (6) at page 72.
8 Japan	The civil courts ..	G.I. Notifn. 1924-H. (J.), d. 25–11–1920. H.C. Dis. 433 of 1921. See also note (7) at page 72.
9 Kenya	Do. ..	G.I. Notifn. F. 811/23-H. (J.), d. 4–6–1924. See also 397-I., d. 13–8–1924.
10 Mauritius ..	Do. ..	G.I. Letter 1167, d. 30–8–1897 and 55, d. 20–1–1898. See also note (8) at page 72.
11 Nepal	Amini courts specified in note (9) below.	G.I. Notifn. F. 576/24-H. (J.), d. 15–8–1925. See also note (9) at pages 73–4.
12 Netherlands, East Indies— Islands of Java, Madura, Sumatra, etc.	The civil courts ..	G.I. Letter F. 481-H. (J.), d. 8–5–1934. See also note (10) at page 74.
13 Siam	Do. ..	G.I. Letter F. 1180/33-H. (J.), d. 16–4–1934 and F. 12/4/36, d. 8–8–1936. See also note (11) at page 74.
14 Straits Settlements.	Do. ..	G.I. Notifn. 244, d. 16–2–1909 and F. 502/36, H. (J.), d. 20–8–1936. See also note (12) at pages 74–6.
15 Union of South Africa.	Do. ..	G.O. Ms. 5117-H., d. 16–12–1937. See also note (13) at page 76.

NOTE (1).—CEYLON—

(1) When processes are issued by courts in this province for service in Ceylon, no fee shall be levied beyond that prescribed in the rules made by this High Court.

(2) The process shall, if not in English, be prepared in diglot (English and the language of the issuing court) and all copies of plaints and documents attached

to the process shall, if not in English, be accompanied by a translation in that language.

(3) The originals and duplicates of every process should be marked respectively with the words "For service" and "For return" in English and special care should be bestowed on the preparation of the process in order that the inconvenience which results to process-servers from omissions and errors in description may, as far as possible, be avoided. (*H.C. Cir.* 922, *d.* 4–7-1899.)

(4) The process shall be sent direct to the District Court within whose jurisdiction the party to be served resides. (*H.C. Cir.* 1650 *of* 1899).

(5) A month's interval should invariably be given between the date of despatch of the process from the court and the date of hearing, unless there is any special reason to the contrary. (*H.C. Dis.* 1694 *of* 1917).

Limits of Districts in Ceylon.

District.	Court held at	Limits of jurisdiction.
		Western Circuit.
Avissawella ..	Avissawella ..	The Udugaha and the Meda pattus of Hewagam korale; the Weke and Degamboda peruwas of the Gangaboda pattuwa of Siyane korale east, all situate in the revenue district of Colombo; the three Korales and the Kitulgala palata of Lower Bulatgama in the revenue district of Kegalla; and the Pallepattu of Kuruwiti korale in the revenue district of Ratnapura.
Chilaw ..	Chilaw ..	The revenue district of Chilaw.
Colombo ..	Colombo and Angoda.	The harbour and the town of Colombo within the municipal limits and the revenue district of Colombo, excluding— (*a*) so much of Alutkuru korale south as is situate to the north of the Ja-ela-oya, (*b*) the villages belonging to the Galgomuwa peruwa of Siyane korale west, (*c*) the Udugaha and Meda pattus of Hewagam korale, (*d*) the Weke and Degamboda peruwas of the Gangaboda pattu of Siyane korale east.
Kalutara ..	Kalutara ..	The revenue district of Kalutara.
Negombo ..	Negombo ..	The harbour and town of Negombo, the Alutkuru korale north and the Hapitigam korale Mudaliyars' divisions, the villages belonging to the Galgomuwa peruwa of the Siyane korale west, and so much of the Alutkuru korale south Mudaliyar's division as is situate north of the Ja-ela-oya.
Puttalam ..	Puttalam ..	The revenue district of Puttalam.
Ratnapura ..	Ratnapura ..	The revenue district of Ratnapura except the Pallepattu of Kuruwiti korale.
		Midland Circuit.
Anuradhapura.	Anuradhapura and Polonnaruwa.	The North-Central Province, which comprises the Nuwaragam palata (excluding the villages of Periyakunchukkulam, Periyamurippu, Kallikulam, and Viyayadikulam) the Hurulu and Kalagam palatas, and the district of Tamankaduwa.

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Limits of Districts in Ceylon—cont.

Court held at	Limits of jurisdiction.
ct.	
	Midland Circuit—cont.
Badulla ..	The revenue district of Badulla. (The jurisdiction of Badulla Court over that part of Udapalata of the division of Udukinda which is situated to the west of line drawn from the Central Province boundary at the summit tunnel on the railway northward to Narabutgala trigonometrical station, thence in a straight line to Idampolakota trigonometrical station, and thence to the 57th milepost on the Nuwara Eliya-Badulla road, and thence along this road to westward till it meets the revenue boundary of the Central Province at Gorandihela, is concurrent with the court at Nuwara Eliya).
Kandy and Matale.	The revenue district of Matale, the revenue divisions of Udunuwara, Yatinuwara, Tumpane, Harispattu, Pata Dumbara, Uda Dumbara, Pata Hewaheta, Uda palata, and those portions of Ambagamuwa and Pasbage Korales in Uda Bulatgama division which are situated to the north of the following boundaries:— (From Pallebage trigonometrical station in a straight line to Kiripanagala trigonometrical station, thence in a straight line to Kehelwehera trigonometrical station, thence in a straight line to the 3rd milepost on the Aberdeen—Watawala road, and along this road northwards as far as its junction with the Hatton-Ginigathena road, thence along this road southwards to the junction of the Watawala station road, and along the Watawala station road to where it crosses the Mahaweli-ganga and thence along the Mahaweliganga to the 7th milepost near Kenilworth estate on Ginigathena-Nawalapitiya road, thence in a straight line to and along the northern boundary of Penrhos estate to Dahanayaka trigonometrical station, thence due east to the district boundary between Nuwara Eliya and Kandy districts at the north-west corner of Gingran-oya estate), and Tyspane and Pallepane korales in Kotmale division of the revenue district of Nuwara Eliya, and that portion of the Ramboda korale of the aforesaid district which is situated to the north-west of the following boundary:—From the junction of the Katukitule-ela with the Kotmaleganga and along Katukitule-ela as far as it crosses Gampola - Nuwara Eliya road along this road south-eastward as far as it meets the Dewature-oya, thence along Dewature-oya and the southern boundary of Frotoft Group up to a point at the south-eastern corner of the said estate, thence a straight

Limits of District

District.	Court held at	
		Midland Circ
Kandy—*cont.*	Kandy and Matale—*cont.*	lir K th Nu Di est in ia
Kegalla ..	Kegalla ..	The re the T of Lo
Kurunegala ..	Kurunegala ..	The Sev
Nuwara Eliya.	Nuwara Eliya and Hatton.	Kohaka, Korale Hewah and R Kandy divisio divisio Tispan korale of the junctio Kotmal far as it road, al as it me Dewatu of Froto eastern a straigh the Kon the judic Eliya co gamuwa gama re to the s From Pa a straigh metrical to Kehe thence in on the Al this road with the along this of the W Watawala the Maha weliganga worth est pitiya roa and along

Limits of Districts in Ceylon—cont.

District.	Court held at	Limits of jurisdiction.
		Midland Circuit—cont.
Nuwara Eliya —*cont.*	Nuwara Eliya and Hatton —*cont.*	estate to Dahanayaka trigonometrical station, thence due east to the district boundary between Nuwara Eliya and Kandy districts at the north-west corner of Gingran-oya estate. And (concurrently with the District Court of Badulla) to that part of Udapalata of the revenue division of Udukinda which is situated to the west of a line drawn from the Central Province boundary at the summit tunnel on the railway northward to Narabutgala trigonometrical station, thence in a straight line to Idampolakota trigonometrical station, and thence to the 57th milepost on the Nuwara Eliya-Badulla road, and thence along this road westward till it meets the revenue boundary of the Central Province at Gorandihela.
		Northern Circuit.
Jaffna . .	Jaffna and Point Pedro.	The revenue district of Jaffna, comprising Jaffna, Valikamam East, Valikamam North, Valikamam West, Punakari, The Islands, Delft, Vadamaradchi East, Vadamaradchi West, Tenmaradchi Pachilaipali (including the village of Chundikkulam), Karaichchi, and Tunukkai (The islands division includes all the islands lying off the Jaffna peninsula except Delft and Kakarativu).
Mannar . .	Mannar . .	The revenue district of Mannar, comprising— (1) Mannar East and West; (2) Mantai South and North, Perunkali pattu, Illuppaikadavai, Panankamam and Metkumalai; (3) Nanadan East and West and Muchalai North and South.
Mullaittivu . .	Mullaittivu and Vavuniya.	The revenue district of Mullaittivu, comprising Karikaddumalai North and South, Putukkudiyiruppu, and Mullaivalai; Kilakkumulai North and South, Chinnacheddikulam East and West, and Naducheddikulam; Melpattu North, South and East, and Udaiyar and Karunavalpattu South.
		Eastern Circuit.
Batticaloa . .	Batticaloa . .	The harbour and revenue district of Batticaloa.
Trincomalee . .	Trincomalee . .	The harbour and revenue district of Trincomalee.

Limits of Districts in Ceylon—cont.

District.	Court held at	Limits of jurisdiction.
	Southern Circuit.	
Galle	Galle	The harbour and the town of Galle within the municipal limits, and the revenue district of Galle.
Matara ..	Matara ..	The revenue district of Matara.
Tangulla ..	Tangalla ..	The revenue district of Hambantota and (concurrently with the District Court of Badulla) the village of Kataragama in the Buttala korale of the Buttala division, and the villages of Karawilagama and Detagamuwa in the Sitarampalata korale of the Wellawaya division of the Province of Uva.

NOTE (2).—SWEDEN—

The Swedish Ministry of Foreign Affairs have agreed:

(1) that, when transmitting requests for the service of documents in India, translations in English will accompany the writs and other papers;

(2) that the writs will be transmitted through the ordinary diplomatic channel (including the Secretary of State and the Government of India) and addressed to the High Court or Chief Courts concerned in India, or to the Court of the Judicial Commissioner where that is the highest court.

No charge is to be made for the service of processes of Swedish courts in British India.

As regards reciprocity by Swedish courts, the assistance of the Swedish authorities is available for the service of Indian judicial documents including summonses provided that the request for service is transmitted through the proper channel to the Minister for Foreign Affairs in Stockholm and that the documents are drawn up in the Swedish or English language or are accompanied by translations in one of these languages. (*H.C.P. Dis.* 220 *and* 588 *of* 1936.)

NOTE (3).—FEDERATED MALAY STATES AND JOHORE—

(1) All processes issued for service in the Federated Malay States and Johore should be forwarded to the Registrar, High Court, by whom they will be transmitted to the foreign court and through whom the return will be made;

(2) each copy of every process should, if not in English, be prepared in diglot (English and vernacular of the issuing court) and all copies of plaints and documents attached to processes should, if not in English, be accompanied by a translation in that language;

(3) the originals and duplicates of every process should be marked respectively with the words "For return" and "For service" and courts issuing processes should take special care to obtain and set out in each process as full and exact a description of the person to be served whose address should be correctly spelt and given in full detail;

(4) sufficient time, not less than two months from the date of issue, should be allowed for service; and

(5) Civil courts of this Province shall serve processes of the civil courts of the Federated Malay States, when sent to them (through this High Court in the case of processes from Johore) as if they had been issued by British Indian courts. (*H.C.P. Dis.* 223 *of* 1937.)

No. 90.

Page 71, *Part I, Chapter II, note* (4), *French Colonial Courts*—(*a*) *French possessions in Southern India* (1), *line* 3.—*delete* the word "Tanjore" and *add* "East" before the word "Godavari".

(*R.O.C. No.* 1251 *of* 1944—C-4.)

[XII list, 21-7-44]

NOTE (4).—FRENCH COLONIAL COURTS—

(a) *French Possessions in Southern India*—

(1) When the defendant resides in Pondicherry, Karaikal, Mahé or Yanam, the summons should be sent through His Britannic Majesty's Consul at Pondicherry, and the Collectors of Tanjore, Malabar and Godavari, as the case may be, who will forward it for service to the head of the French Police at Pondicherry, or the administrative heads of the Settlement of Karaikal, Mahé, and Yanam respectively. A similar course will be adopted in trasmitting summonses issued by the French courts.

(2) The penal clause should be omitted from the form of *subpœna* to be served on witnesses residing in French territory (*Vide* Form No. 13, Appendix B of the Code of Civil Procedure.) (*H.C. Dis.* 2424 *of* 1916.)

(3) Summonses forwarded for service in Karaikal, Mahé and Yanam shall be accompanied by a fee of 4 annas (the equivalent of two French fanoms) for each summons to be served. Summonses forwarded for service in Pondicherry shall be accompanied by a fee of 8 annas for each summons to be served, the additional amount of 4 annas being required to defray the cost to His Majesty's Consul-General in the French Establishments in India at Pondicherry of clerical labour involved in the receipt and transmission of summons. Parties at whose instance processes are issued for service in French territory shall be called upon to prepay the fee.
(*H.C.P. Dis.* 646 *of* 1937.)

(4) The French authorities are not permitted by their law to affix summonses to the dwellings of absentees as provided for by Order V, rule 17 of the Code of Civil Procedure (Act V of 1908). The procedure adopted in the French territory and which is according to French law sufficient for the validity of the service is that when a summons cannot be served owing either to the bailiff not being able to find the party desired or to his family or household or neighbours being unwilling to receive it, or to the direct refusal of the party to accept the summons, the bailiff or other offier can have the summons in original vised by the Mayor of the Commune free of charge. The High Court hereby directs that the procedure which constitutes valid service in French territory in India should be followed in future for summonses sent there for service, and a request to this effect should be made in forwarding processes for service.
(*H.C. Dis.* 640 *of* 1925.)

(b) *Saigon, French Indo-China*—

Summonses for service on persons residing in Saigon, French Indo-China, should be sent to the High Court for transmission to the French Judicial Authorities through the Government of India and the British Consul-General at Saigon. (*H.C.P. Dis.* 717 *of* 1933.)

NOTE (5).—IRAN—

(1) Summonses issued by the British Indian courts for service in Iran should be submitted to the High Court for transmission to the British Legation, Gulhek, through the Government of India.
(*H.C.P. Dis.* 532 *of* 1931.)

(2) Summonses and notices intended for service in Iran should be accompanied by a translation into Persian. If this cannot be done a bankers' draft either in sterling or in rupees for translation and certifying charges calculated in the following scale should accompany such documents for transmission to the British Legation, Tehran, where the necessary translation will be made before they are forwarded to the Iranian Government:—

(i) For making or verifying a translation of a document for every 100 words or fraction thereof exclusive of fee for certificate sh. 7/6 plus 25 per cent=sh. 9/6.

(ii) For granting any certificate not otherwise provided for, if not exceeding 100 words, exclusive of fee for drawing sh. 10 plus 25 per cent =sh. 12/6. (*H.C.P. Dis.* 712 *of* 1936.)

NOTE (6).—IRAQ—

(1) Summonses from courts in India should be sent direct to the court concerned in Iraq or should be addressed to the Iraq Ministry of Justice, Baghdad, whenever the correct designation of the court concerned in Iraq is not known.

(2) The Iraq rules provide for an English translation to be attached to all documents sent to India for service: a similar procedure should be followed in the case of documents sent to Iraq for service.

(3) The date of hearing of the case should be fixed at least *three months* subsequent to the date of despatch of the documents. (*H.C. Dis.* 1494 *of* 1926.)

NOTE (7).—JAPAN—

(1) Processes and letters of request issued by Indian courts for service and execution in Japan should be forwarded to the High Court. The High Court will then forward them to the Provincial Government which will forward them to the Government of India. The Government of India will then forward them to His Britannic Majesty's Ambassador at Tokyo, and in the case of letters of request directed to a Japanese Court the note to the Form No. 8 in Appendix H of the First Schedule to the Civil Procedure Code, 1908, should be amended by the substitution of the Ambassador for His Majesty's Secretary of State for Foreign Affairs. This may be done under the provisions of Order XLVIII, rule 3, Code of Civil Procedure.

(2) The litigants, in each case, should be required to furnish a translation of all documents in Japanese.

(3) The Government of India have guaranteed to meet the cost involved by the service of such Indian writs in Japan. The Government of India do not know what the cost is likely to be and it may, therefore, be necessary in the case of processes to secure that special process fees are imposed for processes to be served in Japan. The Government of India have, however, decided to defer any action in this respect. So far as letters of request are concerned, adequate sums for the expenses should be recovered from the parties under rule 15 of Order XXVI and deposited in the Treasury before the letter of request is forwarded to the High Court concerned. An intimation of the amount so deposited should be given in the forwarding letter. (*H.C. Dis.* 433 *of* 1921.)

NOTE (8).—MAURITIUS—

When documents are sent to Mauritius for service, a sufficient amount to cover the cost of service shall invariably be remitted to meet the cost of service.

It is difficult to say approximately in advance what will be the amount required in each case to meet the cost of service in Mauritius of the processes in question.

But the following information may guide the Indian courts to value approximately the amount necessary to meet the cost of service of such processes.

Service of process in town, is Rs. 3 per person. If in the country. travelling expenses are besides charged at the rate of Rs. 0·75 cents per mile (to and fro).

In case documents are written in Indian characters and are to be translated in English, a further sum of about ten rupees must be added. (*H.C. Dis.* 1708 *of* 1897 *and* 486 *of* 1898.)

NOTE (9).—NEPAL—

List of Nepalese Courts.

Names of Amini Courts.	Names of British Post Offices on the border nearest to the Amini Courts.
UNDER THE BIRGANJ GOSHWARA COURT.	
Birganj Amini Court of District Parsa ..	Raxaul (District Champaran).
Kalaiya Amini Court of District Bara ..	Adapur (District Champaran).
Kadarbana Amini Court of District Rautahat.	Bairagnia (District Muzaffarpur).
UNDER THE MAHOTARI SARLAHI GOSHWARA COURT.	
Jaleshwar Amini Court of District Mahotari.	Madhwarpur (District Darbhanga).
Sarlahi Amini Court of District Sarlahi ..	Sonbarsa (District Darbhanga).
UNDER THE SAPTARI GOSHWARA COURT.	
Hanumannagar Amini Court of District Saptari.	Kanauli Bazaar (District Bhagalpur).
Siraha Amini Court	Jainagar (District Darbhanga).
UNDER THE MORANG BIRATNAGAR GOSHWARA COURT.	
Biratnagar Amini Court of the Morang Rangeli District.	Jogbani (District Purnea).
UNDER THE MORANG JHAPA GOSHWARA COURT.	
Jhapa Amini Court of District Jhapa ..	Dighalbank (District Purnea).
UNDER THE BETHARI GOSHWARA COURT.	
Bethari Amini Court of District Majhkhand.	Nautanwa Bazar (District Gorakhpur).
Parasi Amini Court of District Parasi ..	Thuthibari (District Gorakhpur).
Butwal Chhoti Court of District Butwal Bazaar.	Shohratganj (District Basti).
UNDER THE BUTWAL TAULIHWA KHAJNI GOSHWARA COURT.	
Taulihwa Amini Court of Khajahni ..	Shoharatganj (District Basti).
Shiuraj Chhoti Court of Shiuraj	Shoharatganj (District Basti).
Dhudhwa Pahar Amini Court	Jarwa (District Gonda).
UNDER THE NEPALGANJ BANKEY BARDIA GOSHWARA COURT.	
Bankey Amini Court of District Bankey..	Rupaidiha (District Bahraich).
Bardia Amini Court of District Bardia ..	Katarniaghat (District Bahraich).
UNDER THE TRINAGAR GOSHWARA COURT.	
Kailali Amini Court of District Kailali ..	Dudhuaghat (District Kheri).
Kanchanpur Amini Court of District Kanchanpur.	Paliyakalam District Pilibhit). Tanakpur (District Pilibhit).
Darchula Amini Court of District Baitadi.	Jhula Ghat (District Almora).
UNDER THE DHANKUTA GAUNDA ILAQA.	
Taplejung Amini Court	Sukhia Pokhari (District Darjeeling).
UNDER THE ILAM GAUNDA ILAQA.	
Ilam Amini Court	Sukhia Pokhari (District Darjeeling).

(*H.C. Dis.* 1646 *of* 1925.)

The Government of India, in consultation with the British Envoy, Nepal, have had under consideration the procedure that should be adopted

by the civil courts in British India to enable them to secure the production of documents in the possession of persons residing in Nepal. It has been decided that summonses for the production of documents should ordinarily be served under Order V, rule 26 (*b*) read with Order XVI, rule 8 of the Civil Procedure Code, 1908, on the person or persons concerned in Nepal, through the Courts mentioned above. But when the documents are in the custody of important personages in Nepal or when the Nepalese court concerned is not included in the notification above referred to, the British Envoy, Nepal, who has consulted the Nepalese Government, has suggested that requests for documents should be forwarded to him direct, by the British Indian court concerned. The Government of India have accepted this suggestion and these instructions should therefore be followed by the courts in the Madras Presidency accordingly.

[*G.O. Ms.* 2804, *L.* (*G.*), *d.* 4-9-1926. *H.C. Dis.* 1896 *of* 1926.]

NOTE (10).—NETHERLANDS, EAST INDIES—

The following procedure should be adopted in future in the matter of service of summonses in the Netherlands, East Indies comprising of the Islands of Java and Madura, the island of Sumatra, etc.:—

(1) The processes with a covering letter to the Netherlands East Indian Judicial authorities should be forwarded to the High Court for transmission through the Local Government and the Government of India.

(2) They should be clearly and legibly written in English. All vernacular documents should be accompanied by their full English translations.

(3) Ample time not less than four months should be allowed for service and return of such processes. (*H.C.P. Dis.* 513 *of* 1934.)

NOTE (11).—SIAM—

In view of the serious irregularities pointed out by His Majesty's Consul-General at Bangkok, Siam, regarding the procedure adopted by subordinate courts in issuing summons, commissions, etc., for execution in Siam, the High Court directs that the following instructions shall in future be observed, before they are transmitted to the High Court:—

(1) The summonses, commissions, etc., should be drawn up in proper form and if not typewritten should be written in ink;

(2) they should be written in English and should be easily legible;

(3) full translations in English should accompany all vernacular documents forming enclosures;

(4) the returnable date to be specified in the documents should be so fixed as to allow sufficient time at least eight months for execution and return to India before the date fixed for the next hearing of the suit;

(5) they should be sent to the High Court for transmission through the Local Government and the Government of India (*and should in no circumstance be sent direct*);

(6) the names and addresses of the persons to be served or examined should be clearly entered in the covering letter to the High Court; and

(7) sufficient funds to meet the repayment of out of pocket expenses of the foreign court, should be collected in advance and deposited in court.

N.B.—Documents which are found defective in any of these respects are liable to be returned unexecuted.

(*H.C.P. Dis.* 361 *of* 1934 *and* 502 *of* 1936.)

NOTE (12).—THE STRAITS SETTLEMENTS—

(1) The Government of the Straits Settlements have arranged to have served free of cost all processes issued by courts in this presidency for service by courts situated in the Straits Settlements, and in future, therefore, any court which issues such a process will levy no fee beyond that prescribed in the rules made by the High Court under the Court Fees Act.

In compliance with the wishes of the Government of the Straits Settlements, the High Court directs that all processes issued for service by courts in that colony be forwarded to the Registrar of the High Court, by whom they will be transmitted through the proper channel, and through whom the return will be made. (*H.C. Cir.* 1846 *of* 1891.)

(2) In order to facilitate the execution of processes issued by courts in this province for service in the Straits Settlements, where the officers of the Process Service establishment are not, as a rule, acquainted with the Indian vernaculars, the High Court hereby directs that each copy of every process issued for service in that colony shall, if not in English, be prepared in diglot (English and the vernacular of the issuing court) and that all copies of plaints and documents which are attached to processes shall, if not in English, be accompanied by a translation in that language.

The originals and duplicates of every process should be marked respectively with the words "For service" and "For return" in English and special care should be bestowed upon the preparation of the processes in order that the inconvenience which results to the process-servers from omissions and errors in description may, as far as possible, be avoided. (*H.C. Cir.* 1800 *of* 1892.)

(3) (*a*) It has been brought to the notice of the High Court that processes sent for service on persons in the Straits Settlements have frequently to be returned unserved in consequence of the impossibility of identifying the person named in the process. In order to prevent failure of service for this reason, great care should be taken by all courts issuing such processes to obtain and set out in each process as full and exact a description as possible of the person on whom service is to be effected. The addresses also should be stated definitely and spelt correctly. (*H.C. Dis.* 621 *of* 1907.)

(*b*) The most certain means of ensuring effectual service is to name in the process some friend or agent of the person on whose application it is issued or some well-known person at the place of service who will be able and willing to accompany the process-server and point out the individual for whom the process is intended, and all applicants for such processes should be called upon to name, if possible, some such friend or agent or other person, and the person named should be described in the process. (*H.C. Cir.* 2745 *of* 1892.)

(*c*) Perak and Selangor are not within the colony of the Straits Settlements. They are Protected Native States in the Malay Peninsula. Being outside the bailiwick of the Sheriff of Penang, service of process upon defendants within those States is usually effected from here by the plaintiff sending a special messenger for that purpose, but it may be that the British Residents will cause service of summonses to be made, if requested. Deli is a place in Sumatra, a Dutch Colony. The Sheriff of Penang cannot serve process there. (*H.C. Cir.* 2917 *of* 1895.)

(*d*) A great many natives of India pass through Singapore to the Federated Natives States over which this court has no jurisdiction; plaintiffs should be asked whether the persons to be served are residing in these Native States, and in order that this may be done, a list of the Native States with their principal places is given below:—

	Principal places.
1 Selangor	Kalang and Kuala Lumpur.
2 Perak	Larut, Kinter and Thaipeng.
3 Pahang	Pekan, Kuala Lipis.
4 Negri Sembilan.. ..	Port Dickson, Seramban.

The jurisdiction of this court only extends over the three Settlements of Singapore, Penang and Malacca, respectively. (*H.C. Cir.* 601 *of* 1899.)

(*e*) It is useless to request service when the defendant's address is either in places outside the jurisdiction of this court (Singapore) such as Borneo, Java, and the Native States or is not properly given in English. Singapore is a town of nearly half a million inhabitants and most of the Indians who land here are on their way to other places and cannot be traced. A large number of the summonses sent have therefore to be returned unserved, and cause needless expense, delay and trouble. (*H.C. Dis.* 1568 *of* 1924.)

(*f*) The Registrar, Supreme Court, Penang, having drawn attention to the fact that in several cases recently processes sent to him for service were addressed to persons living outside the jurisdiction of the Supreme Court, all courts in the presidency are requested to see that processes intended

for persons not resident within the limits of the colony of the Straits Settlements are not erroneously sent for service to the courts of the Straits Settlements. (*H.C. Dis.* 1369 *of* 1916.)

(4) Sufficient time, not less than three months from the date of posting, should be allowed by courts for the service of summonses and other documents on persons resident in the Straits Settlements and for the attendance of such persons before them. (*H.C. Dis.* 924 *of* 1900.)

NOTE (13).—THE UNION OF SOUTH AFRICA—

(1) All processes issued for service in the Union of South Africa should be forwarded to the High Court by whom they will be transmitted to the foreign Court through the Provincial Government and the Government of India.

(2) Each copy of every process issued for such service should, if not in English, be prepared in diglot (English and vernacular of the issuing court) and all copies of plaints and documents attached to process should, if not in English, be accompanied by a translation into English.

(3) A period of not less than six months should ordinarily be allowed for service and return of the process.

(4) Civil courts of this province shall serve processes of the civil courts of the Union of South Africa, when sent to them, as if they had been issued by British Indian Courts.

(5) The following is the scale of fees ordinarily charged by courts in the Union of South Africa for service of process of British Indian Courts:—

Province.	Fee for service.	Travelling allowance (per mile or fraction of a mile).		Radius (from Deputy Sheriff's Office) within which no transport allowance allowed.
	s. *d.*		*s.* *d.*	
Cape	5 ..	Civil matters ..	1 6	3 miles.
		Criminal matters.	1 ..	
Orange Free State.	6 3	....	1 3	1 mile.
Natal	5 ..	(For outward journey only.)	2 ..	1 mile.
Transvaal	7 ..	....	1 3	3 miles.

(*H.C. P. Dis.* 390 *of* 1938 *and* 383 *of* 1939.)

NOTE (14).—MODE OF SERVICE IN FOREIGN COUNTRIES NOTIFIED UNDER ORDER V, RULE 26 (*b*), C.P.C. AND IN RESPECT OF WHICH NO SPECIAL PROCEDURE IS PRESCRIBED—

Service may be effected either by Consular Officers or by means of letters of request addressed to foreign judicial authorities.

A request or order should not be made for the service of documents by a British Consular Officer in any foreign country unless it has been previously ascertained that the Consular Officer is able to give effect to it. Information as to the nationality of the person to be served should be given in such cases. Where documents in English are being served by a British Consular Officer it is not necessary to supply translations in the language of the country when the recipient is of British nationality, but in other cases translations should be supplied.

Where service is sought to be effected by means of a letter of request addressed to a foreign judicial authority, the general instructions given for the preparation and issue of letters of request for the examination of witnesses in foreign countries should be followed. In addition, the letter of request or the first annexed document should indicate clearly—

(*a*) which is the actual document (or documents) to be served, and
(*b*) if any special method of service is desired (as opposed to a case where any method usually employed by the courts of the foreign country in question will suffice), the method of service desired, viz.—
that one copy of the documents to be served should be left with the intended recipient,
that a certificate of service by the process server should be written on the copy of the documents to be served,

that the recipient should be asked to sign a copy of the document served, etc., as the case may be. (*Foreign Office Memorandum P. & J.* 3845/38, *H.C. P. Dis.* 232 *of* 1940.)

NOTE (15).—AFGHANISTAN—

(1) It has been pointed out by the Government of India that instances have recently occurred of warrants being sent by British Indian courts to Afghan officials for service on persons in Afghanistan. The attention of all courts is again invited to High Court Circular P. Dis. No. 758 of 1928, dated 2nd October 1928, communicating the direction of the Government of India that it is impossible to effect execution in Afghanistan of legal processes of any kind issued by British courts and that attempt to do so exposes the Government of India to considerable embarrassment.

The issue of legal processes of any kind to Afghanistan is hereby prohibited. (*H.C. P. Dis.* 627 *of* 1933.)

(2) It has been brought to the notice of the High Court that there is a tendency among subordinate courts to address process direct to courts or officials in Afghanistan as if that country were an appanage of, or in some way connected with the Government of India. Afghan susceptibilities in the matter are exceedingly tender and the fact that instances of such misdirection continue to recur is a source of very considerable embarrassment to the Government of India. One cause for these repeated complaints may be that there are large numbers of Afghan subjects, sometimes known as Kabulis, all over India and subordinate courts may have a vague notion that Kabul is somewhere in the frontier region where they believe the Government of India to have an undefined form of control. Kabul is in Afghanistan, an independent foreign country. The control of the Government of India does not extend beyond the North-West Frontier Province and British Baluchistan.

The attention of all subordinate courts is drawn to High Court P. Dis. 627 of 1933 whereby the issue of legal processes of any kind to Afghanistan is strictly prohibited. (*H.C. P. Dis.* 679 *of* 1936.)

RETURN OF SERVICE OF PROCESS.

51. *Return of service.*—(1) The return of the serving officer shall state the manner in which the process was served and the place, and day, and month of service, and also whether he is personally acquainted with the person served, and if not, by whom such person was identified.

(2) If the person to be served refuses to sign the acknowledgment of service, the return shall state that he was informed of the nature and contents of the process, and, in the case of a plaint, that, upon applying to the officer of the court, he could obtain a copy, or concise statement of the contents of the plaint.

52. *Verification of return.*—(1) The return of service shall be verified by the affidavit of the serving officer; and all nazirs, deputy nazirs and assistant nazirs are hereby empowered to administer the oath to, and to take the affirmation of, any process-server.

(2) * If the process-server is not personally acquainted with the person to be served, the return shall be supported by a verification at the foot thereof made and signed either by a village officer or by a respectable person who identifies him; and in the latter

* Subs. by *H.C. P. Dis.* 544 *of* 1928.

case, the full name and address of such person shall be set out in the verification.

NOTE.—*I. Thumb-impressions.*—The system of taking thumb impressions of illiterate persons on whom processes or notices are served was first introduced as an experimental measure in a few selected districts by *G.O.* 257, *d.* 6–2–1915. The system was extended to some more districts by *G.O.* 398, *H.* (*J.*), *d.* 17–2–1917, and was introduced permanently in all the districts of the presidency by *G.O.* 2817, *H.* (*J.*), *d.* 28-12-1918.

II. Instructions for the guidance of process-servers and returning officers—

(*a*) 1. It should be seen that the name of the person who accepts service of the notice corresponds exactly with the name given in the notice. Where the signature in token of acceptance differs from the name given in the notice, the discrepancy should be explained.

2. Where the notice is served on some person other than the person named therein, who accepts the notice on his behalf, it should be stated whether such person is an adult, and whether he is living with and is undivided from the person on whose behalf he accepts service.

3. Where service is accepted by an agent, it should be stated whether such person is duly authorized to accept service.

4. Where a person refuses to accept notice, the refusal should be attested by an attakshi, the grounds thereof, if any, given, and it should be stated how the individual was identified.

5. When a notice is affixed owing to the absence of the individual named therein, it should be stated, if possible, both when he left home and when he is likely to return.

6. Where service is refused by gosha ladies, an attempt should be made to serve some male member of the family.

7. Where the notice is served on the proposed guardian, the fact that the said guardian consents to act as guardian of the minors mentioned in the notice should be endorsed on the notice by the guardian.

8. Where the notice for substituted service is issued, process-servers should carefully read the instructions given at the top of the notices and effect service accordingly.

If the above instructions are complied with, references to lower courts in connexion with the service of summonses will be avoided, and the work of finding as to the sufficiency of service will be facilitated.
(*H.C. Dis.* 781 *of* 1922.)

(*b*) Attention is directed to High Court Circular Dis. No. 781 of 1922, dated the 5th May 1922, containing instructions for the guidance of process-servers and returning officers regarding service of processes. The instructions contained therein are not observed, and it is directed that they be strictly adhered to in future. (*H.C. Dis.* 1344 *of* 1922.)

(*c*) The attention of all subordinate courts is directed to High Court Dis. 781 of 1922, containing instructions for the guidance of process-servers and returning officers regarding service of processes and to the High Court's reminder on the same subject, issued in Dis. 1344 of 1922, requiring that the instructions should be strictly observed.

It appears from the returns on processes recently received in the High Court that the High Court's instructions are being systematically ignored; and it is not impossible that the defective returns are frequently due to the fact that the process-server is, for reasons best known to himself, unwilling to effect a proper service.

In future when cases of defective service come to the notice of the High Court, the lower court will be asked to punish the process-server responsible. If the lower courts would take similar action regarding the processes of their own courts, it would soon be possible to weed out the worst offenders in the process staff and effect a general improvement in what is admittedly one of the most unsatisfactory features of judicial work. The attention of all subordinate courts is drawn to the observation of the Civil Justice Committee in paragraph 1 of Chapter 10 of their report—

"It is of the highest importance to institute a careful enquiry into the defects of the present system and the causes that contribute to the

unsatisfactory character of the service of processes. It would be no exaggeration to say that in the interests of efficient administration of civil justice satisfactory service of processes is as essential as the competency and honesty of tribunals." (*H.C. Dis.* 1455 *of* 1925.)

53. *Service by affixing to outer door.*—If a process is affixed to the outer door of a house, in the absence of the person to be served, the serving officer shall make an affidavit as to the following matters :—

(1) The number of times and the dates and hours at which he went to the house;

(2) the attempts made by him to find the person to be served;

(3) whether he had any, and what, reason to suppose that such person was within the house or its neighbourhood, or endeavouring to evade service; and

(4) whether any adult male member of the family of the person to be served was residing with him.

NOTE.—*Procedure when defendant cannot be found at once.*—It is intended that there should be a *bona fide* attempt, not necessarily confined to a single effort, to find the defendant before service is held sufficient by affixing process to the door of his house.

If the process-server obtains apparently reliable information that the defendant is within the jurisdiction, he should go a reasonable distance in search of him; if the information be that the defendant will return in a short time, he should await his return; if the information be that the defendant is not within the jurisdiction, or if the process-server can get no information as to the whereabouts of the defendant, the condition is satisfied.

The Code prescribes that the court shall examine the serving officer. This examination should not then be delegated to a ministerial officer, and it should be conducted with the same formality and completeness as the examination of a witness in the cause. The court has to determine from the evidence so taken whether it is justified in pronouncing the service sufficient. It will be convenient that this examination should take place immediately on the return of the process to the court so that, in the event of its being held that the service was insufficient, an application may be made for the re-issue of the process. (*H.C. Cir.* 236 *of* 1881.)

54. *Notice where summons is affixed to outer door.*—If a summons to a plaint is affixed to the outer door of the house, the serving officer shall affix therewith a notice that the defendant can, upon application to the officer of the court, obtain a copy or a concise statement of the contents of the plaint, and shall in his return state that he has done so and shall return the plaint or concise statement to the court. If the summons has been sent by another court for service and the defendant does not, within fourteen days from the affixing of the summons, apply for the said copy, it shall be returned to the said court.

55. *Translation of process.*—When a process is written in a language different from that of the district in which it is to be served, the court transmitting it for service shall also send a translation thereof in English and in cases in which the process has to be returned to any court outside the Presidency of Madras and the return is not in English or in the language of that court, the proceedings in Form 10, Appendix B, Schedule I, Code of Civil

Procedure, with which it is sent back to that court shall be accompanied by a translation of the return into English.

ADDRESS FOR SERVICE.

56. (1) *Address for service of the defendant or respondent.*—Every party who intends to appear and defend any suit, appeal or original petition, shall, before the date fixed in the summons or notice served on him as the date of hearing, file in court a proceeding stating his address for service.

(2) *Should be within the local limits of the court.*—Such address for service shall be within the local limits of the court in which the suit, appeal or petition is filed, or of the District Court in which the party ordinarily resides.

(3) *Consequences of failure to file an address for service.*—Where any party fails to file an address for service, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and if a defendant, be liable to have his defence, if any, struck out, and to be placed in the same position as if he had not defended; and any party may apply for an order to that effect, and the court may make such order as it thinks just.

(4) *Procedure where party is not found at the address given.*—Where a party is not found at the address given by him for service and no agent or adult male member of his family on whom a notice or process can be served is present, a copy of the notice or process shall be affixed to the outer door of the house and such service shall be deemed to be as effectual as if the notice or process had been personally served.

(5) Where a party engages a pleader, notices or processes for service on him shall be served in the manner prescribed by Order III, rule 5, of the Code unless the court directs service at the address for service given by the party.

(6) *Change of address to be by verified petition.*—A party who desires to change the address for service given by him as aforesaid shall file a verified petition and the court may direct the amendment of the record accordingly. Notice of every such petition shall be given to all the other parties to the suit.

(7) Nothing in this rule shall prevent the court from directing the service of a notice or process in any other manner if, for any reasons, it thinks fit to do so.

(8) Nothing contained in this rule shall apply to the notice prescribed by Order XXI, rule 22, of the Code of Civil Procedure, 1908.

N.B.—For rules framed under section 20 of the Court Fees Act, 1870, as to the fees chargeable for the service and execution of processes and the remuneration of the process-service establishment, see Ch. I-B and C of Pt. II *infra*.

CHAPTER III.

Trial of Suits.

THE FIRST HEARING.

57. *Application for directions.*—Any party may, at the first hearing, apply to the court for directions as to any of the following matters :—

(1) The filing of a written statement by any party, stating the pleas raised by him, or further and better particulars thereof;
(2) Adding or striking out parties;
(3) Discovery of documents and interrogatories;
(4) Inspection or production of any document or public record;
(5) Issue of a commission to examine witnesses, or for any other purpose;
(6) Reference to an arbitrator;
(7) Any other matter or proceeding necessary to be considered or taken previously to the trial of the suit.

Unless the court otherwise orders, not less than three days notice of such application, and of any affidavit filed in support thereof, shall be given by the applicant to the other parties to the suit.

CIRCULAR ORDERS.

I. DEATH AND ARRAY OF PARTIES.

If any of the parties die, the numbers attached to their names are nevertheless to be continued and the names of their legal representatives are to be numbered consecutively to those of the original parties.

Where fresh parties are brought in, they are to be numbered consecutively to the plaintiffs or defendants, as the case may be, already in the suit.

(*Pro., d.* 8-12-1860.)

II. PLEADINGS.

" The principal rules as to pleadings are given in Order VI of the Code. They are summarized as follows:—

(1) The whole case must be stated in the pleadings. That is to say, all material facts must be stated (Order VI, rule 2).
(2) No matter of law is to be stated.
(3) Only material facts are to be stated. The evidence by which they are to be proved is not to be stated (Order VI, rules 2, 10, 11 and 12).
(4) Immaterial and unnecessary facts are not to be stated.
(5) The facts are to be stated concisely.
(6) It is not necessary to allege the performance of any condition precedent; an averment of performance is now implied in every pleading (Order VI, rule 6).
(7) It is not necessary to set out the whole or any part of a document unless the precise words thereof are necessary. It is sufficient to state the effect of the document as briefly as possible (Order VI, rule 9).

(8) It is not necessary to allege a matter of fact which the law presumes or to which the burden of proof lies on the other side (Order VI, rule 13).

Very few pleadings in the suits examined comply with these rules. In the majority of instances no attempt is made to comply with them. It is the exception rather than the rule for all material facts to be stated. While material facts are omitted, immaterial facts are stated. The evidence by which it is proposed to prove the facts is often set out at length. Allegations as to law are inserted. Documents are set out at length. The pleadings are generally too long, and in some instances prolix to a degree. Written statements are worse than plaints. The main defects are prolixity, argumentativeness, a disclosure of immaterial facts, and a suppression of material facts which result in a failure to disclose the exact nature of the case set up, and which provide an opportunity for a change of front.

III. Filing of written statements.

1. It is extraordinary in how many instances the defendant is not ready with his written statement on the date fixed for its production. It is an exception for him to have it prepared on the first date on which he has been ordered to present it. Every sort of excuse is put forward to cover the omission. The real reason why the written statement is not ready is usually that the defendant waits until the last moment to engage his counsel, and after he has engaged him delays giving instructions. The courts are at present inclined to condone these laxities, and to grant as a matter of course further adjournments for the production of the written statement.

In our opinion this should cease. Every defendant should be allowed a reasonable time within which to prepare his written statement. The period so granted will be shorter or longer according to the simplicity or complexity of the dispute, but, if the defendant has been granted a reasonable time for the purpose, he ought to be compelled to file his written statement within the period allowed, and should ordinarily not be granted further time for the purpose. If he can establish genuine cause for his omission, he should be granted one extension. It is difficult to see why he should be granted another.

* * * * *

2. Order VIII, rule 10, lays down that 'Where any party from whom a written statement is so required fails to present the same within the time fixed by the court, the court may pronounce judgment against him, or make such order in relation to the suit as it thinks fit.' The determination of a suit against a defendant because he has failed to file a written statement, when ordered to do so, may appear an extreme course, but it is the course which the law contemplates as desirable in certain instances, and there can be no doubt that if such a course were adopted in extreme cases, few would be likely in any case to disobey an order of the court directing the statement to be filed by a particular date.

Even if the contempt of the court's order be punished only by the award of costs against the offender, much good would be done. At present nothing is done usually.

It is left to the presiding officer to exercise the important duty of preventing the parties offending against the rules." (*Recommendations of the Civil Justice Committee communicated in H.C. Dis.* 404 *of* 1926.)

IV. Use of provisions as to discovery, etc.

The special attention of all civil courts is invited to the provisions of Orders X, XI and XII of the First Schedule to the Code of Civil Procedure, 1908, which gives the courts extended powers in the matter of examining parties, and obtaining admissions, and discovery. These provisions should be freely used so as to limit the field of controversy in suits at an early stage, as far as possible. (*H.C. Dis.* 368 *of* 1910.)

V. Opening the case.

" When the parties have their oral evidence ready, the law directs (Order XVIII, rule 2) that the party having the right to begin should state his case and produce his evidence in support of the issues, which he is bound to prove. The other party has then to state his case and produce his evidence, if any,

and may then address the court generally on the whole case, the party beginning being permitted to reply generally. * * *

We wish to draw attention to the absolute necessity of opening the case in order to save time. The result of departing from this salutory rule of procedure tends to increase delay for the following reasons:—

In the first place when a party does not open his case, and does not state exactly the line which he proposes to take, it is open to him to change the case which he originally had in mind, and not only to call the witnesses whom he had originally intended to call, but to call other witnesses on different points to support a different case if he sees that the case which he had in mind is not progressing as satisfactorily as he desires. If the case is not opened, a party cannot be confined to his original case, for the court does not know what the original case is. True, the court should have read the pleadings and framed the issues, but even if it has done so, it will not always have obtained sufficient information to know the points to which contest will be confined. Further, the failure to open the case puts the presiding officer at a disadvantage in dealing with the evidence of each witness as he is called.

VI. Oral Evidence—Examination-in-chief—Cross-examination.

* * * It is not too much to say that cross-examination frequently extends over a period which is more than six times as long as is necessary to produce useful results. The waste of time is most noticeable in cases of larger value, especially in which the dispute relates to valuable landed property. It is difficult to exaggerate the unnecessary labour and the delays caused thereby.

It is not easy to devise a remedy. The litigants prefer that examination and cross-examination should be conducted in this manner, and the methods are the traditional methods of many District Bars. We feel that we should not be justified in suggesting alterations in the law by which presiding officers would be authorized to terminate the examination of a particular witness, or to refuse to hear additional witnesses on any particular point. It seems only possible to wait till litigants begin to see for themselves that in their own interests there should be expedition. At present we must leave the solution to the good sense of the Bench and Bar.

VII. Hearing from day to day.

* * * Under Order XVII, rule 1, it is laid down that when the hearing of evidence has once begun, the hearing of the suit should be continued from day to day until all the witnesses in attendance have been examined unless the court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded.

* * * * *

Neglect to follow the procedure laid down by law enables evidence to be fabricated, and improves the opportunities of those dishonest litigants who, seeing that the first batch of witnesses is not giving satisfaction, utilize the intervening period to manufacture evidence which it is hoped will give satisfaction. Failure to follow the correct procedure further leads to the filing of interlocutory appeals and applications.

We have discovered instances of judges endeavouring to show that they are really hearing a case from day to day when they are only devoting a very small portion of each day to the purpose. They take up a contested case, hear evidence in it for about an hour and then adjourn the hearing to the following day. By so doing they hope to show from their order sheets that they have been hearing the case from day to day.

VIII. Adjournments.

The Code clearly lays down that the granting of an adjournment is not a light matter. This is the rule. (Order XVII, rules 1 and 3.)

'The court may, *if sufficient cause is shown* at any stage of the suit, grant time to the parties or to any of them and may from time to time adjourn the hearing of the suit . . . Where any party to a suit to

whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit for which time has been allowed, the court may notwithstanding such default proceed to decide the suit forthwith.'

It is clearly thus the intention of the Code that once a date is fixed a suit should be taken up on that date, and proceeded with until the day is over, and that when a party is not ready on that date he is liable to have the matter decided on the materials before the court. The court has been granted the necessary discretion to adjourn the hearing 'when sufficient cause is shown,' and the words, 'sufficient cause' have not been limited, because it is desired not to fetter the court's discretion. It is, however, a perversion of the words and a clear transgression of the law, when the courts in so many instances order an adjournment to suit their own convenience or on the flimsiest pretext to suit the convenience of one party or other.

There remain those adjournments which are granted to suit the convenience of the parties. Adjournments are granted in very many instances because one or other party does not wish to take up the hearing on the day fixed, because he has an engagement elsewhere. It is not by any means uncommon to find an adjournment granted because the plaintiff wishes to attend a friend's wedding. A very common reason for granting an adjournment is because a party's pleader wishes to appear on the date fixed in a case in another court. No hard and fast rules can be laid down in such matters. There are instances in which an adjournment should be reasonably granted to suit convenience alone. For example, an application for an adjournment on the ground that the father of the principal witness had died and the witness had to attend his obsequies is a reasonable application, which should be allowed. When a pleader finds that two cases in which he is solely engaged have been fixed in different courts for the same day, one court would ordinarily grant an adjournment. At present, however, not only are such adjournments granted too freely; the interests of the other side are not sufficiently considered. When a party wants an adjournment to suit his own convenience the court should insist as a preliminary that he pays the costs of the other side for that day. Such adjournments should not be granted except for really good cause. Presiding officers must be stricter on the point, and be ready to give up a reputation for easy-going good nature in the interests of efficiency. Lawyers who take up more work than they can handle must be shown that the court will not delay decision to suit their convenience. They can, as is the practice in England, when their work increases beyond a certain point, insist on having a junior with them or transfer their briefs. What is even more remarkable is the view which has become almost universal that the court's own convenience is 'sufficient cause' for an adjournment. This laxity must stop, and cease entirely. The principle must be accepted as absolute that a case must be taken up on the date fixed unless there is really good reason for an adjournment.

IX. Arguments.

(1) When evidence has been heard, there is frequently much avoidable waste of time in larger cases over the hearing of arguments. The counsel in district courts do not usually take the trouble to have their arguments ready, as the last witness leaves the box. Generally they are inclined, in cases which are at all of a complicated nature, to postpone the preparation of their arguments for some days, and to request the court to adjourn the case. Such adjournments are too frequently given, and the arguments are frequently not completed on the first adjourned date.

Some courts do not even hear arguments from day to day. It is difficult to understand how a presiding officer who has thus heard arguments piecemeal can be expected to appreciate them." (*Recommendations of the Civil Justice Committee communicated in H.C. Dis.* 404 *of* 1926.)

(2) It has been brought to the notice of the High Court that certain District Munsifs allow written arguments to be presented to them. The High Court considers this practice improper and directs that it should cease at once. (*H.C.P. Dis.* 415 *of* 1928.)

IX-A.

The attention of all presiding officers of civil courts is invited to High Court's Circular Dis. 404/26, dated 26th January 1926, and the Appendix thereto, in which *inter alia* the recommendations of the Civil Justice Committee contained in Chapter IV of their report regarding opening of a case and hearing *de die in diem* where reprinted for the guidance of the officers. The High Court has since considered these suggestions at greater length and satisfied that the present method in which cases are being tried in the mufassal conduces to an enormous waste of time in the courts. The provision in O. XVIII, r. 2, of the Code of Civil Procedure, that the party having the right to begin *shall state his case* and produce his evidence is seldom observed with the result that there is no regular opening of the case before the commencement of the trial and that the trial is proceeded with by the judge without a clear grasp of the nature of the case he has to try with the result that he is unable to curb irrelevancies in the examination and the cross-examination of witnesses. The High Court is convinced that in the interest of clean trials and the ascertainment of truth and as a positive means of avoiding delay the presiding officer should observe the procedure laid down in the Code and compel the plaintiff's vakil to open the outlines of his case as an essential preliminary to the trial, the officer himself taking short notes of the opening of the case.

Equally important as the opening of the case by counsel is the necessity for the court trying cases *de die in diem*. While appreciating the ordinary difficulties that lie in the way of continuous hearings, the High Court has observed a prevailing laxity on the part of presiding officers in the matter of granting adjournments and a characteristic piecemeal treatment of cases spread over unduly long intervals of time between commencement of hearing and judgment. The High Court is convinced that a great deal can substantially be done to compress the hearing of a case within a comparatively short period by a firm attitude on the part of the court and by gradually getting vakils and witnesses accustomed to the procedure indicated above.

The special attention of all presiding officers is directed to the foregoing instructions which should be carefully observed. (*H.C. Dis.* 597 *of* 1927.)

X. Judge's Notes.

In certain cases recently before the High Court on appeal there has been some difficulty in understanding the procedure in the lower court owing to the omission of the judge to take note of all that has passed in the course of the hearing. For instance, in one case the judge has made the defendant begin although according to the issues the plaintiff should have begun and there was no note on the record from which any explanation of this procedure could be obtained.

The High Court considers it desirable therefore to impress on all courts the importance of making a note of all material incidents such as that mentioned above questions of the admissibility of evidence, all other questions incidentally raised and decided and in short all incidents that occur in the ordinary course of the trial.

These matters should appear on the notes in the proper order of time, and not separately, so that the appellate court may have a complete record of such matters as well as of the evidence taken. (*H.C. Cir.* 3553 *of* 1894.)

XI. B Diary.

For showing the dates and the nature of the proceedings in the several stages of suits a form called the B Diary has been prescribed—vide new Civil Mis. Form No. 47, Appx. III-L., Vol. II. (*H.C. Cir.* 804 *of* 1876.)

Form B is the separate diary connected with each suit or proceeding in which every step taken in the suit or proceeding is to be minuted consecutively. As soon as a suit or petition (original or appeal) is brought on file, a separate page should be commenced and when that page is filled, diary of that suit or petition should be continued in the first blank page, reference to the number of the second being made at the foot of the page and to the number of the first at the second page and so on. entries in this form will be simply copies of the entries in Form A, whenever possible, this diary should be kept in the English language.

In every case in which the record of a suit or miscellaneous proceed sent for by a superior court, a complete transcript from Form B accompany the record. (*H.C. Pro.* 794 *of*

The detailed particulars entered in the B Form are not intended exhaustive; they are inserted merely as illustrations of the informat be given in this diary which was intended to replace the old separate and form as it were the ledger of suits, the A Diary (Civil Regr. N being the journal showing the daily work of the courts.
(*H.C. Cir.* 2048 *of*

A separate B Diary should be kept for each suit and should form the record of the suit.

The B Diary is intended to furnish full information as to the steps taken in a suit, and it should set out therefore all the materia taken in the trial or execution. It will thus necessarily reproduce entries in the A register. (*H.C. Cir.* 3509 *of*

For forms of B Diary, prescribed for use in small causes, in appe in execution proceedings * see Civil Mis. Forms Nos. 46, 48 a Appx. III-L., Vol. II. (*H.C. Cir.* 804 *o*

It is unnecessary to maintain B Diaries in uncontested small cau cution proceedings. They are generally prepared from the notes pa A Diary and can be opened without any difficulty when the proc become contentious. (*H.C.P. Dis.* 456 *o*

INTERROGATORIES.

58. *Interrogatories.*—(1) A party who desires to adn interrogatories to any other party, shall, on presenting or his application for leave to deliver the same, bring into co copies of the proposed interrogatories, and the fees prescri service of process. If leave is granted, one of the said copi be filed of record, and the other copy shall be served by the of the court.

(2) If a party objects to answer any interrogatory l state shortly the grounds of his objection in his affidavit in to the interrogatories.

59. *Adjournment in consequence of application for commi* If an application for the issue of a commission to examine a or with respect to any other matter mentioned in rule 57 subsequently to the first hearing, and an adjournment of hearing is prayed, the adjournment shall not be allowed it is made to appear to the court that the application co or ought not to, have been made at the first hearing.

ISSUES.

60. *Form of issues.*—The issues framed by the court order passed upon any application under rule 57 shall b up in Form No. 21 and shall form part of the record in and all parties shall be entitled to inspect the same and copies thereof.

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* Vide also item (5) of C.O. III under Chap. VII *infra*. For forms—Vide Appx. III-A of Part II, Vol. II.

61. *Procedure in regard to the framing of issues.*—In framing issues, the court shall proceed as follows :—

(1) Every material proposition of fact and every proposition of law, which is affirmed by the one side and denied by the other, shall be made the subject of a separate issue.

(2) Every issue of fact shall be so framed as to indicate on whom the burden of proof lies.

(3) Every issue of law shall be so framed as to indicate, either by a statement of admitted or alleged facts, or by reference to the pleadings or some document mentioned therein, the precise question of law to be decided.

(4) No proposition of fact which is not itself a material proposition, but is relevant only as tending to prove a material proposition, shall be made subject of an issue.

(5) No question regarding admissibility of evidence shall be made subject of an issue.

NOTE.—(1) *Order of the court to be in judge's handwriting.*—The order of the court at the time of settling the issues should be in the handwriting of the judge as soon as the oral examination of the parties is concluded and it is to be considered a material paper in the suit, to be transmitted to the appellate court in the event of an appeal being preferred from the decree of the court of first instance. (*H.C. Pro., d.* 13-3-1863.)

(2) *Recommendations of the Civil Justice Committee regarding the framing of issues.*—" There is too often great delay before the issues are framed. The method of framing issues produces frequently further delay. Under Order X of the Code the court is directed to examine the parties or their pleaders in respect of the matters which they admit or deny. The words of Order X, rule 1, are—

'At the first hearing of the suit the court shall ascertain from each party or his pleader whether he admits or denies such allegations of facts as are made in the plaint, or written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The court shall record such admissions and denials.' This duty under the law must be performed by the court. It is comparatively rare to find a court which makes the examination. Under Order XIV, rule 1 (5) ' at the first hearing of the suit the court shall, after reading the plaint and the written statement, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or law the parties are at variance and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.' The court under the law is expected to examine the parties and is required to read the pleadings and then to frame issues. * * * *

We have found instances in which the framing of issues was postponed from date to date, during the period of several months, and where the issues were finally framed by the pleaders without the presiding officer applying his mind to the subject. The procedure so followed is illegal.

* * * * *

In too many cases it is found that issues which are immaterial to the result are framed, and that issues which are material to the result are omitted.

Further, if the court leaves the framing of issues to the parties and does not read the pleadings, the presiding officer is ignorant of the nature of the case, and does not know when a witness is called what bearing that witnesses's evidence has upon the contest.

Not only is the law clear. The duty of the court to frame the issues itself and frame them properly is laid down in many circulars and rules of High Courts. * * * There is no reason of course why they should not take

suggestions from the parties as to the issues to be framed. It would be unwise for them not to take such suggestions. The taking of suggestions is, however, a very different matter, from the ignoring of their own responsibility. * *

If the law directs presiding officers to perform a particular duty, that duty must be performed, and time must be found for its performance. * * "
(*H.C. Dis.* 404 *of* 1926.)

62. *Defendant's list of documents.*—If the court does not call for the production of the documentary evidence of the parties, under Order XIII, rule 1 (1) of the Code, it shall direct the defendant to file in court a list of the documents on which he intends to rely, and shall fix a time for the production thereof. The said list shall be in Form No. 7, and shall be signed and verified by the party filing the same or by his pleader.

INSPECTION OF DOCUMENTS.

63. *Inspection of documents.*—A party shall be at liberty to inspect, and obtain a copy of, any document recited or referred to in a plaint or written statement, and filed in court therewith.

INSPECTION OF PROCEEDINGS BY A PARTY.

64. *Inspection of proceedings by party.*—Every party and his pleader desiring to inspect any proceeding filed in court by him or any other party, or a commissioner or officer of court, in the suit, appeal or matter, to which he, or his client, is a party, shall present a memorandum specifying the proceeding of which inspection is required [and inspection will be allowed, without the payment of any fee, during the pendency of such suit, appeal or matter.]*

INSPECTION OF DOCUMENTS BY A STRANGER.

65. *Inspection of documents by strangers.*—An application for inspection, or copies of, records or documents of, or in the custody of, a court, other than records or documents filed in a suit, appeal or matter, to which the applicant is a party, shall be made to the said court by an application, entitled in the suit, appeal, or matter in which the records or documents are filed, and specifying the particular records or documents, of which inspection is, or copies are required, by reference as far as possible to the nature, date, and the date of filing of and the parties to, each record or document. The application shall be supported by affidavit stating whether the applicant has any, and what, interest in the subject-matter of the document, or of the proceeding in which the record or document is filed, the purpose for which inspection or a copy is required; and, if the same is required for the purpose of an intended or pending proceeding, the nature of the said proceeding, and the relevancy of the record or document to the case of the applicant.

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* Added by *H.C. Dis.* 1526 *of* 1925.
For forms—Vide Appx. III-A of Part II, Vol. II.

66. *Notice of application for inspection.*—The court may, in its discretion, cause notice of the application to be given to the parties to the said proceedings; and where such notice is given, the provisions of the Code and of these rules, with respect to a summons to a defendant, shall apply to the said notice.

67. *Consent to inspect or obtain copy.*—The court shall not grant leave to inspect, or to obtain a copy of, any record or document produced by a person not a party to the proceedings in which the same is filed, or to the discovery of which any person is entitled to object, except in either case with the written consent of such person.

68. *Inspection to be made before officer and fee for same.*—If leave to inspect is granted, the inspection of the record shall be made in the presence of the record-keeper or his deputy and the fee for inspection, except where inspection without payment is permitted under rule 64, shall be 12 annas for every hour or part of an hour during which the record-keeper or his deputy shall be engaged and shall be paid by court-fee stamps affixed to the application.

69. *Copies or extracts not to be taken.*—The payment of the inspection fee shall entitle the applicant to read any document or record specified in his application and the inspection of which has been allowed by the court. He may make a short memorandum of the date and nature of any document in the record so as to enable him to describe it sufficiently in case a copy is required, but he shall not be entitled to make a copy of the document or part of the document or make extracts therefrom.

SEARCH OF RECORDS.

70. *Fee.*—Where an application for copy of any record or document does not give the number and date or other necessary particulars of the suit or other proceedings in which the record or document is filed, the following fee shall be levied in court-fee stamps for the purpose of making a search necessitated by such imperfect particulars :—

	RS.	A.	P.
Fee for searching the records of any one year for a single document or entry, or for all papers forming a single record	0	12	0
For every additional year	0	6	0

Enclosures or annexures to a proceeding or document and the vouchers appertaining to an account, shall be reckoned as part of the proceeding or document to which they relate.

If the proceeding or document is not found of record, the applicant shall be entitled to a certificate to that effect, free of cost.

71. *Search of records.*—When a person is entitled to inspect a proceeding or document the search therefor shall be made by the

officer of the court; and such person shall be allowed to read the proceeding or document which he is entitled to inspect, or to have it read to him, and to make a short memorandum of the date and nature thereof so as to enable him to describe it sufficiently, in case a copy is required, but except where otherwise expressly provided by these rules, he shall not be entitled to take a copy of the proceeding or document, or any part thereof, or to make extracts therefrom.

COPIES OF PROCEEDINGS TO BE FURNISHED BY PARTIES TO EACH OTHER.

72. *Party filing any proceeding to furnish the other side with a copy.*—A party, or pleader, filing any proceeding, shall, on demand in writing, furnish to any other party a copy of the proceeding upon payment therefor at the rate of one anna for every hundred words if in manuscript, or at double this rate if the copy is typed or printed, four figures being calculated as one word. Provided that one copy of a written statement, and of a memorandum of appeal or of objections, and when a concise statement of a claim has been presented for service with a summons, one copy of the plaint, shall, on the like demand, be furnished free of charge to each party appearing by a separate pleader.

73. *Name and address for service to be endorsed on copy.*—The name and address for service of the party or pleader by whom any copy is furnished shall be endorsed thereon, and the party or pleader shall be answerable for the same being a true copy of the original, or of a certified copy of the original, of which it purports to be a copy, as the case may be.

74. *Refusal or neglect to furnish copy.*—In case any party or pleader, who has been required to furnish any such copy as aforesaid, either refuses, or, for two days from the time when the application for the copy was made, neglects to furnish the same, the person by whom the application has been made shall be at liberty to procure a certified copy from the court, and in such case the party in default shall, unless the judge otherwise orders, be liable for the costs of procuring the same.

PRODUCTION OF RECORDS.

75. *Production of records in the custody of a court.*—(1) An application for the production of records in the custody of a court shall specify the particular documents required to be produced. Unless it is made to appear to the court that the production of the original documents is necessary, the party shall be required to obtain and file copies thereof and the original shall not be sent for. If the court dispenses with the affidavit mentioned in Order XIII, rule 10 (2) of the Code of Civil Procedure, it shall record in writing the reasons for so doing.

(2) When a court finds it necessary to require the production of the records of another court, it shall address a letter of request as in Form No. 22 to the presiding judge of that court.

(3) Where the document to be sent for by a court either from its own records or from those of another court under Order XIII, rule 10, is an account book or other document, not being a record (e.g., judgment, decree, written statement, etc.) which has to be in the custody of a court and belongs to a person other than a party at whose instance it is sent for, the court may require the party to deposit in court before the letter of request is issued, such sum as it may consider necessary to meet the estimated cost of making a copy of the document when produced.

(4) When the letter of request is to be issued by the court itself acting of its own motion it shall be open to the court to call upon either party to make the deposit as aforesaid.

(5) On the production of the document in compliance with the letter of request, the court shall cause a notice to be affixed to the notice board that the document has been received and that the parties may apply to the court for inspection of the same. The court shall not grant inspection to either party, unless it is satisfied that the application is made with the consent of the person to whom the document belongs. After the document has been admitted in evidence, the court shall, unless it considers it necessary to retain the original, direct the parties to specify the portion or portions thereof on which they respectively rely, and require a copy to be made of the same at the expense of the party requiring such portion, and shall thereafter, with all convenient speed, return the original to the court from which it was received, retaining the copies as part of the record.*

NOTE.—Order XIII, rule 10 of the Code allows a court, of its own accord or on an application, to send for records, but requires that every application be supported by an affidavit showing that the record is material and that copies cannot be obtained. The courts should bear in mind the labour which such calls entail and should only make them when satisfied that the records are really needed. (*H.C. Cir.* 2514 *of* 1885.)

76. *Production of records in the custody of a public officer other than a court.*—(1) A summons for the production of records in the custody of a public officer other than a court shall be in Form No. 23 and shall be addressed to the head of the department concerned and in the case of a summons to a District Registrar or a Sub-Registrar of Assurances, it shall be addressed to the Registrar or Sub-Registrar in whose office or sub-office, as the case may be, the required records are kept. A summons for the production of revenue papers kept in any office in a district shall in all cases be directed to the Collector of the district.

Provided that, where the summons is for the production of village accounts, including field measurement books, such summons

* NOTE.—Cl. 3 to 5 were added by G.O. 2920, L. (G.), 22-9-1925. (*H.C. Dis.* 1994 *of* 1925.)

For forms—Vide Appx. III-A of Part II, Vol. II.

shall be addressed to the tahsildar or to the deputy tahsildar in independent charge as the case may be.

(2) Every application for such summons shall be made by a verified petition setting out (i) the document or documents the production of which is required, (ii) the relevancy of the document or documents, and (iii) in cases where the production of a certified copy would answer the purpose, whether application was made to the proper officer for a certified copy or copies and the result of such application.

(3) No court shall issue such a summons unless it considers the production of the original necessary or is satisfied that the application for a certified copy has been duly made and has not been granted. The court shall in every case record its reasons in writing and shall require the applicant to deposit in court, before the summons is issued, to abide the order of the court, such sum as it may consider necessary to meet the estimated cost of making a copy of the document when produced.

(4) On production of the document in obedience to the summons, the court, unless it thinks it necessary to retain the original, shall direct a copy to be made at the expense of the applicant, and shall with all convenient speed return the original retaining the copy.

(5) Unless the court requires the production of the original, every such summons to a public officer shall state that he is at liberty to produce instead of the original a copy certified in the manner prescribed by section 76 of the Evidence Act.

(6) Nothing in the above rules shall prevent a court of its own motion from issuing a summons for the production of public records or other documents in the custody of a public officer if it thinks it necessary for the ends of justice to do so. The court shall in every case record its reasons in writing.

77. *Return of original document to the custody from which it was produced.*—Whenever an orginal document has been produced under rule 75 or rule 76 *supra*, the court shall, unless it sees fit to proceed under Order XIII, rule 8 of the Code of Civil Procedure, return it to the custody from which it was produced, without any application under the provisions of Order XIII, rule 7 (2) or rule 9 of the said Code, for its return. The provisions of Act V of 1917 * and the rules framed thereunder shall not apply to such a document until it has been returned to the court or the public officer by whom it was produced.

78. *Deposit for postage costs.*—If a record (not falling within the provisions of article I-A of Schedule II of the Court Fees

[Proviso to rule 76 (1) was added by G.O. 282, H. (J.), 5-2-1919. (*H.C. Dis.* 701 *of* 1919.)

[Rules 75 and 77 were subs. for the old rules by G.O. 693, H. (J.), 23-3-1918. (*H.C. Dis.* 1212 *of* 1918.)]

* Act V of 1917, Destruction of Records Act. For rules framed thereunder—vide Ch. XI of Part II *infra*.

Act, 1870), or document is required to be sent by post, the court may direct the applicant to deposit in court a sum sufficient to defray the postage of the same to, and from, the court. Unless the court otherwise orders, the costs of, and incidental to, an application for production of records which are material and relevant to the case, or which are sent for by the court of its own accord, shall be costs in the case.

CIRCULAR ORDERS.

I. MODE OF ISSUING A LETTER OF REQUEST FOR PRODUCTION OF DOCUMENTS FROM ANOTHER COURT—

A letter of request for production of records need not be sent either in duplicate or with another covering letter. (*H.C. Dis.* 733 *of* 1919.)

II. MODE OF SENDING DOCUMENTS—

When records have to be sent from one court to another the High Court directs that they shall ordinarily be sent by post as registered parcels. If, however, owing to excessive weight or other reason, the records cannot be sent as registered parcels under the postal rules, they should be sent by rail, the charges being left to be paid by the court receiving the records.

It is not intended to prohibit the practice of sending records by a special messenger when such a course is considered advisable.
(*H.C. Cir.* 153 *of* 1907.)

III. MODE OF LEVYING THE FEE—

(*a*) The attention of all civil courts is drawn to the Court Fees (Amendment) Act, 1911, under which a fee of twelve annas (to be collected in stamps), is to be levied on every application made under Order XIII, rule 10 of Schedule I of the Code of Civil Procedure, 1908, that records may be called for from another court, if the application is granted and the records are to be transmitted by post. This fee of twelve annas is a fixed fee in place of the postage charges hitherto deposited (in cash) under rule 78 which should no longer be collected. (*H.C. Dis.* 790 *of* 1912.)

(*b*) No fee, other than the fee of twelve annas prescribed in article I-A., Schedule II of the Court Fees Act, should be levied.
(*H.C. Dis.* 115 *of* 1920.)

IV. SPECIAL RULE AS TO POST OFFICE—

A summons from a court of civil or criminal jurisdiction to produce any of the records of a post office, or certified extract from or copy of any of such records, must be complied with. The receipt of such summons, and such particulars as are known to the postmaster regarding the case, should be at once reported to the Postmaster-General, in case he should see fit to raise any objection in court under section 123 or section 124 of the Indian Evidence Act I of 1872, to the production of any of the records. When any journal or other record of a post office is produced in court and admitted in evidence, the officer producing it should ask the court to direct that only such portions of the record as may be required by the court shall be disclosed. (*H.C. Cir.* 1082 *of* 1891.)

V. RECORDS HOW TO BE PRESERVED—

(1) Where records or documents produced from another court or a public office are retained under Order XIII, rules 7 and 8 of the Code, by the court requiring their production, a receipt containing a descriptive list thereof shall be given to the officer producing them and a duplicate of the receipt shall be placed with the records or documents. Any apparent erasure or alteration in any paper shall be noted in the said list.

(2) The said records or documents shall, as long as they remain in the custody of the court which required their production, be kept in a sealed packet properly labelled and the packet shall not be opened except in the presence of the presiding judge.

(3) When any records or official documents are received from any court or public office by post, the packet shall be opened in the presence of the presiding judge and the papers compared with the list accompanying them. The instructions contained in paragraphs 1 and 2 above shall then be observed as far as they are applicable.

(4) Whenever it shall appear that any public documents received from any court or public office are no longer required, they shall be returned to such court or office with a descriptive list in a sealed packet.

(*H.C. Dis.* 733 *of* 1906.)

VI. SENDING FOR RECORDS FROM COURTS IN—

(*a*) *Indian States*—

(1) The Government are of the opinion that no general direction can be given as to the procedure to be adopted when the records of a court in the Mysore State are required for production before a court in British India. If such records are wanted in a particular case, certified copies could be usually obtained on application. But under section 86 of the Evidence Act no presumption as to the accuracy and genuineness of such records could be made unless the certificate specified in that section is furnished by the Political Officer. (*G.O.* 900, *J.*, *d.* 7–7–1909. *H.C. Dis.* 884 *of* 1909.)

(2) The Government consider that the procedure indicated in paragraph 1 above should be adopted in the case of records in the custody of courts or public officers of other Indian States also. When, however, certified copies cannot be obtained or the production of the original document is absolutely essential, a letter of request for their production, instead of a summons, addressed to the court or public officer concerned should be forwarded through the official channel. (*G.O. Ms.* 2804, *H.*, *d.* 22–7–1937. *H.C. P. Dis.* 525 *of* 1937.)

(*b*) *Straits Settlements*—

All subordinate courts are informed that, since the Code of Civil Procedure, 1908, does not govern the Supreme Court, Straits Settlements, summonses for production of records under the Code, should not be issued to that court. The Registrar, Supreme Court, Penang, has recently protested against the issue of such summonses. When records are required from the Supreme Court of the Straits Settlements, the procedure laid down in G.O. No. 900, Judicial, dated the 7th July 1909, should be followed.

The Supreme Court of the Straits Settlements also takes exception to any of its Judges being addressed as "The Judge of the Supreme Court." All subordinate courts should note that the correct mode of address is "The Honourable the Chief Justice and the Judges of the Supreme Court."

(*H.C. Dis.* 94 *of* 1927.)

(*c*) *Other Provinces*—

Subordinate courts are directed that in the case of production of records in the custody of courts of other provinces, the letter of request for production should be forwarded to the Madras High Court for transmission and should be accompanied by a copy of the affidavit as required by Order XIII, rule 10 (2), Civil Procedure Code, together with a translation into English, if the affidavit be in vernacular.

(*H.C. P. Dis.* 149 *of* 1938.)

(*d*) *Burma*—

1. Since 1st April 1937, when Burma ceased to form part of British India, courts in Burma have become foreign courts and the provisions of the Code of Civil Procedure (1908) do not any longer apply to or bind them. Consequently the provisions contained in Order XIII, rule 10 of the Code, will not apply to them, and applications issued thereunder to the courts in Burma will not be complied with by them except as a matter of courtesy. The High Court, Rangoon, and the Government of Burma are however of the opinion that the arrangements which existed before the separation should continue and that there should be a provision for the reciprocal production of records between courts in Burma and British Indian courts. The High Court agrees with their opinion.

2. Civil courts in this province are therefore directed to comply with applications for the production of records in their custody by courts in Burma as if issued by British Indian courts.

3. Applications issued by civil courts of this province to courts in Burma for the production of records in their custody will be similarly complied with by them, if forwarded through the High Court, Rangoon. The instructions contained in High Court Circular P. Dis. No. 149 of 1938 printed above as paragraph (*c*) will apply equally to such applications.

(*G.O. Ms.* 3196, *H.*, *d.* 28–6–1938. *H.C. P. Dis.* 555 *of* 1938.)

VII. RECORDS IN THE ORIENTAL MANUSCRIPTS LIBRARY—

The Curator, Oriental Manuscripts Library, is permitted to grant to courts authenticated copies of the records in the library provided that the charges incidental thereto are met by the parties concerned.

[*G.O.* 1248, *H.* (*E.*), *d.* 24–11–1916. *H.C. Dis.* 2430 *of* 1916.]

The following are the ordinary rates of copying and examining fees in regard to the grant of authenticated copies of records in the Oriental Manuscripts Library:—

Copying charges—

1. *Devanagari characters.*—Rupees 6–8–0 per 1,000 granthas with an additional rate of As. 10 per 1,000 granthas in cases in which there is special difficulty in copying on account of illegibility of characters, lacunæ, language, etc., of the original.

Telugu.—Rupees 5–8–0 per 1,000 granthas.
Grantha.— do.
Tamil.— do.
Kanarese.—Rupees 6–8–0 per 1,000 granthas.
Malayalam.— do.

(Special rates for other characters to be fixed by the Curator at the time of application.)

Comparing Charges—

Examiner.—Rupee 1–6–0 per 1,000 granthas.
Reader.— do.

[*G.O.* 1138, *H.* (*E.*), *d.* 30–9–1920. *H.C. Dis.* 2639 *of* 1920.]

VIII. FEES FOR THE PREPARATION OF CERTIFIED COPIES OF BANKERS' ACCOUNTS —BANKERS' BOOKS EVIDENCE ACT (XVIII OF 1891)—

The Act does not give the High Court power to make rules under it; and, if it did, the High Court does not consider that it should fetter the statutory discretion conferred upon the courts by requiring them in all cases to make their order conditional on payment to the bank of the cost of the copies required. It is for the Legislature to do this, if so advised.

The position of the banker to start with is that of a witness who has received a subpœna *duces tecum*; but under sections 5 and 6 of the Act, he cannot be compelled either to come with his books or to furnish copies without an order of the court. The order, which is discretionary, is really an order affecting the opposite party to the suit and should only be made on an application supported by an affidavit showing the entries required and their relevancy and giving sufficient details to enable the bank to grant copies, and only after notice to the other side. The issue of a notice to the bank will, however, be in the discretion of the court. Under section 6 (3) the banks may show cause against an order granting inspection and copies of a customer's accounts. Under section 7 (1) they may be awarded costs if they succeed in their objection. They may also under section 7 (1) apply to the court for costs of making the copies.

(*H.C. Dis.* 331 *of* 1921.)

ORAL EVIDENCE.

I. NUMBERING OF WITNESSES—

The witnesses called by the plaintiff or defendant are to be numbered consecutively; and where there are several plaintiffs or defendants, the witnesses called by each are not to be numbered separately, but continuously, as if all had been called by a single plaintiff or defendant.

(*Pro.*, *d.* 8–12–1860.)

II. RECORDING EVIDENCE—

(*a*) There is no objection to a judge recording evidence in typewriting, provided that he signs or initials each page as soon as he completes it. (*H.C. Dis.* 912 *of* 1912.)

(*b*) The provisions of section 360 of the Criminal Procedure Code analogous to rules 5 and 6 of Order XVIII of the First Schedule of the Code of Civil Procedure, 1908, have been interpreted by the High Court to mean only that the evidence, after it has been recorded, should be read out in the *presence* of the accused or his pleader and that there is no objection to its being read out while the examination of another witness was going on. It is however open to them to ask that the examination of the next witness should be stopped until the reading over was complete—vide H.C. Judgment in Crl. App. No. 483 of 1910 and Crl. App. No. 70 of 1913. (*H.C. Dis.* 1312 *of* 1913.)

(*c*) It has been brought to the notice of the High Court that several courts in the mufassal are not strictly observing the provisions contained in Order XVIII, rule 5, C.P.C., which require that the evidence of each witness should be read over in the presence of the judge and of the witness. In some courts, the evidence taken is not read over to the witness at all and in others though it is read over to the witness, the reading is not done in the presence of the judge but somewhere outside the court-hall. It has been urged as a reason for this departure that such a practice would save the time of the court and that it would be convenient to the parties as well as witnesses. There is also a view prevalent among some of the presiding officers that, after all, oral evidence in a civil court is not of a decisive character and that a failure to observe the provisions of Order XVIII, rule 5, C.P.C., would not be deemed to be a material irregularity as in a criminal case.

The High Court considers that the non-observance of the provisions contained in Order XVIII, rule 5, C.P.C., on any ground whatsoever is objectionable and, therefore, desires to impress upon all the presiding officers the necessity of strict observance of the said provisions. Any departure therefrom will be considered a dereliction of duty.

(*H.C. P. Dis.* 652 *of* 1938.)

III. EVIDENCE POWERS—

(*a*) To facilitate the exercise of the powers conferred by section 192 of the Madras Estates Land Act, 1908 (I of 1908), and section 138 (1) of the Code of Civil Procedure (Act V of 1908), as amended by the Decentralization Act, IV of 1914, the High Court hereby directs—

that applications for an order to take down evidence in English submitted on behalf of judicial and revenue officers should be in the prescribed * form and submitted in triplicate; and

that applications for an order to record evidence in English submitted on behalf of revenue officers should furnish information as to whether the officer has been directed by Government under section 357 of the Code of the Criminal Procedure to take down evidence in English in his magisterial capacity, if any. (*H.C. Dis.* 1999 *of* 1914.)

(*b*) In partial modification of the instructions issued in High Court Proceedings Dis. No. 1999, dated 30th November 1914, the High Court is pleased to empower all judicial and revenue officers, who have passed the Vernacular Tests prescribed by the rules regulating their service, to take down evidence with their own hand in the English language in cases in which an appeal is allowed, provided that the vernacular or one of the vernaculars of the court over which they preside is a vernacular in which they have passed. District Judges and Collectors will in future, forward applications in triplicate in the form prescribed for the orders of the High Court only in cases where special authorization is necessary owing to the officer not having passed in that vernacular of the court.

Under section 138 (1) of the Code of Civil Procedure (Act V of 1908), and under section 192 of the Madras Estates Land Act (Act I of 1908), read with section 138 (1) of the Code of Civil Procedure, 1908, as amended by the Decentralization Act (Act IV of 1914), the High Court is pleased to direct that the undermentioned officers shall, in cases in which an appeal

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* Vide Appx. III-L., Part II of Vol. II.

is allowed, take down the evidence with their own hand in the English language, provided that they have passed according to the rules regulating their service in the vernacular or one of the vernaculars of the court over which they are presiding and that the evidence is given in that vernacular:—

(1) District Judges,
(2) Subordinate Judges,
(3) District Munsifs, and
(4) Revenue Divisional Officers.

(*H.C. Dis.* 699 *of* 1922.)

EXHIBITS.

79. *Marking exhibits.*—(1) Exhibits admitted in evidence shall be marked, if put in by the plaintiff or one of several plaintiffs, with capital letters of the alphabet; and if put in by the defendant, or one of several defendants, with numerals. If the capital letters of the alphabet are exhausted, double capitals shall be used.

(2) *Marking series.*—A series of similar exhibits may be marked with the same capital letter and numerals in brackets, when put in by the plaintiff: or with the same numeral and small letters of the alphabet in brackets, when put in by the defendant.

(3) *Consecutive marking.*—The exhibits put in by one of several plaintiffs or defendants shall be marked consecutively with those put in by the other plaintiffs or defendants.

(4) *Marking in subsequent proceeding.*—If in a proceeding subsequent to the trial of the suit or matter, further exhibits are admitted in evidence, they shall be marked with letters or numbers consecutive to the letter or number on the last exhibit previously filed.

80. *Inspection of exhibits.*—If any party or his pleader desires to inspect any exhibit, he shall do so in open court, at the hearing of the suit or matter; provided that, with the leave of the judge, such inspection may be had in the presence of an officer of the court, to be named by the judge.

CIRCULAR ORDERS.

I. INSTRUCTIONS TO BE FOLLOWED BY CLERKS ATTENDING TRIAL OF SUITS—

(*a*) At the head of the Index, enter the nature of the suit or proceeding with reference to Schedule C of the Record Destruction Rules (vide Chap. XI of Part II, infra). Thus, if the suit is for foreclosure, write at top of the Index on the right hand side in large hand C 1 (*c*); if it is an insolvency proceeding, C 4 (*b*) and so forth;

(*b*) Immediately below such entry, write the date of the final decree or order and below that the date on which Part III can be destroyed;

(*c*) Whenever an exhibit is produced by a person other than the party who files it, write opposite to it in the column of remarks 'filed by P.W. 1'—meaning, by plaintiff's 1st witness—or as the case may be;

(*d*) When an exhibit has become void or useless in consequence of the decree and not returnable under Order XIII, rule 9, write across it, and also in the remarks column of the Index opposite to it, "Superseded by decree";

(*e*) Avoid as far as possible all paper not of foolscap size;

(*f*) Fold all papers once down the middle as official correspondence is now folded;

(*g*) Mark each paper with its serial number on the top right hand side, and at the bottom on the same side, mark the part to which it appertains;

(*h*) Arrange the record in order of serial number without reference to parts.

If the above instructions are followed, the record will reach the record-keeper in a handy form. (*H.C. Cir.* 2514 *of* 1885.)

II. DOCKETING OF RECORDS—

The several papers on the record of the suit are to be endorsed according to their contents, every paper having at the head of endorsement the number of the suit to which it belongs, *e.g.*, " Original Suit No. 1 of 1860, Plaint," " Original Suit No. 1 of 1860, Summons to defendant," " Original Suit No. 1 of 1860, Defendant's written statement," etc.

In addition to the above particulars, the plaint is to have endorsed upon it the names of the plaintiff and defendant and of the pleaders of the parties, with a note showing the number of documents, if any, produced with the plaint. (*Pro., d.* 8–12–1860.)

III. INSTRUMENTS NOT DULY STAMPED—

(*a*) Whenever stamp duty and penalty are levied on insufficiently stamped documents, an entry shall forthwith be made in the cash book, before the presiding officer of the court and be initialled by him. No stamp duty and penalty shall be received except in the presence of the presiding officer of the court. (*H.C. Dis.* 626 *of* 1900.)

(*b*) The High Court has observed diversity of practice in regard to the levy of stamp duty and penalty under section 35 of the Stamp Act. The attention of all courts is invited to the judgment of the High Court, dated the 31st July 1916, in Referred Case No. 2 of 1916; and they are requested to follow the ruling therein. (*H.C. Dis.* 1496 *of* 1916.)

Judgment.—The penalty required to be paid under section 35 of the Indian Stamp Act on the instrument in question is ten times the stamp duty with which the instrument is chargeable and this is in addition to the duty which should have been originally paid. *Thangavelu Mudali, minor, by next friend Lakshmi Ammal* v. *Raghava Mudali.*

(*c*) Certified copies of documents other than those coming under Article 9 of Schedule I of the Court Fees Act shall not be received by any officer of court without verifying whether proper stamp duty has been paid thereon.

No court fee stamp need be affixed to such certified copies when they are filed in any proceeding before a court. (Extract from *H.C. P. Dis.* 636 *of* 1936 printed in extenso as Circular Order No. III of Chapter I, Part II.)

IV. ENDORSEMENTS ON DOCUMENTS ADMITTED IN EVIDENCE—

(*a*) *General.*—The attention of all civil courts in this Presidency is invited to the following observations of the Judicial Committee of the Privy Council in *Mirza Sadik Hussain Khan* v. *Nawab Sayed Hashim Ali Khan and others* and *Mirza Sadik Hussain Khan* v. *Nawab Sayed Hashim Ali Khan and another*, Privy Council Appeals 121 and 134 of 1913, regarding the admission of documents in evidence. " * * * . A presiding Judge shall endorse with his own hand a statement that a document proved or admitted in evidence was proved against or admitted by the person against whom it was used. That course was in many instances not followed at the hearing of these two cases, with the result that embarassing and perplexing controversies arose on the hearing of these appeals as to whether or not certain documents prints of which were bound up in the record had been given in evidence. There is no possible excuse for the neglect, in this manner, of the duty imposed by the statutes. Their Lordships will, in order to prevent injustice, be obliged in future on the hearing of Indian Appeals to refuse to read or permit to be used any document not endorsed in the manner required." (*H.C. Dis.* 1881 *of* 1916.)

(*b*) *Special instructions in the case of rare or valuable documents.*—Rules 4 and 6 of Order XIII of the Code of Civil Procedure, 1908, require certain particulars to be endorsed by the court on documents produced as evidence in a suit. Occasionally, however, though it may be rarely, documents are produced which are of great historic or antiquarian value, such as old sanads or grants, and it is obvious that such documents may be seriously injured by the usual endorsements. It has been brought to the notice of the

Honourable the Judges that a too rigid adherence to rules intended for the great mass of ordinary documents may lead to old and valuable State sanads being subjected to flagrant maltreatment. The Honourable the Judges desire, therefore, that the following observations may be borne in mind by all courts.

It is no doubt important that the identity of a document produced in court and acted upon should be placed beyond question in view of a possible appeal or of possible future proceedings, and in fact the Privy Council have recently drawn attention to the " wholesome provision " contained in Order XIII, rule 4, and have laid it down that they " will, in order to prevent injustice, be obliged in future, on the hearing of Indian Appeals, to refuse to read or permit to be used any document not endorsed in the manner required." (*Sadik Hussain Khan* v. *Hashim Ali Khan*, L.R., 43, I.A., 212, at page 237; I.L.R., 38 All. 627, at pages 663–664.)

The rules on the subject must of course be strictly followed in dealing with all documents of the kind which ordinarily come before the courts, such as the Privy Council had in contemplation. But cases so exceptional as those now under consideration admit of exceptional treatment, and when a document of historical or antiquarian interest is in question, the court before which it is produced should make every possible endeavour to prevent its being defaced by endorsements and exhibit marks or by having the seal of the court impressed upon it. Some means of avoiding such disfigurement will probably suggest itself. The parties will probably agree to a photographic copy being substituted for the original, or the document may be enclosed in a sealed cover or in a locked and sealed box, the necessary particulars being endorsed on the outside. If other means fail, careful measures should be taken for the safe custody of the document pending instructions from higher authority. (*H.C. Dis.* 1400 *of* 1917.)

V. NATIVE TERMS AND DATES—

Native terms and dates are not generally to be admitted into translations of deeds and other vernacular papers: but where their use is unavoidable, an explanatory note in English is also to be given immediately under them. (*Pro., d.* 22–6–1836.)

This rule is applicable to all cases in which native dates are used, whether in judgments, depositions, reports or other documents, and every entry of a native date should invariably be accompanied by an entry of the corresponding date of the Christian era. (*H.C. Cir.* 1145 *of* 1892.)

RETURN OF DOCUMENTS.

81. *Return of documents.*—Applications for the return of documents filed in court shall be made to the court in which they were originally filed. If any document has been transmitted to any other court, the former court shall itself apply to such court for the transmission of the document and shall return it to the applicant.

CIRCULAR ORDERS.

I. GENERAL INSTRUCTIONS REGARDING THE PROCEDURE TO BE OBSERVED IN DEALING WITH DOCUMENTS PRODUCED BY PARTIES—

(*a*) Order XIII, rule 7, Civil Procedure Code, provides, that such documents shall not form part of the record until admitted in evidence. Therefore, they should not be placed on record nor entered in the index of papers on record.

(*b*) Documents produced by the plaintiff should be kept together in a separate bundle and similarly those produced by the defendant. If there are more plaintiffs or defendants than one, the documents produced by each should be kept in a separate bundle.

(*c*) The *lists* put in by parties, of documents produced by them should be entered in the index, but the *documents* themselves should only be so entered when they have been admitted in evidence and made part of the record.

(*d*) When a document is admitted in evidence the fact should be noted in the list put in by the plaintiff or defendant as the case may be.

(*e*) Documents not admitted in evidence should on being endorsed as required by section 142 (now Order XIII, rule 6) of the Code of Civil Procedure, be kept with the records of the case to which they relate, but sufficiently apart from them so that they may be returned to the parties or their pleaders as required by Order XIII, rule 7. Such documents should be returned in any case within seven days after judgment is pronounced and a receipt should be taken therefor. (*H.C. Dis.* 880 *of* 1905.)

(*f*) Papers which have been filed in court but have not been tendered in evidence and have therefore been neither admitted nor rejected should also be returned in the same manner as documents not admitted in evidence. (*H.C. Dis.* 429 *of* 1907.)

II. RETURN OF MORTGAGE DEEDS SUPERSEDED BY DECREE—

If by force of the decree the mortgage instrument has become void or useless, as, for instance, in a case where the suit is upon a simple mortgage and the rights of the plaintiff under it are completely provided for by the decree, the return of the instrument will be unnecessary. In other cases, it may be necessary, as for instance when the suit is brought upon a usufructuary mortgage on the ground that possession is withheld. Though a decree may be given to the plaintiff, he will be entitled to have the document returned to be held by him as his title-deed during the period for which the mortgage subsists.

(*H.C. Dis.* 868 *of* 1905—*vide also Order XIII, rule* 9, *C.P.C.*)

III. CERTIFIED COPIES OF EXHIBITS—WHEN TO BE RETAINED—

Certified copies of exhibits are to be retained only in cases where the originals are returned under Order XIII, rule 9 of the Code, while the suit is still pending, and are not required where the originals are returned under Order XIII, rule 9, after the termination of the suit and the expiry of the appeal time.

IV. ENTRY OF APPLICATIONS FOR THE RETURN OF DOCUMENTS—

The High Court directs that, in future, applications for return of documents need not be entered in Civil Register No. 17 and that they shall be entered in Civil Register No. 23 alone in the order of date of receipt.

If the applications are accompanied by vakalats or stamped documents, the daily total of the value of the court-fee stamps shall be entered in Civil Register No. 18. (*H.C. Dis.* 505 *of* 1917.)

Observations of the Civil Justice Committee regarding the causes that contribute to the delay in the trial of suits and suggestions for remedying the same.

(1) CASES HELD UP BY OTHER CASES—

"Another cause of delay arises when proceedings are held up by awaiting decisions in other courts caused either by the same subject-matter being under decision or by the filing of applications and appeals in interlocutory matters. * * * Delay in the disposal of such connected matters is sometimes unavoidable, but it can always be reduced by efforts being made to give priority to the decision of matters which are holding back the decision of other suits."

(2) AWAITING DECISION IN INTERLOCUTORY MATTERS—

"The next cause is delay in deciding certain interlocutory matters.

* * * * *

In addition to such applications or appeals as are filed under a genuine, though mistaken, apprehension, there are applications and appeals which are not genuine or even honest.

* * * * *

The major matter is the waste of time between the admission and the decision of the application or the appeal which is doomed to eventual failure. The remedy would appear to lie in a closer scrutiny before admission, based on the broad principle that a responsible officer should be allowed a free hand in all matters other than those of vital importance, and in the giving of priority of hearing to such applications and appeals."

NOTE.—*Interim orders issued by Appellate Courts.*—The High Court understands that some of the lower courts treat interim orders issued by it

prescribing a definite period during which the interim orders are to be in force as inuring until further orders are issued from the High Court. The High Court desires to make it clear that such a practice is irregular and that where interim orders are communicated to lower courts by appellate courts fixing a period during which the orders are to have effect, the orders *ipso facto* become vacated on the termination of such period.

(*H.C. P. Dis.* 1104 *of* 1927.)

(3) PROCESS-SERVING—

"It often happens that processes are returned unserved a considerable time before the date fixed for hearing. It should then be made the duty of the nazir to give out the processes for re-service if there is sufficient time before the hearing. In some provinces the salutary rule is adopted that parties should ascertain a week before the date of hearing which of their processes are returned unserved and should then ask for the services of a special process-server to have them served at once. Failing this, the parties are not allowed to apply for a fresh service on the date of hearing. This seems to us to be a useful practice, especially in the case of processes to witnesses.

But even where proper service has been effected, it is not unusual for the witnesses to fail to attend either through negligence or in collusion with the party on whose behalf they have been cited where the latter is anxious to delay the proceedings. The courts have power to take penal action against such a recalcitrant witness under section 32 of the Code of Civil Procedure read with Order XVI, rules 10—13, 16—18 by issuing a warrant for his arrest, imposing a fine not exceeding Rs. 500, attaching and selling his property, or ordering him to furnish security for his appearance, and in default committing him to the civil prison. These powers, however, are scarcely ever used by the courts, because it is assumed that the parties should move the courts for the purpose and the parties are unwilling for obvious reasons to take penal action against their own witnesses. It seems to us that in such cases the parties should be offered the alternative of either applying for coercive process against their defaulting witnesses or withdrawing these witnesses if they refuse to apply for coercive process. We also think that in flagrant instances the courts themselves should on their own initiative take action against such recalcitrant witnesses and mete out exemplary punishment for contempt of the court's process.

* * * * *

One reason why witnesses do not treat the summonses from civil courts with the respect that is due to them is that civil courts do not show sufficient respect to the convenience of witnesses. Cause lists in India are fixed with a supreme disregard of the time or the convenience of witnesses. Some courts think nothing of adjourning a case on the slightest pretext and sending the witnesses to and fro several times before recording their evidence. If a witness is sent away unexamined five times out of six he should not be blamed too severely if he absents himself the sixth time he is summoned. If it is distinctly understood that witnesses will be examined on the day on which they are summoned, the procedure relating to the granting of adjournments for the attendance of witnesses can be considerably stiffened and a great deal of delay avoided.

* * * If a party fails to produce a witness whom he has undertaken to produce on a particular day, he should not ordinarily be given a second opportunity to produce him.

* * * We think that the courts might deal in a more business-like manner with the witnesses cited before them than they generally do. If more than one suit is posted for hearing on a particular day, few presiding officers think it worth while to tell the witnesses at what particular hour of the day their suit will come on for hearing or if it will come on for hearing on that day at all. Again, when there is a large number of witnesses to be examined in any suit, common sense dictates that only so many of them should be summoned for a particular day whose examination can be reasonably expected to be finished on that day * * *."

(*H.C. Dis.* 404 *of* 1926.)

CHAPTER IV.

Incidental Proceedings.

COMMISSIONS.

82. *Application for commission.*—(1) Every application for the issue of a commission shall be supported by an affidavit setting forth the estimated expenses of the commission, and the remuneration, if any, of the proposed commissioner.

(2) *Commissioner's fees.*—The court shall thereupon fix the amount of the commissioner's fees, and direct payment thereof into court, on a day to be fixed by the court; and the commission shall not be issued unless the sum fixed by the court for the purposes aforesaid is paid into court within the period limited therefor; provided that the court may, from time to time, on the application of any party, direct that any further sum be brought into court by any party.

83. *Return of commission.*—Every order for the issue of a commission shall appoint a period within which the return of the commissioner is to be filed in court. An application by any party for the extension of the said period may be made by interlocutory application, upon notice to the other parties to the suit or matter, and shall be supported by affidavit setting forth the grounds on which the extension is prayed.

CIRCULAR ORDERS.

A.—GENERAL INSTRUCTIONS REGARDING ISSUE OF COMMISSIONS.

I. No commission for a local investigation under Order XXVI, rule 9, of the Code or for the investigation or adjustment of accounts under Order XXVI, rule 11 of the Code is to be addressed by any civil court, to any magistrate in office, or to any officer of the Department of Public Works, except for special reasons and when no other commissioner is available.
(*H.C. Cir.*, *dated* 16-11-1868 *and* 13-8-1869.)

II. Whenever a civil court desires to issue a commission to any subordinate public servant for any of the purposes specified in Order XXVI, rules 9, 11 and 13 of the Code of Civil Procedure, the court shall ascertain from the official superior of the public servant concerned, whether any objection, such as inconvenience to the public service or other reasonable cause, exists to the issue of the commission to such public servant. If any such objection is stated to exist, the court shall refrain from appointing the public servant.
(*H.C. Cir.* 1218 *of* 1878.)

III. It appears to the High Court desirable that the proceedings of the subordinate courts in regard to the issue of commissions should be carefully supervised by District Judges. The following directions are accordingly issued:—

(1) The issue of commissions should be restricted to cases in which the law expressly sanctions their being issued, *e.g.*, Order XXVI, rules 1, 9, 11 and 13 (vide also Order XXVI-A, rule 1) of the Code of Civil Procedure or section 10 of the Indian Oaths Act. Provided that commissions may issue for ascertaining the amount of mesne profits, and the value of improvements; and that the court may depute a proper person for other purposes

upon the application of a party who undertakes to pay the fees in any event.

(2) Commissions should rarely, if ever, be issued to the officers of the courts, whose whole time is paid for by the State and whose legitimate duties are enough to fully occupy them. It can seldom happen that, for purposes of a commission, persons equally competent with the clerks of the court are not available.

NOTE.—*Appointment of copyists as commissioners.*—The High Court is not prepared to lay down a general rule that copyists should not be given commissions, but considers that it is undesirable that any general practice of giving them such commissions should be encouraged. The matter is within the discretion of each court, which is responsible for seeing that its action does not result in interference with a copyist's legitimate work or in the appointment of unsuitable commissioners. Any attempt to "tout" for commissions ought at once to bar a copyist from ever being given them. (*H.C. Dis.* 1745 *of* 1926.)

(3) Vakils, pensioned officials, or officials temporarily out of employ owing to reduction of establishments are persons from whom commissioners may most suitably be selected.

(4) In no case should a dependant or servant of the presiding judge be appointed as commissioner. The appointment of such persons, even if they are in other respects suitable, is objectionable on very obvious grounds.

(5) Care should be taken by the courts issuing commissions to make the fees as little onerous as possible to the parties in the suit.

(6) A quarterly statement * should be submitted to the District Court by each subordinate court, showing the number and nature of the commissions issued, the profession, etc., of the persons appointed as commissioners and the fees paid. (*H.C. Cir.* 1249 *of* 1885.)

IV. The scale of the remuneration for commissioners under Order XXVI, rule 15 of the Code, is left to the court's discretion, and will depend upon the circumstances of each case such as the nature of the accounts, whether simple or complicated, the time required for their investigation and the qualifications of the commissioner, a higher remuneration being necessarily payable if a professional person be employed. (*Cir., d.* 16-4-1860.)

B.—COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

I. EXAMINATION OF WITNESSES BY JUDICIAL OFFICERS—

(1) Courtesy suggests that in sending a commission for execution to a judicial officer, the commissioner should be left to make such arrangements as may appear to him suitable for the examination of the witnesses; but the High Court is not prepared to say that the court issuing the commission has not the power to direct that the parties be examined at a particular place. If, however, the commission is not to be executed in, or in the neighbourhood of the court-house, the District Munsif should not be required to execute it.

The ruling prohibiting the receipt of fees by judicial officers acting as commissioners applies equally to cases in which the commission is executed outside or in the court-house. (*H.C. Cir.* 47 *of* 1884.)

(2) Commissions issued under Order XXVI, rule 4, Code of Civil Procedure, for the examination of witnesses residing in the City of Madras, should when practicable be directed to a special commissioner and not to the Presidency Small Cause Court. (*H.C. Dis.* 834 *of* 1908.)

II. EXAMINATION OF WITNESSES IN FOREIGN COUNTRIES—GENERAL—

(1) If, and when the Government of India sees its way to accede to any of the conventions between the United Kingdom and foreign countries respecting legal proceeding in civil and commercial matters, the question as to the method by which evidence could be obtained by the Indian courts in any country in the case of which such a convention existed, to which India had acceded, would be governed by the provisions of that convention.

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* Vide form No. 13 in Appx. III-M, Part II, Volume II.

(2) In the case of countries other than those where the matter is governed by a Civil Procedure Convention to which India had acceded, the matter would be governed

(i) by international courtesy, and

(ii) by the law in force in the country concerned, and in such cases the Indian Courts could proceed to obtain evidence either by addressing a letter of request to the competent judicial authorities of the country from which the evidence is required, or by the issue of a commission to take evidence to some person in the foreign country concerned to be named personally by the Indian courts.

(3) While the first of the two foregoing methods is always possible, the second can be used only in a limited number of countries where the local law permits, and it is suggested therefore that the Indian courts should not resort to it unless they have definite information that the method is permissible in the foreign country concerned. Failing such information, recourse should be had to the procedure by letter of request.

(4) The following is a list of countries in which, according to the information available, the second method is allowed and in which British Consular officers may take evidence if tendered voluntarily for use in civil and commercial proceedings before British courts, apart from the operation of Civil Procedure Conventions:—

Argentine Republic.
Bolivia.
Brazil.
Bulgaria.
Chile.
Columbia.
Costa Rica.
Cuba.
Czechoslovakia.
Denmark.
Danzig.
Ecuador.
Estonia.
Finland.
France.
Greece.
Guatemala.
Honduras.
Hungary. *
Italy (except Trieste).
Lithuania.
Mexico.
Netherlands.
Nicaragua.
Norway. †
Peru.
Poland.
Portugal.
Salvador.
Spain.
Sweden.
United States.
Uruguay.
Venezuela.
Yugoslavia. *

NOTE.—In the preparation of this list it has been thought better to leave out of account the possibility which exists in certain countries of obtaining the evidence through private persons designated by British courts to take it. The information available as to the attitude of foreign Governments towards such a procedure is by no means as complete or reliable as that concerning the taking of evidence by British Consular Officers; and it is assumed that the Indian courts would prefer, as a general rule, to designate such officers rather than unofficial persons for such purposes.

(5) In cases where it is desired to employ the second method and to appoint a British Consular Officer as commissioner to take the evidence, the preliminary consent of the Secretary of State for Foreign Affairs should always be obtained, except in the event of the case being covered by a Civil Procedure Convention to which the Government of India is a party. When the preliminary consent of the Secretary of State is sought, the nationality of the intended witness or witnesses should be stated. Orders appointing a British Consular Officer to take evidence should refer to His Majesty's Consul (Consul-General) at or his Deputy.

(6) The most strictly proper method for the courts of one country to adopt in order to obtain evidence in another is the method of letter of request, addressed to the proper court in the foreign country. It should be noted that to purport to appoint a foreign court a commissioner is altogether misconceived. But in cases where it is desired that a Consular Officer should act, a commission appointing him as special examiner should be furnished, after it has been ascertained that he is not precluded by

* From British subjects only. † In shipping matters only.

local regulations from acting in this capacity and the preliminary consent of the Secretary of State for Foreign Affairs is obtained.

(7) In cases where letters of request are employed, such letters should be in duplicate, be signed by the judge and bear the official seal of the court. The letter of request should either at the foot thereof contain a schedule of all relevant documents forming part of such letter of request or be followed immediately by an index of such documents. The first document should be a concise narrative of the action of the parties thereto and of the course to be pursued. This document and the other documents which should be as far as possible in chronological order should be numbered or lettered to correspond with the schedule or index mentioned above. If any of the documents in the letter of request are in original, the copies appearing in the duplicate letter of request should be certified by an official of the court that they have been examined and are true copies. Such certified copies should also bear the seal of the court.

The letters of request should further set forth the following:—

(*a*) the names of the parties to the proceeding,

(*b*) the names, addresses and descriptions of the witnesses whose evidence is desired;

(*c*) either (i) the exact interrogatories which it is desired to put to the witnesses, or the documents, etc., whose production is desired, or (ii) a clear and concise explanation of the exact points on which it is desired that the witnesses should be examined or (iii) a request that notice should be given to the representatives of the parties to the action, of the time when and of the place where the evidence is to be taken and that the representatives of the parties should be allowed to put such questions to the witnesses as they may desire.

(8) (*a*) Two certified copies of the translation of the complete letter of request in the language of the foreign country should always accompany the complete letter of request referred to above. The letter of request and accompanying documents should be sewn together in a parchment paper cover, down the left hand side, the ends of the silk, tape or thread with which they are sewn being brought out on to the front cover, and the ends sealed down with a Government seal;

(*b*) (i) If in any case the translations referred to in item (*a*) above cannot be supplied by the court, an English translation should invariably be supplied by the court with a request that the India Office may be asked to get this translated into the language of the country concerned; and

(ii) Where a commission has been issued to one of His Majesty's Consular Officers under item No. (i) in paragraph 2 above, the commission should be addressed to the appropriate Consular Officer in English, and the documents should be accompanied by an English translation and in addition, where the person whose evidence is to be taken is not a British subject, by a translation into the language of the country concerned. In cases where it is not possible to supply a translation into the language of the country, the papers should be accompanied by a specific request that the India Office may be asked to get them translated before transmission to the authority concerned.

(9) When it is not possible to ascertain the particular foreign court to which the letter of request should be addressed, the name of the court may be left blank so as to be filled in by the British representative in the foreign country.

(10) It is to be noticed that in letters of request it is not proper to fix a day for the return of the evidence. When it is known that neither party proposes to attend at the taking of the evidence, this should be stated in the covering letter forwarding the letter of request, as it may avoid delay.

(11) It should further be noted that where letters of request are employed, foreign courts should not be asked in such letters to name and appoint experts to give evidence, or themselves to collect evidence.

(12) Foreign courts will not usually charge any fees for their services in executing letters of request, but they are entitled to the repayment of any out-of-pocket expenses actully incurred in obtaining the evidence for the Indian courts. The latter should, therefore, before they issue a letter of request, take such steps as are necessary to ensure that they

will be able to meet and defray any proper claim by a foreign court for such out-of-pocket expenses, and the Secretary of State for Foreign Affairs will desire to be informed that this has been done before he forwards the letter of request through the diplomatic channel.

(13) Letters of request should be transmitted through the official channel to the Foreign Office and will be forwarded on by the latter through the diplomatic channel.

(14) Neither a commission nor a letter of request should be ordered to be issued abroad unless there is sufficient time for the execution to be completed before the hearing of the cause or matter in which the evidence is to be used.

[*G.O.* 5067, *L.* (*G.*), *d.* 1–12–1930, *G.O.* 4005, *L.* (*G.*), *d.* 29–10–1931, *G.O. Ms.* 1561, *H.*, *d.* 20–4–1937 *and Foreign office Memo. P. & J.* 3845 *of* 1938. (*H.C.P. Dis.* 232 *of* 1940.)]

III. UNITED STATES OF AMERICA—

(1) When evidence is required by courts in India from witnesses in the United States of America, the method of securing it by commission addressed to His Majesty's Consular Officers (instead of letters of request addressed to the U.S.A. Judicial authorities) is advocated as preferable and more convenient. The High Court accordingly directs that the subordinate courts should adopt the following procedure.

(2) As regards witnesses residing within the States of New York, Connecticut and Northern half of New Jersey, the commission should be addressed to His Majesty's Consul-General at New York.

(3) For witnesses residing elsewhere, the commission should be addressed to the appropriate British Consular Officer.

(4) If the court issuing the commission is unable to ascertain which Consular Officer has jurisdiction in the State where the witness resides, the commission should be addressed to the British Consular Officer concerned and the Government of India will forward the commission to the British Consul-General at New York, requesting him to transmit it to the Consular Officer having jurisdiction.

(5) If, in any case, it is desired to take evidence of witnesses, who reside both within and outside the Consular district of the Consul-General of New York, the commission may be issued in the following terms:—

"To His Majesty's Consul-General at New York with power to appoint any other person or persons whom he may deem fit to take the evidence on interrogatories which accompany this commission and *viva voce* of such witnesses to be examined at New York and/or at Boston and/or at Philadelphia."

(6) The preliminary consent of the Secretary of State for Foreign Affairs referred to in paragraph (5) of Circular Order II above has been waived in the case of the United States of America.

(7) A minimum fee of $100 should accompany the commission.

(8) A list of British Consular Officers in the U.S.A. as shown in the Foreign Office list of 1934 is given below but it is understood that slight changes are made in the list from time to time.

Residence.	Rank.
Baltimore (Maryland)	Consul.
	Vice-Consul.
Norfolk (Virginia)	Consul.
	Vice-Consul.
Boston (Massachusetts)	Consul-General.
	Vice-Consul.
	Do.
	Do.
	Pro-Consul.
Chicago (Illinois)	Consul-General.
	Vice-Consul.
	Do.

Residence.	Rank.
Detroit (Michigan)	Consul.
	Vice-Consul.
	Do.
	Pro-Consul.
Cincinnati (Ohio)	Vice-Consul.
Cleveland (Ohio)	Do.
Galveston (Texas)	Consul.
	Vice-Consul.
Dellas (Texas)	Do.
Houston (Texas)	Do.
Laredo (Texas)	Do.
Honolulu (Hawaii.)	Consul.
	Vice-Consul.
Los Angeles (California)	Consul.
	Vice-Consul.
	Do.
	Pro-Consul.
Douglas (Arizona)	Vice-Consul.
Manila (Philippine Islands)	Consul-General.
	Vice-Consul.
Cebu	Do.
Davao	Do.
Iloilo	Do.
Legaspi	Do.
Zamboanga	Do.
New Orleans (Louisiana)	Consul-General.
	Vice-Consul.
Jacksonville (Florida)	Consul (p).
	Pro-Consul.
Miami (Florida)	Vice-Consul.
New York (New York)	Consul-General.
	Consul.
	Do.
	Vice-Consul.
	Do.
	Do.
	Do.
	Do.
	Do.
	Pro-Consul.
Philadelphia (Pennsylvania)	Consul-General.
	Vice-Consul.
	Do.
Pittsburgh (Pennsylvania)	Consul.
	Vice-Consul.
San Juan (Puerto Rico)	Consul.
	Vice-Consul.
Ponce	Do.
St. Louis (Missouri)	Consul.
	Vice-Consul.
St. Thomas and Ste. Croix, Virgin. Islands (West Indies).	Consul.
Frederiksted	Vice-Consul.
San Francisco (California)	Consul-General.
	Consul.
	Vice-Consul.
	Do.
	Do.
	Pro-Consul.
Savannah (Georgia)	Consul.
Atlanta	Vice-Consul.
Seattle (Washington)	Consul.
	Vice-Consul.

(*H.C.P. Dis.* 632 *of* 1932 *and* 195 *of* 1935.)

IV. GERMANY—

His Majesty's Consular Officers are precluded by German law from taking evidence in that country. Such letters of request when in proper form (*vide* Form No. 8 of Appendix H to the Code) should be addressed to the proper judicial authorities in Germany and should be sent to the Secretary of State for Foreign Affairs in order that it may be transmitted to His Majesty's Ambassador at Berlin, with instructions to forward it to the German Government for execution.

Should there be a difficulty in ascertaining who in any particular case are the proper judicial authorities in Germany, a blank might perhaps be left in the heading of the request; and in transmitting the papers to the Foreign office, the Government might ask that the Embassy at Berlin should be requested to fill the necessary address. (*H.C. P. Dis.* 1055 *of* 1927.)

V. UNION OF SOUTH AFRICA—

Letters of request are being received by courts in the Union of South Africa direct from courts in India and to avoid delay the Union Government have given effect to them. It is however desirable, in order that there may be no doubt as to the authenticity of such documents and to enable the procedure laid down by their Rules of Court to be followed, that they should be transmitted through the proper channel, i.e., the High Court, the Provincial Government and the Government of India to the Union Government, and vice versa. (*H.C. Dis.* 1768 *of* 1924.)

VI. IRAN—

(1) Under the existing law, His Majesty's Consular Officers in Iran are precluded from taking evidence on commission even from British subjects. Letters of request for the examination of witnesses in Iran should therefore be addressed to the Imperial Iranian Ministry of Justice and forwarded through the High Court and the Provincial Government to the Government of India with the necessary list of interrogatories for transmission to His Majesty's Minister, Tehran. The documents should be drawn up properly and sufficient time allowed for their return.

(2) The letter of request, interrogatories and other documents should be accompanied by translations into Persian, but if this be not possible, a bankers' draft either in sterling or in rupees for translation and certifying charges calculated in the following scale should accompany the letter of request.

(i) For making or verifying a translation of a document for every 100 words or a fraction thereof exclusive of fee for certificate.	sh.7/6 plus 25 per cent sh.9/6.
(ii) For granting any certificate not otherwise provided for, if not exceeding 100 words exclusive of fee for drawing.	sh.10 plus 25 per cent sh.12/6.

(*H.C.P. Dis.* 626 *of* 1933 *and* 183 *of* 1935.)

VII. SIAM—

Two methods are recognized: (i) letter of request should be addressed to the International Court at Bangkok (or other court having jurisdiction) for the formal taking of evidence on commission (ii) it is optional with the British Consular Officer in Siam to execute commissions by informal hearing of evidence at His Majesty's Consulate-General. The consent of the British Consular Officer (to undertake this duty) may be presumed.

Therefore, when it is desired to issue a letter of request for the examination of a witness in Siam, it would be desirable to issue, in addition to a letter of request, addressed to the Siamese court, an alternative warrant of commission addressed to His Britannic Majesty's Consul-General at Bangkok requesting him or such other British Consular Officer as may be appointed by him to examine the said witness and so on as in form No. 7 of Appendix H of the Code with the omission of the expression 'Process to compel the attendance of the witness will be issued by any court having jurisdiction on your applicaton.' Prompt return of the testimony might be secured by adopting the second method. This is specially recommended when the evidence is to be taken in English and the parties and witnesses

are all British subjects who can be called to make their depositions at the Consulate-General without the necessity of issuing *subpoenas*. Fees for the service are usually levied on the scale appearing in the Annual Practice. The courts should satisfy themselves before sending any document for execution that in case of a demand for any out-of-pocket expenses actually incurred in obtaining evidence for Indian courts, the money will be forthcoming. Both the letter of request and the alternative warrant should be forwarded to the High Court for transmission through the Provincial Government and the Government of India to the Consul-General at Bangkok.

The first method is however essential when for special reasons the record of a formally constituted court is desired.

It should be borne in mind that the court language being Siamese, in ordinary circumstances the courts there only receive requests in the Siamese language. It is therefore desirable that the letter and interrogatories should be accompanied by a translation in Siamese although at present there are English advisers in some of the Siamese courts.

The documents should be drawn up in proper form and should invariably be type-written. They should be in English and be easily legible. Full translations in English should accompany all vernacular documents forming enclosures. (*H.C.P. Dis.* 232 *of* 1940.)

VIII. FEDERATED MALAY STATES—

Examination of witnesses in the Federated Malay States—

(1) When any court in Madras desires to obtain the evidence of a witness residing in the Federated Malay States, it shall issue a warrant of commission for the purpose to the Registrar of the court within whose jurisdiction the witness resides and not a letter of request. The warrant shall be forwarded to the Registrar, High Court, by whom it will be transmitted and through whom the return will be made.

(2) The warrant of commission shall be in English and all documents or copies thereof attached to it shall, if not in English, be accompanied by a translation in that language.

(3) Every such warrant of commission when not accompanied by interrogatories shall be accompanied by the names of the Counsel or other agents who have been instructed to conduct the examination or cross-examination before the commissioner.

(4) Fees will be charged by the Supreme Courts for execution of the letter of request on the following scale:—

(i) Affidavit	$ 1·50 (about Rs. 2–6–0)
(ii) Originating summons	$ 1·50 (do.
(iii) Order of Judge	$ 1·50 (do.
(iv) Upon giving an appointment to take an examination under sec. 393 of the C.P.C. of the Federated Malay States	$ 15·00 (about Rs. 23–9–0)
(v) For every witness sworn and examined for each hour or part of an hour ..	$ 5·00 (about Rs. 7–14–0)
(vi) Registrar's certificate	$ 1·50 (about Rs. 2– 6–0)
(vii) Transport	According to the distance of the residence of the witness but a deposit of $10 (about Rs. 15–12–0) to be made in the first instance.
(viii) Subsistence allowance	According to the status of the witness.

NOTE.—Items (i) and (ii) will not be required if no agent is appointed in the Federated Malay States.

(5) The cost should be recovered in advance from the party at whose instance or for whose benefit the commission is issued and should accompany the letter of request.

(6) Sufficient time not less than two months from the date of issue shall be allowed by courts for the execution and return of warrants of commission.

Reciprocal execution by British Indian Courts—

The High Court prescribes the following scale of fees for execution and return of commissions issued by civil courts in the Federated Malay States for examination of witnesses in the Madras Presidency:—

(1) For receiving the warrant of commission issued by the foreign court and for fixing a day for examination of the witness or for appointing a commissioner to execute the commission—Rs. 25.

(2) For every witness sworn and examined for each hour or part of an hour—Rs. 10.

(*H.C.P. Dis.* 223 *of* 1937 *and* 163 *of* 1939.)

IX. FRENCH SETTLEMENTS IN INDIA—

Examination of witnesses in the French Settlements in India—

A practice having sprung up under which the courts of this Presidency, when requiring the evidence of persons resident within the French Settlements in India, issued commissions under Order XXVI, rule 5, Civil Procedure Code, to private persons or to the Consular Agents, and this practice being unauthorized, the High Court, in pursuance of arrangements made between the Government of Madras and that of the French Settlements in India, resolves to issue the following rules (approved and sanctioned in G.O. No. 2396, Judicial, dated 4th September 1886) for the guidance of all civil courts. These rules apply to commissions issued in civil cases only:—

(1) The practice of issuing commissions for the examination of witnesses resident within the French Settlements in India to private persons or to the Consular Agents is prohibited.

(2) When any court desires to obtain the evidence of any such person, it shall address a commission for his examination to the President of the Tribunal of First Instance in the French Settlements wherein such person resides, and shall forward it to the Chief Secretary to Government, in the Political Department, in view to its despatch to His Excellency the Governor of the French Settlements, for transmission to the court concerned. Such commission, if not in English, shall be accompanied by an English translation.

(3) Every such commission issued by a court subordinate to the District Judge shall be forwarded to the Chief Secretary through the District Judge.

(4) Every such commission shall be accompanied by a Post Office order in favour of the Registrar of the court for a sum sufficient to defray the expenses of its execution at the following rates:—

(*a*) Travelling allowances and batta of witnesses is allowed according to the scale in force in French Settlements as detailed in the extract annexed. In civil matters, a fee of 2 annas for each day's attendance is paid to native witnesses domiciled in the town or residing at a distance of a myriametre (equivalent to 6·2138 miles) when summoned to appear before the court of the Justice of the Peace. When such witnesses are domiciled beyond the distance of a myriametre they are paid an extra anna for each myriametre travelled by them to and from the court. Europeans and Anglo-Indians are entitled to 8 annas for each day's attendance and to an allowance of 8 annas for each meriametre travelled by them.

Native witnesses summoned before the appellate court and the court of first instance are paid 4 annas for each day's attendance and 2 annas as travelling allowance for each myriametre travelled by them to and from the court, beyond one myriametre. Europeans and Anglo-Indian witnesses receive 12 annas for each day's attendance and a travelling allowance of 12 annas for the journey to and from the court beyond the distance of one myriametre.

(*b*) Registrar's fees—Rs. 2-8-0 for every three hours' work likely to be involved.

(*c*) Probable expense of translating documents—At Rs. 2 per page of 24 lines.

Reciprocal execution by British Indian Courts—

Section 78 (*c*), Civil Procedure Code, provides for the execution of corresponding commissions issued by a court in the French Settlements to a

court in this Presidency. Such commissions should be duly executed, even if the sum remitted is insufficient to cover the cost at the above rates. When the commission is returned, the return should state what additional sum may be due or that the excess remitted is returned, as the case may be. Sums appropriated under heads (*b*) and (*c*) of the preceding rule should be credited to Government. (*H.C. Cir. d.* 13-10-1886.)

X. SAIGON—

The procedure to be adopted by civil courts in addressing commissions to be executed in Saigon is as follows:—

Commissions should be addressed to " the President of the Tribunal of First Instance, Saigon " and forwarded to the Secretary to the Government of India, Foreign Department, through the [* Provincial Government] by whom they will be transmitted to the Government of French Indo-China for execution. In such cases the cost should be recovered in advance from the party at whose instance or for whose benefit the commission is issued; but the money should be sent only after an account is received through His Britannic Majesty's Consul at Saigon of any expenses incurred in connexion with their execution. (*H.C. Dis.* 858 *of* 1905 *and* 215 *of* 1917.)

XI. STRAITS SETTLEMENTS—

Examination of witnesses in the Straits Settlements—

The High Court in pursuance of arrangements made between the Government of Madras and that of the Straits Settlements, has issued the following rules regarding the issue and execution of commissions for examination of witnesses residing in the Straits Settlements and *vice versa*:—

(1) When any court desires to obtain the evidence of any witness residing in the Straits Settlements, it shall address a commission for his examination to the Honourable the Chief Justice and the Judges of the Supreme Court of that Colony, requesting them to appoint a commissioner for the purpose mentioned in the commission, and shall forward it to the Registrar of the High Court, by whom it will be transmitted and through whom the return will be made.

(2) Every such commission shall be accompanied by the names of the counsel or parties who have been instructed to conduct the examination or cross-examination before the Commissioner.

(3) Fees will be charged by the Supreme Court for the execution of commissions on the following scale, and the cost should be recovered in advance from the party at whose instance or for whose benefit the commission is issued:—

Upon giving an appointment to take an examination.	15 dollars.
For every witness sworn and examined for each hour or part of an hour	10 dollars.

(4) Sufficient time, not less than three months from the date of posting, shall be allowed by courts for the execution and return of commissions.

(5) High Court Circular No. 3144 of 1893, is hereby repealed.

Reciprocal Execution by British Indian Courts—

Section 78, Civil Procedure Code, 1908, provides for execution of corresponding commissions issued by foreign courts to a court in this Presidency and the High Court has prescribed the following scale of fees for execution and return of commissions issued by the civil courts in the Straits Settlements for examination of witnesses:—

	RS.
(i) For receiving the warrant of commission issued by the foreign court and for fixing a day for examination of the witness or for appointing a commissioner to execute the commission	25
(ii) For every witness sworn and examined for each hour or part of an hour	20

* Subs. by the A.O. for 'L.G.'

The scale of fees herein prescribed is in addition to the usual process fee and subsistence allowance for witnesses.

The scale of fees will be the same for the examination of witnesses when the commission is executed by the court as well as when it is executed by an outside commissioner.

Such commissions should be duly executed even if the sum remitted is insufficient to cover the cost at the above rates. When the commission is returned, the return should state what additional sum may be due, or that the excess remitted is returned, as the case may be.

(*H.C. Dis.* 659 *of* 1923 *and* 475 *of* 1933.)

XII. HYDERABAD—

(1) Commissions issued by the civil courts within the presidencies of Bombay and Madras, or in Berar, the Cantonment of Secunderabad, the Residency Bazaars, or the Railway lands within H.E. Highness' Dominions for the examination of witnesses residing in H.E. Highness' Territory, will be transmitted direct by those courts to the courts * concerned in H.E. Highness' Territory; they shall then be executed and returned by H.E. Highness' courts direct to the courts that issued them.

(2) Similarly, whenever a court in H.E. Highness' territory considers it necessary to issue a commission for the examination of a witness residing within the presidencies of Bombay or Madras or in Berar, the Cantonment of Secunderabad, the Residency Bazaars or the Railway lands in H.E. Highness' Dominions, the commission shall be sent for execution, without the intervention of the Secretary to Government direct to the court concerned whence it will be returned direct after execution.

(3) Commissions intended for execution within the presidency town of Madras shall be addressed to the Registrar of the Court of Small Causes, Madras. In other cases, the issuing court will transmit the commission to the chief civil judge of the district, who, in his turn, will forward it for execution to the subordinate court, in whose jurisdiction the place may be situated.

(4) Commissions intended for execution in the cantonment of Secunderabad, the Residency Bazaars or the Railway lands within H.E. Highness' territory, shall be sent to the District Judge, Secunderabad, the Superintendent of the Residency Bazaars or the District Judge, Railway lands, respectively, as the case may be.

(5) Ordinarily, commissions shall be worded in the language of the court issuing them. But if the language of the executing court be different from that of the issuing court, translations in the language of the executing court or in English shall be appended.

(6) All commissions will contain the names of the witnesses to be examined, together with their correct addresses. The issue of commission in general terms to examine as many witnesses as may be produced should be discontinued.

(7) Sufficient time should be fixed for the execution and return of commissions. (*H.C. Dis.* 677 *of* 1899.)

XIII. TRAVANCORE—

The High Court directs that when a commission is issued to a Zillah Court in Travancore, such court shall invariably be authorized to delegate the execution of the commission to any court subordinate to it.

(*H.C. Cir., d.* 22–9–1890.)

XIV. PUDUKOTTAI—

Warrants of commission issued by courts in British India and addressed to the courts in Pudukottai should be forwarded through the Political Agent.

(*G.O.* 91, *P., d.* 27–5–1882. *H.C. Cir.* 981 *of* 1882.)

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* For the designation of the judges of the district civil courts in H.E.H. the Nizam's Dominions *vide* Chapter II, Processes.

XV. ENGLAND—

(1) With reference to 22, Victoria, Chapter 20, entitled "An Act to provide for taking evidence in suits and proceedings pending before Tribunals in Her Majesty's Dominions in places out of the jurisdiction of such Tribunals," the High Court desires to draw the attention of all courts subordinate to it to the following points, with a view to preventing misunderstandings as to the working of the Act.

First, when a court in the Madras Presidency issues a commission or other process for the examination of witnesses in England, the High Court in England will, according to the construction placed upon the Act, itself appoint an examiner to take the evidence, if application be properly made to it for the purpose; but secondly, that court cannot act in any way unless put in motion by a proper application; and, therefore, in every case in which it is desired to obtain the benefit of the Act, the parties interested must instruct a solicitor in England to apply to the court to make the necessary orders. (*H.C. Cir.* 1512 *of* 1899.)

(2) EVIDENCE RECORDED FOR ENGLISH COURTS UNDER WORKMEN'S COMPENSATION ACT.—When depositions regarding injuries received by masters of ships, seamen, or apprentices are recorded under the provisions of section 7 (1) (*c*) of the Workmen's Compensation Act, 1906 (6 Edw. VII, ch. 58), they should be transmitted direct to England to the Assistant Secretary to the Board of Trade, Marine Department, Whitehall Gardens, London, S.W. (*H.C. Dis.* 847 *of* 1907.)

C.—COMMISSIONS FOR LOCAL INVESTIGATION.

In a case where a court thinks it necessary to inspect a locality by agreement of the parties, but not otherwise, a reasonable sum may be accepted from the parties to defray the expenses and may be allowed as costs.

To prevent any possible abuse of the practice now sanctioned, the High Court directs that, whenever a court subordinate to a District Court thinks it necessary to inspect a disputed locality at such a distance from the court as to entail expense, such subordinate court shall obtain the sanction of the District Judge for the levy of the sums, if any, proposed to be accepted from the parties on account of the expenses of the inspection.
(*H.C. Cir.* 2402 *of* 1881, *and H.C. Dis.* 532 *of* 1914.)

[*N.B.*—For rules regarding the appointment of a commissioner *to take accounts* and to effect partitions—vide rule 106 and Chapter III, Part II *infra.*]

CHAPTER V.

Judgments, Decrees and Orders.

84. *Form of decree and judgment.*—Every decree shall be headed with the full cause title of the suit, appeal or matter, the name of the judge, and the date on which it was passed, and shall state the names of the parties or their pleaders, who appeared at the hearing, and shall be drawn up in consecutive numbered paragraphs. The judgment of the court shall be headed and drawn up in the same manner and shall also state the dates on which the case was heard as in Form No. 24 and a list of the exhibits filed and witnesses examined shall be annexed thereto.

85. *Form of particulars of claim.*—The particulars of the claim to be inserted in the register of civil suits, and in the decree or order, shall follow as far as possible the forms of concise statement given in Form No. 25 and shall contain the amount or value of the claim, and the date when the cause of action accrued.

86. *Specification of periodical payments.*—Where periodical payments are directed, the decree or order shall specify the date of the first payment, and the day of each month or year on which the subsequent payments are to be made, as in paragraph 5 of Form No. 2 of Appendix III-D.*

87. *Statement of Registration District in decree as to immovable property.*—Every decree with respect to immovable property shall state, as part of the description thereof, the registration district or sub-district in which the same is situate; and in cases where the value of the property is required to be estimated for the purposes of the Court Fees Act, 1870, there shall be annexed to the decree a statement of the particulars mentioned in Form No. 8, certified by the officer of the court; and a copy thereof shall be furnished to every party applying for a copy of the decree.

88. *Form of decree when application is under Order XXI, rule* 11.—When, after the passing of a decree for money, an application is made under Order XXI, rule 11 (1) of the Code, the decree shall be made in Form No. 26.

89. *Decree or order for cancellation of registered instrument.*—If a decree or order is passed for the cancellation of an instrument registered under the Indian Registration Act, 1877, or a decree or order passed and registered as aforesaid is reversed or set aside, the successful party shall, within seven days from the date of the decree or order, or of the decree or order reversing or setting aside the same, deposit in court the fee chargeable for the preparation

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* Vide Part II of Vol. II.
For forms—Vide Appx. III-A of Part II, Vol. II.

of a copy of the decree or order to be sent to the Registrar of Assurances; and, unless otherwise ordered, the said fee shall be allowed as costs in the case.

90. *Judgment in matters other than suits.*—The judgment and final order in matters other than suits or appeals, including contested interlocutory applications, execution petitions, and execution applications, shall be drawn up in the same manner as the judgment and decree in a suit.

91. *Setting aside ex-parte decree where money or property recovered under same.*—An order, setting aside an ex parte decree or order, under which a party has recovered any money or property, shall ordinarily direct the same to be brought into court, or possession thereof to be delivered to a receiver, pending the final disposal of the suit or matter, as in Form No. 27. If a decree is then passed dismissing the suit or matter, it shall be drawn up in Form No. 28.

92. *Appellate decree reversing decree where money or property recovered.*—The decree of an appellate court reversing the decree of a lower court under which money or property has been recovered shall direct the repayment of the amount, or delivery of possession of the property recovered, as in Forms Nos. 29 and 30.

93. *Several appeals against same decree.*—If more than one appeal is made against the same decree, the appeals shall, if possible, be heard together and one decree only shall be drawn up which shall be headed with the cause-titles of the several appeals.

94. *Reference to High Court.*—When a case is referred under Order XLVI, rule 1 of the Code, the court shall require the applicant to bring into court stamps requisite for service of notice on himself and all other parties to the suit or appeal, or if the reference is made on the motion of the court, the court shall require each party to bring into court stamps required for service on himself and shall transmit such court-fee stamps with the statement of the case.

COSTS.

95. *Production of certificate of receipt of fee except in certain cases.*—Unless the court otherwise orders, and except in the case of an advocate or pleader appearing on behalf of Government * or the Agent of the Court of Wards, no fee shall in any case be entered as recoverable in a decree or order except on production of a certificate, signed by the advocate or pleader, that he has received such fee.

Explanation.—The fact of a promissory note or other agreement to pay the fee having been given or made by the client does

* The words "or Local Boards" were deleted by *H.C. P. Dis.* 136 *of* 1928.

For forms—Vide Appx. III-A of Part II, Vol. II.

not entitle the advocate or pleader to certify that he has received the fee.

[NOTE.—The explanation was added by G.O. 1720, H. (J.), d. 31-7-1918. *H.C. Dis.* 1410 *of* 1918.]

96. * *Statement of costs.*—(1) Each party shall, within three days from the date of a judgment or order or such further period as may be allowed by the court, bring into court the certificate mentioned in the preceding rule and a statement, in the form contained in Appendix D, Forms Nos. 1 and 2 and Appendix G, Form No. 9, Civil Procedure Code, and signed by him or his pleader, if any, of the costs and expenses incurred by him; and may include therein the costs of preparation of process, the costs of production of any public record, of making or getting copies of pleadings, applications or affidavits, which by the rules are required to be served on the opposite party, of search for encumbrances and of obtaining encumbrance certificates whenever such certificates are required to be produced, and of any adjournment or interlocutory application allowed to him; and shall give credit for any costs allowed to his opponent and shall state the total amount claimed by him. The said statement shall be checked by the officer of the court, who shall note thereon the sums, if any, disallowed, and the total amount allowed by him, and shall sign the same. If any party makes default in filing the said statement, the officer of the court shall prepare and sign a statement of the amount of the institution fee, if any, and the pleader's fee, as fixed by the judge, allowable to the said party. Every party shall be entitled to inspect and take a copy of the said statement.

Unless the court otherwise orders, no allowance shall be made for the costs of, or occasioned to, any party by the amendment of any pleading.

The costs of preparation of process shall be calculated at the following rate :—

For preparation of original process—Two annas each.

For preparation of each duplicate process—Half an anna each.

Subject to a minimum fee of four annas in each suit.

(2) The statement referred to in paragraph (1) shall be signed by the judge, and shall form part of the record of the case; and the total amount of costs allowed to the party to whom costs have been awarded, shall be inserted in the decree or order before the same is signed by the judge.

97. *Costs when set-off allowed.*—If a defendant is allowed a set-off claimed by him, the court may, in its discretion, allow costs to the plaintiff in respect of the suit, and to the defendant in respect of his set-off. The total amounts of the said costs

* As amended by *H.C. P. Dis.* 40 *of* 1931.

respectively shall be inserted in the decree or order, and shall be set off against one another, and the decree or order shall direct payment of the balance to the party to whom the same is due, as in Form No. 31.

WITHDRAWAL OF SUIT OR APPEAL.

98. *Notice of application for leave to withdraw.*—Notice of an application for leave to withdraw from a suit, matter, or appeal, shall be given to all parties who have appeared at the first hearing; or, if the application is made before the first hearing, then, to all parties who have filed an appointment of a pleader.

99. *Order on application for leave to withdraw.*—Unless the court otherwise orders, an order under Order XXIII, rule 1 of the Code permitting a party to withdraw from a suit, matter, or appeal, shall be made conditional upon payment of the costs of the defendant or respondent, as in Form No. 32; and, if the respondent has filed a memorandum of objections, leave to withdraw shall be granted only, with the consent of the respondent, or upon the condition that the said objections be allowed, and the decree or order appealed against be varied accordingly.

TAKING ACCOUNTS.

100. *Direction as to taking accounts.*—If, in any suit or matter, it is necessary to take an account, the interim decree shall specify the nature of the account and the date from which it is to be taken, and, if the account is to be taken by the court, shall direct by whom a statement of account is to be filed, and limit the periods within which statements of account, objection, and surcharge, shall respectively be filed in court, as in Form No. 40. The suit or matter shall then be adjourned to a fixed day.

101. *Form of statement of account.*—(1) A statement of account shall be in the form of a debtor and creditor account and shall be verified by the affidavit of the accounting party or his agent. The items on each side of the account shall be numbered consecutively, and a balance shall be shown.

(2) A statement of objection to an account, or to the report of a commissioner, shall specify the items to which objection is taken, by reference to their number in the account or report, or the date of the item and page of a particular book of account, or otherwise, as in Form No. 33.

(3) A statement of surcharge shall specify the amount with receipt of which it is sought to charge the accounting party, the date when, the person from whom, and the particular account on which, the same was received by him, as in Form No. 33.

(4) A statement of objection or surcharge shall also state

For forms—Vide Appx. III-A of Part II, Vol. II.

shortly and concisely the grounds of the objection or surcharge; and shall also state the balance, if any, admitted or claimed to be due, as in Form No. 33.

102. *Inspection by parties.*—Every party to the suit or matter shall be at liberty to inspect and take notes of a statement of account, balance sheet, statement of objection and surcharge, or report or proceedings of a commissioner, when filed in court.

103. *Passing of accounts by court.*—On the adjourned hearing the court shall consider the objections and surcharges made, and determine the amount due.

104. *Extension of time to file statement of account.*—If any party has not filed his statement of account or of objection and surcharge, within the period limited, the court may from time to time extend such period or direct any other party to file a statement of account, or proceed to decide the suit forthwith on the evidence before it. Evidence shall not be admitted with respect to an objection or surcharge not included in a statement of objection or surcharge.

105. *Periodical filing.*—When a person is directed to file his accounts periodically, the court shall fix the dates in each year before which his statement of account and balance sheet are to be filed and on which the same will be considered by the court.

REFERENCE TO A COMMISSIONER TO VOUCH OR TAKE ACCOUNTS.

106. *Appointment of commissioner.*—If a commissioner is appointed, the order appointing him shall specify the several dates before which his report and the objections of the several parties thereto, shall respectively be filed in court; and the suit or matter shall be adjourned to a fixed day.

107. *Appointment to audit.*—If the court finds that the books of account have been regularly and properly kept, and correctly represent all the dealings and transactions in question, the court may appoint a commissioner to audit the accounts and vouch the items thereof, and to prepare a statement of account and balance sheet, as in Form No. 34.

108. *Declaration by court.*—If the court finds that any items have been included in the books of account which do not form part of the transactions in question, or are not properly chargeable to any party, or that any transactions have not been included in the said books, it shall declare generally the nature of the transactions or items to be excluded or included in taking the accounts, as in Form No. 35, and the commissioner shall be empowered to state what, in his opinion, should be allowed or disallowed in these respects, as in Form No. 36.

For forms—Vide Appx. III-A of Part II, Vol. II.

109. *Report of commissioner.*—The commissioner shall make his report in manner prescribed by Form No. 37, and shall annex thereto a statement of the proceedings had before him, together with lists of the witnesses examined and exhibits marked by him. If he is empowered to state his opinion on the matter referred to him, he shall append to his report schedules setting out the several contested items allowed or disallowed by him, and stating shortly his reasons for so doing, as in the said form.

110. *Consideration by court.*—At the adjourned hearing of the suit, the court shall consider the objections, if any, of the several parties to the statement of account and balance sheet or to the report of the commissioner, and may, if necessary, direct any party to bring in a fresh account and balance sheet, or refer the report to the commissioner, with fresh directions, as to the manner of vouching or taking the accounts.

CIRCULAR ORDERS.

Judgments.

I. DELAY IN DELIVERING JUDGMENTS—

The High Court directs that District Munsifs and Subordinate Judges should submit monthly returns * to the District Judge showing—

(*a*) the number of suits and appeals in which arguments have not been heard within 14 days after the closing of evidence, and

(*b*) the number of suits and appeals in which judgments have not been delivered within 14 days of the termination of arguments.

(*H.C. P. Dis.* 413 *of* 1928.)

Similar statements should accompany the periodical statistical statement No. IX, Part I, to the High Court. (*H.C. P. Dis.* 412 *of* 1928.)

II. PREPARATION OF JUDGMENT—

(1) The judgment of a court of original jurisdiction should follow the order in which the matters it is required to contain are given in Order XX, rule 4 (2) of the Code. The concise statement of the case should set out all the material averments of the pleadings, and the decision on each of the points for determination should be distinctly noted. (*H.C. Cir.* 47 *of* 1892.)

(2) Witnesses should be described in the judgment not merely as "4th witness for the Plaintiff," "2nd witness for the Defendant" and the like but by their names. The names of the witnesses should be given not necessarily on each occasion of reference or at full length, but sufficiently to denote the persons meant. (*H.C. Cir.* 2126 *of* 1876.)

(3) "Judgments of courts other than courts of small causes must contain, under the provisions of Order XX, rule 4 (2) of the Code, 'a concise statement of the case, the points for determination, the decision thereon, and the reasons for the decision'.

A judgment should set forth the evidence on each issue sufficiently to show what was its nature, what it proposes to establish, and what is its credibility, should apply the law, and show the reasons for the final conclusions. It is not necessary that an abstract should be given of the evidence of every witness, and the reasons should not be laboured. While the judgment in itself should make the whole case comprehensible, it cannot obviously be accepted as a substitute for the record. While it should assist the appellate court, if an appeal is filed, it should not attempt to relieve the appellate court of any portion of its duties.

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* Vide Form No. 5 in Appx. III-M of Part II, Vol. II.

Judgments in India are usually too long, and too laboured. The tendency is not to be satisfied with being convincing, but to be exhaustive. This tendency has been strengthened by the habit of some presiding officers of appellate courts to expect too much from the judgment. Criticism is sometimes levelled too freely at supposed omissions. Subordinate judges and munsifs have undoubtedly become sensitive on this point, and take refuge in excessive caution. The result is expenditure of unnecessary time and energy.

* * * * *

The rule requiring a judgment to contain a concise statement of the case is misunderstood in many courts. All that it requires is that the case should be stated in a few words so as to bring out its nature. The details of contest are found in the issues." (*Recommendations of the Civil Justice Committee*; *H.C. Dis.* 404 *of* 1926.)

(4) The attention of all civil courts is invited to the observations of the High Court in the following judgment in Appeal No. 111 of 1916:—

ABDUR RAHIM J.—" I may point out that the judgment of the learned Subordinate Judge in this case is unduly prolix covering 90 printed pages. It begins with verbatim copies of the pleadings, then sets out the issues and under each issue states the contentions and arguments of the parties at great length. In dealing with the evidence, no attempt is made to concentrate attention upon such evidence as really throws light upon particular issues; similarly with regard to the reported cases many passages are quoted at length although the observations bearing on the questions at issue could be compressed within much shorter compass. There is a great deal of repetition throughout the judgment with the result that it has necessarily taken up much of the time of this court in finding out the conclusions of the learned Judge and the reasons on which those conclusions are based. We take this occasion to point out the desirability on the part of the lower courts to endeavour to set out the facts of the case, the questions for decision and the reasons for their conclusions in a way which would be of help to the appellate court in ascertaining without unnecessary difficulty how the case has been tried and how far the conclusions of the trial were justified."

OLDFIELD J.—" I concur in my learned brother's observations on the character of the lower court's judgment. I may add that it seems to me regrettable that the lower courts should think it necessary to set out the whole of the pleadings, as they usually do, *in extenso* in their judgments, especially where they are, as here, voluminous, in disregard of the fact that the parties usually think it necessary to print them, as in fact has been done in this case." (*H.C. Dis.* 578 *of* 1919.)

III. JUDGMENT NOT TO BE PRONOUNCED ORDINARILY WHEN THE COURT IS CLOSED—

It has come to the notice of the High Court that in several courts judgments appear to have been delivered while the courts were closed for the annual vacation. The High Court considers this practice very objectionable.

The High Court therefore prohibits the delivery of judgments during the annual adjournment of the courts or on any day when the court is closed, unless there be any urgency, and in such a case due notice ought to be given to the parties or their pleaders and not merely by affixing a notice on the notice board of the court. Further, in any case of urgency in which judgment is delivered on a day on which a court is closed, arrangements should be made for the receipt of applications for copies thereof.
(*H.C. Dis.* 1089 *of* 1903.)

IV. PRONOUNCING OF JUDGMENTS WRITTEN BY A JUDGE'S PREDECESSOR—

Order XX, rule 2 of the Code, authorizes a judge to pronounce a judgment, which was written by his predecessor even after the latter handed over charge; but this, in the opinion of the High Court, should rarely be necessary. Every endeavour should be made by judicial officers, not only to write, but to pronounce judgments in all cases completely heard by them before handing over charge.

For forms—Vide Appx. III-A of Part II, Vol. II.

Circular Order R. Dis. No. 107 of 1948.

Civil Rules of Practice and Circular Orders Volume I - Time for drawing up decree - Amendment of instructions.

The following shall be substituted for the first paragraph of item VI of the Circular Orders under Chapter V of the Civil Rules of Practice and Circular Orders Volume I (page 121):-

VI. Time for drawing up decree. The fair copy of the judgment required for the record in Court shall be prepared within five days and every decree shall be drawn up within ten days of the date on which judgment is pronounced. Decrees in intricate or important cases may be shown to the legal practitioners concerned before they are finally drawn up and in such cases a further time of two days i.e., twelve days in all, may be allowed.

High Court of Judicature.
Dated 13th Feb.1948.

Sd. T. H. Nagothama Rao,
for Registrar.

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A.No.75/48. -District Court, Nellore.
Dated 18th February 1948.

Spare copies communicated to all the lower courts in the District. Copy to the Head clerk, District Court, Nellore. The rule should be strictly followed.

Sd. Y. Subba Row,
District Judge.

/ By Order /

Sherishtadar.

2. When reporting to the High Court the date of delivery of charge of their office, officers relieved shall enclose a list of cases heard by them and closed in which judgments remain unwritten. District Munsifs and Subordinate Judges shall invariably submit these reports through the District Judges who should satisfy themselves that the judgments are subsequently delivered without undue delay. District Judges on relief shall also furnish similar lists when reporting delivery of charge to the High Court.

3. No case shall under any circumstance be entered as disposed of until judgment has been written and signed and pronounced in open court.

(*H.C. Dis.* 1830 *of* 1918.)

NOTE.—It has recently come to the knowledge of the High Court that suits in which judgment was not pronounced, were shown in the statistics as disposed of, merely because the District Munsif had indicated what would be his decision. This is an evasion of the rule and cannot be permitted.

Unless a written judgment is delivered or judgment is dictated in open court, there is no disposal in the statistical sense.

(*H.C. P. Dis.* 238 *of* 1934.)

Decrees.

V. REDEMPTION DECREE IN MORTGAGE SUITS—COSTS OF IMPROVEMENTS TO BE DETERMINED PRIOR TO DECREE—

In suits, such as suits for the redemption of mortgages where payment of the costs of improvements is decreed to be a condition precedent to the recovery of the property, the court should, before passing a decree, decide in respect of what improvements the party in possession is, up to the date of the decree, entitled to compensation, and the amount of compensation. Such questions involve, not infrequently, difficult points of fact and law, and it is just that an opportunity should be afforded to any party deeming himself aggrieved by their decision to raise them on the hearing of the suit in appeal. The Code does not, in the opinion of the High Court, contemplate the postponement of these questions to proceedings in execution if they can be ascertained at the trial of the suit.

This view does not preclude the ascertainment and valuation in execution of decree, of improvements which, under certain circumstances, the person in possession may be entitled to effect subsequent to decree.

(*H.C. Cir.* 973 *of* 1880.)

VI. TIME FOR DRAWING DECREE—

Every decree should be drawn up within five days from the date of pronouncing judgment and the fair copy and translation of the judgment required for record in court should also be completed within the same time.

(*Pro., d.* 6-9-1860.)

NOTE.—In the case of Small Cause Suits "Fair" judgments will be required only in contested suits. (*H.C. Dis.* 462 *of* 1915.)

VII. PREPARATION OF DECREE—

1. Delay frequently occurs in the admission of appeals in the High Court in consequence of the omission from the decrees appealed against of sufficient particulars of the valuation of the claim in the suit or appeal before the courts below. The attention of all courts is accordingly directed to the requirements of Order XX, rule 6 of the Civil Procedure Code and to rule 87 supra.

The particulars of the claim including the value thereof or of each particular part thereof as entered in the register * should invariably be stated fully and accurately in the decree, and the memorandum of valuation prescribed in rule 87 should be appended without fail to every copy of the decree granted.

In all decrees in appeals, similar particulars of the claim should be entered, the value of the claim in the suit and in the appeal being separately noted where they differ.

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* Vide Civil Register No. 1, Appx. II of Part II, Vol. II.

By reason, moreover, of the notification of the Government of India, dated 6th October 1893, No. 4344 S.R. [*H.C. Cir.* 3152 *of* 1893—vide Chapter I-A of Part II] it is now necessary that appellate courts should have information as to the amount at issue in certain appeals from orders, namely, those which under the notification are chargeable with *ad valorem* fees. Accordingly the High Court directs that whenever a court makes an order such that an appeal against it is chargeable with an *ad valorem* fee, the court shall append to the order a memorandum of the value of the subject-matter in dispute therein. (*H.C. Cir.* 2253 *of* 1894.)

2. The attention of all civil courts is drawn to rule 6 (2) of Order XX, rule 35 (3) of Order XLI, and rule 2 of Order XLIII and Forms 1 and 2 of Appendix D and Form 9 of Appendix G of the First Schedule of the Code of Civil Procedure, 1908, in accordance with which the costs of both parties should be shown at the foot of every decree. These provisions have superseded the direction in rule 96 of the Civil Rules of Practice, 1905, that the total amount only of the costs allowed should be inserted in a decree. (*H.C. Dis.* 1713 *of* 1910.)

VIII. Form of preliminary decree for sale in mortgage suits—

The attention of all District Judges, Subordinate Judges and District Munsifs is drawn to the fact that the drafting of preliminary decrees for sale in mortgage suits in old Civil Miscellaneous Form No. 4 instead of in Form No. 4 of Appendix D of the Code of Civil Procedure, 1908, gives the mortgagee decree-holder a personal decree in the first instance against the mortgagor judgment-debtor along with a decree for sale. The decree-holder is thus given an option to proceed against the person and other properties of the mortgagor judgment-debtor before exhausting his remedy against the suit mortgaged property, which is contrary to the provisions of Order XXXIV, rules 4, 5 and 6 of the Code of Civil Procedure, 1908.* Care should therefore be taken to see that in drawing up preliminary decrees for sale in mortgage suits, old Civil Miscellaneous Form No. 4 is no longer used, but Form No. 4 of Appendix D of the Code of Civil Procedure, 1908, is strictly followed. (*H.C. Dis.* 2067 *of* 1926.)

IX. Transmission of decree to Registering Officer—

When any court has passed a decree under section 39 of Act I of 1877 (the Specific Relief Act) for the cancellation of an instrument registered under the Indian Registration Act, or when any appellate court reverses a decree which has been so passed and registered, the court shall forthwith cause a copy of the decree on plain paper to be forwarded to the Registering Officer.

When an appellate court reverses or when the Court of Second Appeal restores the decree of a Court of First Instance of which a copy has been transmitted to the Registering Officer under the provisions of the Act above mentioned, it shall transmit a copy of its decree to the Registering Officer.

(*H.C. Cir.* 204 *of* 1880, *and H.C. Dis.* 1219 *of* 1917 *and Rule* 89 *supra.*)

X. Compromise decrees—

It has come to the notice of the High Court that in drafting a decree passed in terms of a compromise entered into between the parties the procedure prescribed in Order XXIII, rule 3, and Order XX, rule 9 of the Civil Procedure Code is not followed in some courts, and that where a compromise includes matters which do not form part of the subject-matter of the suit it has been the practice to include all the terms of the compromise in the operative portion of the decree. This practice, besides being opposed to the abovementioned provisions of the Civil Procedure Code, is said to present some difficulty to the Registration Department in ascertaining whether property not forming part of the subject-matter of the suit has or has not been included in the compromise decree.

The High Court directs that, in drafting compromise decrees, courts should strictly observe the provisions of Order XXIII, rule 3, and

* Vide I.L.R. 38 Madras 677.

Order XX, rule 9 of the Civil Procedure Code, and that the second of the two methods indicated by Their Lordships of the Judicial Committee in *Hemanta Kumari Debi* v. *Midnapur Zemindari Co.* (I.L.R. 47 Cal., p. 485 at pp. 495 and 496) be adopted. After reciting that the compromise set out in the schedule refers to not only the subject-matter of the suit but also to certain properties extraneous to it, the decree should in the operative portion deal only with the subject-matter of the suit, which will be clearly and fully described as is done in the plaint schedule or schedules. The compromise itself should be introduced as a schedule to the decree.

(*H.C. P. Dis.* 612 *of* 1936.)

CHAPTER VI.

Special Procedure in Particular Cases.

A.—Minors and Persons under Disability.

111. *Plaint or original petition on behalf of minor.*—When a plaint or original petition is presented by a person as the next friend of a plaintiff, who is a minor or under disability, he shall at the same time file an affidavit by some disinterested person that he has no interest, direct or indirect, in the subject-matter of the suit or matter, adverse to that of the plaintiff, that he is not a defendant or respondent in the suit or matter, and that he is a fit and proper person to act as next friend.

112. *Appointment of guardian ad litem.*—If the plaintiff applies for appointment of a guardian *ad litem* of a minor defendant, he shall give not less than six days' notice of the application to the father, or guardian, or custodian, of the minor.

113. *Placing guardian in funds.*—When a guardian *ad litem* of a defendant, who is a minor, or a person under disability, is appointed, and it is made to appear to the court that the guardian is not in possession of any, or sufficient, funds for the conduct of the suit on behalf of the said defendant, and that the defendant will be prejudiced in his defence thereby, the court may, from time to time, order the plaintiff to pay through or in the presence of the court moneys to the guardian for the purpose of his defence, and all moneys so paid shall form part of the costs of the plaintiff in the suit. The order may be made conditional upon the guardian filing in court his accounts of the money so received by him.

B.—Partnership Suits.

114. *Parties.*—In a suit for dissolution of partnership, or for an account of partnership dealings, all the partners, and all persons entitled to share in the profits of the partnership business, shall be made parties. The plaint may be as in Form No. 38.

115. *Inspection of books of account by parties.*—If, at any time, it appears to the court that any party has not had inspection of the books of account or papers of the partnership, either through his own neglect or the default of any other party, the court may order the same to be produced for his inspection at the court-house or other convenient place; and if any party alleges that the books of the partnership do not correctly set forth all the dealings and transactions of the firm, or contain items or transactions not proper to be included therein, the court shall direct such party

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For forms—Vide Appx. III-A of Part II, Vol. II.

to file a written statement giving particulars of the errors or irregularities complained of, as in Form No. 39. The hearing of the suit shall then be adjourned, and the party in default may be ordered to pay the costs of the adjournment.

116. *Impeachment of settled account.*—If any party desires to impeach a settled account on the ground of error, he shall in his plaint or written statement set out the specific errors or irregularities alleged by him; if on the ground of fraud, or of a mistake affecting the whole account, he shall in his plaint or written statement set out full particulars of the fraud or mistake alleged by him.

117. *Interim decree where partnership and books admitted.*—If at the first hearing of the suit, the partnership, and the terms thereof, and the correctness of the books of account, are admitted, and it is only necessary to take an account, the court may at once pass an interim decree specifying the account to be taken, and the manner of taking the same.

118. *Matters to be determined at hearing.*—At the hearing of the suit the court shall determine the persons who are partners of the firm, and who are entitled to share the profits thereof, and the proportions in which they are entitled to share profits and are liable for losses, and also whether the books of the partnership have been regularly and properly kept and correctly represent the transactions and dealings of the partnership, or if any allegations have been made in this behalf by any party, whether there are any errors or irregularities therein, or any party has been guilty of fraud in respect thereof. If the court finds that there are errors, or irregularities in the accounts, or that fraud has been committed, it shall declare generally the nature of the said errors, or irregularities, or fraud, or the particular transaction in respect of which the same has been committed, as in Form No. 35.

119. *Court to give directions as to taking accounts.*—At the hearing of the suit, the court shall also determine what accounts are to be taken, and from what date, and give such directions as may be necessary for taking the same, in manner prescribed by rules 100–110, and shall direct what notice, if any, is to be given, by advertisements in the local newspapers or otherwise, of the dissolution of the partnership. The court may, if a receiver has not been previously appointed, appoint a receiver of the assets of the partnership. The court shall then pass an interim decree in Form No. 40, or Form No. 41, and shall adjourn the further hearing of the suit to a fixed day.

120. *Errors in settled account.*—In the case of a settled account, if errors or irregularities are proved, the court may either rectify particular items, or give liberty to any party to file a statement of

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For forms—Vide Appx. III-A of Part II, Vol. II.

objection and surcharge; if fraud, or a mistake affecting the whole account is proved, the court may direct an account to be taken from the date of the settlement of accounts, if any, preceding the fraud or mistake.

121. *Commission to take account.*—If a commissioner is appointed to take an account, he shall take the same in accordance with the directions and findings of the court, as contained in the interim decree; and except as aforesaid, none of the matters in rules 118 and 119 mentioned shall be referred to or dealt with by a commissioner.

122. *Order for discharge of debts and liabilities.*—When the accounts of the firm have been duly taken and approved by the court, it shall pass an order providing for the discharge of the debts and liabilities of the firm, and for the retention in court of a sum sufficient for payment of any costs, charges, and expenses of the suit, properly payable out of assets, and adjourn the suit to a fixed day.

123. *Distribution of assets where they exceed the liabilities.*—If the assets exceed the debts and liabilities of the firm, and if the parties agree to retain the assets in their hands respectively, on account of their respective shares in the firm, the order in rule 122 mentioned may also provide for the payment of any balances which may be due by the firm to any of the parties, after debiting them with the estimated value of the assets in their hands. The order may be in Form No. 42, or if a commissioner has been appointed to take the accounts or a receiver has been appointed, in Form No. 43. If the parties apply for the distribution of the assets in any other manner, the order may direct the realization of sufficient assets to discharge the debts and liabilities of the firm, and to provide for equality of partition, as in Form No. 44. At the adjourned hearing the court may, if the terms of the said order have been complied with, pass a final decree in Form No. 45, 46, or 47, according to the circumstances of the case.

124. *Procedure where liabilities exceed the assets or where parties do not consent to a distribution of assets.*—If the debts and liabilities exceed the assets of the partnership, or the parties do not consent to a distribution of the assets, the court shall direct the balances due from the several partners to be paid into court, and the assets to be realized, as in Form No. 44; and if, at the adjourned hearing, it appears that the debts and liabilities have been fully discharged, the court may pass final decree in Form No. 46, omitting paragraph 4 thereof.

125. *Appointment of receiver on default of party.*—If any party ordered to make any payment, or to do any other act, fails to comply with the order of the court, any other party may apply

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For forms—Vide Appx. III-A of Part II, Vol. II.

that a receiver may be appointed to collect and realize the assets of the firm, and for an injunction to restrain the party in default from retaining or parting or dealing in any manner with the said assets.

126. *Forms of orders.*—An order for an injunction in a partnership suit, an order on appeal varying the interim decree, and an order on appeal from the final decree reversing the same and appointing a receiver, may be as in Forms Nos. 48, 49 and 50, respectively.

C.—SUITS BY PAUPERS.

I. PROCEDURE ON DEATH OF A PAUPER—

It is not necessary on the death of a pauper plaintiff to direct that the suit shall abate. His heir may be allowed to carry on the suit as a pauper, provided he first proves his pauperism in the manner prescribed by the Code.
(*H.C. Pro.* 1987 *of* 1872.)

II. PROCEDURE WHEN FRESH DEFENDANTS ARE ADDED—

If fresh defendants be brought into a suit instituted by a pauper, they are entitled to show cause against his being allowed to sue *in forma pauperis*, if they ought to have been made defendants in the first instance.
(*H.C. Pro.* 1987 *of* 1872.)

III. COPIES OF DECREES TO BE SENT TO COLLECTORS—

1. Copies of all decrees, original and appellate, passed in pauper suits, must be communicated to the Collector of the district in which the court passing the decree is situated. (*H.C. Pro.* 1987 *of* 1872.)

2. The Board of Revenue has brought to the notice of the High Court several instances in which there has been excessive delay in the communication of decrees passed in pauper suits to the Collectors concerned, as required by High Court Proceedings No. 1987 of 1872, and points out that such delays are calculated to interfere with the realization of Government dues and defeat the object with which the communication of such decrees was ordered. The High Court accordingly directs that copies of all decrees, original and appellate, passed in pauper suits, shall henceforth be communicated forthwith to the Collectors concerned.
(*H.C. Cir.* 822 *of* 1899 *and O. XXXIII, r.* 14, *sch. I, C.P.C.*)

IV. RECOVERY OF STAMP DUTY DUE TO GOVERNMENT—

The Board of Revenue has invited the attention of the High Court to the fact that in pauper suits for maintenance, the plaintiff, if successful, generally gets only a small subsistence allowance and if the court directs the recovery of the stamp duty due to Government from the plaintiff, the Government dues become irrecoverable,

(1) because it is not desirable to deprive the plaintiff of the actual means of subsistence, and
(2) because the cost of the execution proceedings to be taken periodically exceeds the sum recoverable in each instalment.

The Board suggests that in the interest of revenue the defendants should be made to pay the pauper stamp duty awarded to Government, as they are not wholly immune from blame in making the plaintiff resort to court.

The High Court agrees with the Board of Revenue and desires that courts should in all suitable cases use the discretion vested in them under Order XXXIII, rule 10 of the first schedule to the Code of Civil Procedure, by directing the defendants to pay the stamp duty due to Government.
(*H.C. Dis.* 726 *of* 1926.)

D.—Summary Procedure on Negotiable Instruments.

1. District Judges and Subordinate Judges empowered—

The Governor in Council hereby declares, with reference to the provisions of section 538 (Order XXXVII, rule 1) of the Code, that sections 532 to 537 (both inclusive) (Order XXXVII, rules 2 to 7) relating to summary procedure on negotiable instruments shall apply to all District Courts and Courts of Subordinate Judges in the Presidency. (Judicial Notification, d. 17th October 1877, published at page 682, Part I, *Fort St. George Gazette*, dated 23rd October 1877.)

2. District Munsifs empowered—

In exercise of the powers conferred by section 538, Civil Procedure Code, 1882 [Order XXXVII, rule 1 (*d*), Code of Civil Procedure, 1908], the Governor in Council is pleased to declare, in continuation of Notification, dated 17th October 1877, that sections 532 to 537 (both inclusive) (Order XXXVII, rules 2 to 7) of the Code of Civil Procedure, relating to summary procedure on negotiable instruments, shall apply to all District Munsifs' Courts in the Presidency. (Judicial Notification No. 2, dated 1st January 1883, published at page 1, *Fort St. George Gazette* Extraordinary, 1883.)

3. Judge, City Civil Court, Madras, empowered—

See clause (*b*) of rule 1 to Order XXXVII of the First Schedule to the Code of Civil Procedure, Act V of 1908.

(*G.O. Ms. No.* 2055, *H., d.* 31-5-1937.) (*H.C. P. Dis.* 640 *of* 1937.)

E.—Suits relating to Public Matters.

1. Collectors empowered—

Under section 539, Act XIV of 1882 (section 93, Code of Civil Procedure, 1908), His Excellency the Governor in Council hereby sanctions the exercise of the powers conferred by the above section (now section 92) by all Collectors, excepting the Collector of Madras, within their several districts.

(*G.O. No.* 323, *J., d.* 8-2-1883.)

2. Jurisdiction of Subordinate Judges—

In exercise of the powers conferred by clause (1) of section 92 of the Code of Civil Procedure, 1908 (Act V of 1908), the Governor in Council is pleased to invest all courts of Subordinate Judges in the Presidency of Fort St. George with jurisdiction under the said Act in respect of suits relating to trusts created for public purposes of a charitable or religious nature. (Judicial Notification 105, dated 20th February 1909, as amended by Notification 719, dated 17th October 1910.)

(*H.C. Dis.* 357-*B of* 1909 *and* 1622 *of* 1910.)

F.—Fraudulent Suits.

Adoption of measures for preventing the institution of groundless civil suits.

1. (*a*) There appears some reason to think that the institution of fraudulent suits is becoming increasingly common; and the Government of India think it of importance to ensure that the resources of the existing law should be directed to the repression of the evil as effectively as possible. They are inclined to think that the best way would be to arrange that where clear evidence is forthcoming that suits have been fraudulently instituted, the suitor should be prosecuted under section 209 or section 210, Indian Penal Code, at the expense of the State. But from the nature of the circumstances there may be difficulty in pressing prosecutions to a successful issue, and for this reason it is desirable to give further assistance for the investigation and prosecution of such offences.

(*b*) Subordinate civil courts are informed that the Criminal Investigation Department is at the service of the courts for any inquiries they may wish to have made into cases of the kind referred to in which fraud is alleged or suspected. The request for assistance should be addressed to the officer in charge of the Criminal Investigation Department who should be instructed to comply with it promptly. In cases in which the civil courts have ordered or sanctioned a prosecution under section 209 or 210 of the Indian Penal

Code without first invoking the aid of the Criminal Investigation Department, the magistrate taking cognizance of the offence may, if he thinks fit, ask for that assistance. In all such cases the costs of the prosecution including the actual expenses incurred by the defendant and his witnesses should be borne by the Government of the province in which the case is tried.

(*c*) When the parties to the civil suit live in different provinces and inquiries are necessary in both, the assistance of the Director of Criminal Intelligence may be required. In that case the head of the Provincial Criminal Investigation Department should forward the papers to him, including the record of such inquiries as have been made locally, and the control of the investigation and prosecution will then pass into the Director's hands.

(*d*) Where there is evidence that the plaintiff has given or fabricated false evidence in the course of the suit, a charge under section 193, Indian Penal Code, should be added to those under sections 209 and 210, since the offence punishable under section 193 is more serious and carries a more severe penalty than those punishable under the other two sections.

(*G.Os.* 1375, *J.*, *d.* 14-8-1906 *and* 2048, *J.*, *d.* 11-12-1906. *H.C. Dis.* 875 *of* 1906.)

II. The only way to deal with the evil of fraudulent suits is promptly and vigorously to prosecute any cases that come to light and which appear to offer a reasonable prospect of success. The courts will in any case have to be set in motion by an application presented by the defendant in the groundless suit, in person or by pleader. As, owing to the trouble and expense involved as well as the disturbances of their ordinary employments, defendants are very averse from taking such action, the Criminal Investigation Department should come to their aid. Nothing is however possible until the case comes to the notice of the Collector of the district in which the defendant lives, or of some other interested authority who would ordinarily report the circumstances to the Collector. When this occurs the following procedure might be followed. As soon as the Collector has discovered a claim which there is good reason to believe is a fraudulent one, he should inform the local Criminal Investigation Department, which will institute such further inquiries as may be necessary in the district in which the defendant resides. Should the case appear to be one that ought to be taken up, the subsequent procedure would depend on whether the civil suit was instituted in the same or in another province. If in the same province, the defendant should be induced, if possible, to execute a vakalatnama in favour of a respectable pleader practising in the civil court where the suit was filed, and an application should be made stating the grounds on which the suit is considered fraudulent, asking for the criminal prosecution of the plaintiff, and, if necessary, praying for a full inquiry through the agency of the Criminal Investigation Department. If the civil suit was instituted in another province, the Director of Criminal Intelligence would be addressed and asked to take charge of the case, the future conduct of which would be under his control. In either event the costs of the proceedings would be borne by the Criminal Investigation Department from the time when they take up the case.

(*G.O.* 1667, *J.*, *d.* 26-9-1907. *H.C. Dis.* 1078 *of* 1907.)

III. The Government of India sanction the adoption of the procedure described below:—

(*a*) When a Collector has reasonable grounds to believe that a suit instituted in another province is fraudulent, he should be empowered to call in the aid of the local Criminal Investigation Department, and to ask for a preliminary inquiry in order to satisfy himself that there are grounds to institute a criminal prosecution against the plaintiff in the suit. He should then communicate with the Collector of the district in which the false suit has been instituted, and ask for the services of the Public Prosecutor or Government Pleader, and at the same time arrange to have a power of attorney drawn up in favour of such Government Pleader at the place of suit and forwarded to him for execution. The defendant would then execute the power of attorney and send the necessary instructions and affidavits, and the Government Pleader would prepare his brief and appear for the defendant. In the event of the suit being proved to be fraudulent, even though an *ex parte* decree might have been given, the Government Pleader would apply to the court for the prosecution of the offender under section 209 or 210, Indian Penal Code, as the case might be. When sanction has been obtained it would be convenient and would expedite matters at this stage

of the proceedings if the subsequent inquiry were handed over to the Criminal Investigation Department of the province in which the suit was instituted instead of being entrusted to the Central Criminal Investigation Department after the preliminary inquiry is completed, at the stage when the Police could not take cognizance of the offence.

(*b*) In order to ensure as far as possible the success of the subsequent proceedings in these cases, it is necessary that the preliminary inquiry should be searching and complete, and the Government of India therefore consider that the Collector of the district in which the defendant resides should invariably call in the local Criminal Investigation Department to make the preliminary inquiry and to prepare the case. If this preliminary inquiry goes to show that a false suit has been instituted, a copy of the statement of the case, with the papers and translations of such statements, etc., as are recorded in the vernacular, should be sent to the Criminal Investigation Department of the province in which the false suit was brought to be utilized in the criminal proceedings undertaken after the decree has been set aside on the ground of fraud.

(*c*) The costs of the proceedings are to be borne by the * [Provincial Government] within whose territories the expenditure may be incurred.

(*G.O.* 131, *J.*, *d.* 21–1–1910. *H.C. Dis.* 280 *of* 1910.)

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* Subs. by the A.O. for "L.G."

CHAPTER VII.

Appeals.

I. Registering Appeals received by transfer.

No uniformity is observed as regards giving numbers to appeals transferred from the District to the Subordinate Judges' courts. In districts in which appeals are instituted in Subordinate Judges' courts new numbers should invariably be given to transferred appeals. In districts in which appeals are instituted in the District Court alone, appeals which are transferred to Subordinate Judges' courts should be given new serial numbers in the Subordinate Judges' courts, and the numbers of the court from which they were transferred should be shown within brackets.

(*H.C. Dis.* 2319 *of* 1915.)

II. Issue of Notice to Respondent.

The notice issued under Order XLI, rule 12 of the Code is to the respondent only; appellants are required to take notice of all orders of the court fixing dates for the hearing or adjourned hearing of appeals, without being served with any special notice.

Notices to respondents should always be issued immediately upon an appeal being registered, and in cases where the Government have undertaken the defence of the suit in the court of the first instance, sufficient time should be allowed to enable the Collector to obtain the instructions of the Board of Revenue and Government as to appearing in and defending the appeal. (*Pro. d.*, 7–12–1860.) (Vide Order XLI, rule 14 of Schedule I of the Code of Civil Procedure.)

III. Transmission of Papers to Appellate Court.

(1) The list of material papers transmitted to the appellate court is to specify each paper according to its order in the suit, e.g., "Plaint," "Written Statement of Defendant," "Depositions of witnesses first to ninth," "Plaintiff's exhibits A to E," "Defendant's exhibits I to III."

(*Pro., d.* 5–12–1860.)

(2) Extract from the diaries kept by the lower courts relating to the case should in all cases be submitted. (*H.C. Cir.* 277 *of* 1868.)

(3) Where papers belonging to other suits have been referred to in the judgment of the lower court, copies of all such papers are invariably to be transmitted to the appellate court with the material papers of the suit.

(*H.C. Pro., d.*, 3–5–1861.)

(4) When appeals against an order in execution of a decree have been preferred to the High Court, the court by which the order was passed is required to send up the decree and all papers connected with the order together with a statement (to be signed by the judge) setting out briefly all the matters of fact upon which the order was passed and the date of every step in the proceedings. (*H.C. Cir.* 4 *of* 1868.)

(5) In consequence of the difficulty frequently experienced at the hearing of appeals in ascertaining the different steps taken in execution, and in order to check the laxity which is not unfrequently found to prevail in dealing with execution applications, the High Court directs that, where it is not already done, each court subordinate to it shall keep two distinct B Diaries, one for the suit and one for the execution proceedings therein.

(*H.C. Cir.* 595 *of* 1888.)

(6) The High Court finds that the records sent up for reference in appeals against orders passed in execution proceedings do not always include the B Diary * for execution proceedings, prescribed in the High Court Circular No. 595 of 1888. This diary is to be regarded as one of the material papers in such cases and should invariably be transmitted with the other papers sent for reference. (*H.C. Cir.* 713 *of* 1892.)

(7) The material papers in every suit in which an appeal has been made to the High Court should be transmitted to the High Court immediately on the receipt of the intimation that an appeal has been registered and without waiting for the service of notice on the respondent. (*H.C. Cir.* 1756 *of* 1876.)

(8) In submitting records to the High Court, the lower courts are particularly requested to quote in the covering letter the number of the case on the file of the High Court to which the records relate. (*H.C. Cir.* 171 *of* 1883.)

(9) In submitting the records of a second appeal, copies of the decree and judgment of the court of first instance should always accompany the record. (*H.C. Cir.* 2474 *of* 1884.)

(10) The High Court has noticed several cases in which material papers in appeals, etc., are submitted to the High Court very irregularly. When books, cadjans, etc., are sent separately no mention is made in the list as to the number of books or bundles of cadjans so sent and the number of appeal of the High Court is not mentioned upon the books or the bundles. The High Court therefore directs that all civil courts shall in future invariably note in red ink on each book or bundle of cadjans sent to the High Court the number and the nature of the appeal on the file of the High Court to which it belongs and also make a note in the list of material papers " Exhibits A, B, C, etc., which are books or cadjans are sent separately." (*H.C. Dis.* 879 *of* 1907.)

IV. Findings to be expedited and costs stated.

1. Cases in which findings are called for by the High Court should be given precedence over all other civil work other than that of a specially urgent nature. (*H.C. Cir.* 1261 *of* 1889.)

2. The High Court has recently had occasion to observe that applications are frequently made by District Judges and Subordinate Judges for extension of the time allowed for the submission of findings required by the High Court under Order XLI, rule 25 of the Code of Civil Procedure. The High Court does not desire to prevent judges from applying for extension of time if good cause can be shown in support of such applications. But otherwise, findings must be submitted by the day named in the order of the High Court. In no case should an adjournment of the date of hearing be granted beyond the day fixed by the High Court for return of finding without previous sanction. If, owing to neglect of parties, a finding cannot be arrived at within the time fixed, extension of time should not be applied for, but an answer should be returned intimating the fact of such neglect. (*H.C. Cir.* 978 *of* 1899.)

3. The High Court directs that in every case in which it refers issues for trial under Order XLI, rule 25 of the Code of Civil Procedure the court to which the reference is made shall, on returning its finding, certify at the foot thereof the amount of costs (showing the items in detail) incurred by each of the parties to the case at the retrial before that court, in view to such costs being provided for in the decree that may finally be passed by the High Court. (*H.C. Cir.* 3154 *of* 1893.)

V. Statement of Costs to accompany Order of Remand.

Where any suit is remanded, a statement of the costs incurred in the appellate court is to be appended to its order, that the same may be charged to the losing party in the revised decree of the lower court.

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* Vide C.M.F. No. 49, Appx. III-L, Part II, Vol. II.

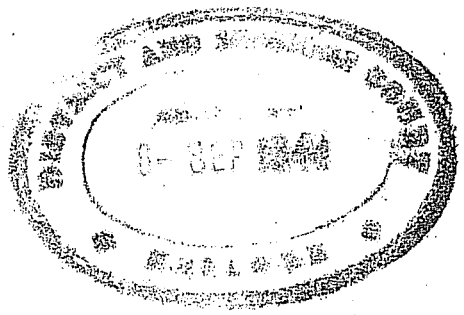
VI. Preparation of Appellate Judgment.

1. Although it is not so necessary to enter fully into the reasons for confirming as it is for reversing or modifying the decree of the lower court, still the High Court must require appellate judges in every case to act so far in conformity with the provisions of Order XLI, rule 31 of the Code of Civil Procedure as is sufficient to show that the court has dealt with each ground of appeal, and more especially to record distinct findings on questions of fact, as the conclusions of the lower appellate courts are final in this respect and binding on the High Court in second appeal.

(*H.C. Pro.* 1326 *of* 1869.)

2. Where cross appeals are preferred from the same decree, one judgment is to be given upon both appeals, embracing the several matters put in issue in each of the appeals respectively.

(*Pro., d.* 18-1-1858. (*Cf. Rule* 93, *Chap. V supra.*)



CHAPTER VIII.

Copies and Copyist Establishment.

A.—Certified Copies.

127. (1) *Application for certified copy.*—When a person is entitled to obtain a copy of a proceeding or document filed in, or in the custody of the court, he may present an application therefor to the superintendent of copyists or, where there is no such officer, to the chief ministerial officer in person. If the proceeding or document has been sent to another court, the application, may, at the option of the applicant, be forwarded to the said court for compliance, or be returned to him, for presentation to the said court.

(2) *Copies of proceedings of High Court.*—An application for copy of a plaint, written statement, memorandum of appeal, judgment, decree or other proceeding of, or in the custody of, the High Court, may be made by any party to such proceeding to the court of first instance, or to the lower appellate court and shall be transmitted by the said court to the High Court for disposal. The copy, if granted, shall be transmitted by the High Court to the former court, and on payment of the prescribed fees, shall be delivered to the applicant. No copy of any proceeding of the High Court shall be granted by a subordinate court. An application by a person not a party to the proceeding shall be made directly to the High Court.

Note.—(1) *Applications for Copies of Judgments of the High Court—*

(*a*) *Applications by persons not parties.*—District Judges have no authority to grant sanction to persons not parties to the proceedings to take copies of the judgments or orders of the High Court. Applications should be made to the High Court under rules 8 and 13 of the Consolidated Copyist Rules.* (*H.C. Cir. 737 of* 1907.)

(*b*) *Powers of the Registrar, High Court, to deal with such applications.*—The disposal of all applications for copies of judicial records of, or in the custody of the High Court, Appellate Side, presented by persons who are not parties to the proceedings, to which such records relate shall be deemed to be a quasi-judicial act which may be performed by the Registrar.

The rule, dated 13th August 1902, Dis. No. 640 of 1902, on the subject is hereby cancelled.

(2) *Authority of First-grade Pleaders to file applications—*

A First-grade Pleader who appeared for a party in the District Court can apply for copies of the judgments, decrees and orders passed by the High Court in appeals and other proceedings on its file preferred from the decrees and orders of the District Court.

A Court-fee stamp of Re. 1 should be affixed to the vakalat presented with such applications.

(*H.C. Dis.* 2189 *of* 1918, *as amended by Dis.* 1674 *of* 1922.)

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* Vide Note under rule 128 *infra*.

For forms—Vide Appx. III-A of Part II, Vol. II.

For registers—Vide Appx. II of Part II, Vol. II.

128. *Form of application.*—The application shall be in Form No. 51 and shall set out the name of the applicant, and his position in the suit or proceeding, and a description of the documents of which a copy is required; and an application which is not in proper form shall be returned for amendment.

NOTE.—I. *Procedure in applying for copies—*

Every application for a copy shall be addressed to the judge of the court in which the document is for the time being retained, but where an application is made in any court for copies of a record or of any portion of a record which has in due course been forwarded to the District Court, the application may be forwarded to the District Court, and it shall thereupon be the duty of the proper officer of the District Court to inform the local court of the number of three-anna papers required for the copy. When the required number of stamp papers has been forwarded to the District Court, the copy shall be made in due course as provided in these rules, and shall be forwarded by post to the local court for delivery to the applicant. But where this procedure would entail delay and where the applicant prefers to apply to to the District Court direct, the application may be endorsed and returned to the applicant for presentation in the District Court.

The cost of the transmission of applications and stamps for copies under the preceding paragraph shall be met out of the contingent grant.

(*Rule* 8 *of the Consolidated Copyist Rules*, 1917.)

II. *Presentation of application—*

The application shall be presented by the party, his pleader or the latter's authorized gumasta, between the hours of 11-30 a.m. and 3 p.m.

(*Rule* 9 *of the Consolidated Copyist Rules*, 1917.)

III. *Defective applications—*

(*a*) Applications not complying with the requirements of the rule are not to be received until amended in respect of the matters in which they are defective. (*Rule* 10 *of the Consolidated Copyist Rules*, 1917.)

(*b*) All other applications shall be received and at once entered in Register A (Civil Register No. 25). Applications found defective after being entered in Register A shall be returned for amendment.

(*Rule* 11 *of the Consolidated Copyist Rules*, 1917.)

IV. *Copies of confidential papers—*

Copies of the judge's minutes, of correspondence not strictly judicial, or generally of any confidential proceedings will not be granted.

(*Rule* 12 *of the Consolidated Copyist Rules*, 1917.)

V. *Applications how to be dealt with when compliance is doubtful or where the applicant is not a party—*

Where, in the case of an application entered in Register A (Civil Register No. 25) doubts arise as to whether the document of which a copy is applied for is one of which a copy can or ought to be granted, and in all cases where the applicant is not a party to the suit or proceeding, the superintendent or head ministerial officer, as the case may be, shall lay the application before the judge. Such applications shall be entered, and the judge's orders on them shall be passed in Register C. (Civil Register No. 27). If the application is refused by the judge, the application with the order of refusal endorsed thereon shall be returned to the applicant and the order of refusal shall be noted in Register A.

(*Rule* 13 *of the Consolidated Copyist Rules*, 1917.)

VI. *Court-fee on applications for copies—*

(*a*) It has been brought to the notice of the High Court that the practice is not uniform throughout the Presidency as regards the court-fee levied on an application to a court other than a High Court for copies of records in a suit to which the applicant is not a party. In some courts a fee of 8 annas is levied on all such applications, and in some the applicant is also required to put in a further application with one-anna stamp before

the copies he requires are granted to him. An application for copies of records of suits or proceedings to which the applicant was not a party falls under the last clause of article 1 (*a*) of Schedule II to the Court Fees Act and *not* under the second clause of article 1 (*b*). The court-fee leviable on such an application is therefore one anna *, and no further application for copies is necessary. (*H.C. Dis.* 1051 *of* 1908.)

(*b*) The instructions that applications for copies of records by persons who are not parties to the proceedings concerned should be included in Statement No. IX, Part 2, are not affected by the ruling in High Court Circular Dis. No. 1051 of 1908, which refers only to the stamp-fee leviable on such applications. (*H.C. Dis.* 294-*A of* 1912.)

(*c*) SUPERINTENDENT'S RESPONSIBILITY REGARDING ENTRIES OF COURT-FEES ON COPY APPLICATIONS AND VAKALATS.—As regards copy applications and other papers received by the superintendent of the central copyist establishment under rule 127 (1) *supra* the responsibility for the receipt of any stamp previously used and for carrying out the instructions as to the punching of stamps shall rest upon the superintendent and not upon the chief ministerial officer.

(*d*) The total amount of court-fees on all applications for copies received by the superintendent shall be intimated by him to the chief ministerial officer who shall enter it in Civil Register No. 18 of the court to which the central copyist establishment is attached.

(*e*) Vakalats accompanying copy applications and the court-fees thereon shall be entered in Registers Nos. 17 and 18 of the court to which the central copyist establishment is attached instead of in the registers of the courts, to proceedings in which such vakalats relate. (*H.C. Dis.* 481 *of* 1919.)

[*N.B.*—For instructions regarding entries to be made in Civil Registers Nos. 25 and 27, vide Appendix II, Part II, Volume II.]

VII. *Levy of stamp-duty under Article* 24, *Schedule I of the Stamp Act on certified copies granted by courts*—

Certified copies of all documents other than those coming under article 9 of Schedule I of the Court Fees Act are chargeable with stamp duty under article 24 of Schedule I of the Stamp Act (article 20 of Schedule I-A of the Madras Act), i.e., they should be granted by courts only on production of the requisite non-judicial stamp paper together with the copy stamp papers required under the copyist rules. (Extract from *H.C.P. Dis.* 636 *of* 1936 *printed* in extenso *as Circular Order No. III of Chapter I, Part II at page* 224 *infra.*)

129. *Notice* † *as to stamp papers.*—Every day between the hours of 3 and 5 p.m. a list showing the applications in which the records have been received, and the number of stamp papers required, shall be prepared and affixed to the court's notice board. Such list shall remain suspended for three days, or, if the last day is a holiday, till the next court day. If the required stamp papers have not been deposited by 3 p.m. on the fourth day counting that on which the list was suspended or, if the fourth day is a holiday, then on the next court day, the application shall be struck off. Between the hours of 3 and 5 p.m. on each of the intermediate days, the applications upon which the requisite deposits have been made shall be struck off the list. The procedure above prescribed shall apply also to calls for additional stamp papers when the number first supplied has been found to be insufficient. Provided that, where the additional stamp papers called for are not deposited, but the stamp papers originally

* Now two annas.

† For form—Vide C.M.F. No. 42, printed in the Indian languages only.

deposited are sufficient for the preparation of complete copies of one or more documents applied for, the application shall be struck off only as regards the documents which cannot be prepared by reason of the insufficiency of the stamp papers supplied; but it shall be complied with by delivery of such of the completed copies as can be prepared on the stamp papers supplied, the decision of the superintendent as to the documents to be selected for copying being final.

NOTE.—(1) It is open to the applicant to furnish the necessary stamp papers as soon as their probable number is known. The three days are allowed to give him reasonable time but all delay must count against him. (*H.C. Cir.* 2068 *of* 1884.)

(2) Lists so put up shall remain filed in the copyist department for six months and shall then be destroyed.

(3) When an application is struck off in whole or in part, the incomplete copy in every case shall be destroyed after 12 months from the date on which the application was struck off unless such copy is completed before the expiration of the period in the manner provided in rule 130 below. (*Rule* 16 *of the Consolidated Copyist Rules*, 1917.)

130. *Posting of list of copies ready for delivery.*—A list of copies ready for delivery shall be posted on the notice board of the court, and shall remain thereon for three clear days other than holidays. The copy and any unused stamp papers shall be delivered to the applicant between the hours of 10-30 and 11-30 o'clock in the morning, and 3 and 5 o'clock in the afternoon; and, if not claimed by the applicant, within twelve months from the date of posting the said list, the copy shall be destroyed and the unused stamp papers, if any, shall be forwarded to the nearest treasury officer for re-issue, if in good condition, by the Superintendent of Stamps. No party shall be entitled to the return of stamp papers which are used, but in which an incomplete copy is written. But the incomplete copy may be completed, if the necessary additional stamp papers are deposited under the orders of the presiding officer within six months from the date of striking off, and may then be delivered in the usual manner.

NOTE.—(1) The list shall be prepared in the prescribed form (*vide* C.M.F. No. 45 in Appx. III-L, Part II, Vol. II) between 3 p.m. and 5 p.m. each day and affixed to the court's notice board at 10-30 a.m. the following morning.

As copies are delivered to the applicants concerned, the appropriate entries shall be struck out of the list. After the expiry of the three days, the lists shall be taken down and filed in the copyist department for 12 months and shall then be destroyed. (*Rule* 23 *of the Consolidated Copyists Rules*, 1917.)

(2) *Disposal of unused stamp papers*—

(*a*) Where parties have furnished the required number of stamp papers but some remain unused owing to the copyists writing too closely or for other reasons, the presiding officer of the court shall forward the unused stamp papers to the local or nearest treasury officer.

(*b*) Where, however, stamp papers have been furnished in excess of requirements or where an insufficient number of stamp papers has been furnished and the parties fail to furnish the additional number of stamp papers within the given period, notice shall be given to the parties that the unused stamp papers, subject to rule 16 of the consolidated copyist rules, will be held at their disposal for a month from the date of the

notice and will be sent to them by registered post if within the above period they remit the cost of despatch, which should be stated in each case. If the amount be not remitted and no arrangements be made to take delivery in person within the period fixed, the unused stamps shall be sent to the local or nearest treasury officer. All stamps so sent to the treasury officer, will be treated as cancelled.
(*Rule* 24, *clauses* 2 *and* 3 *of the Consolidated Copyist Rules*, 1917, *added by H.C. Dis.* 1202 *of* 1919.)

131. *Delivery by post.*—The applicant may, in his application for a certified copy, apply that the same may be delivered to him through the post at a specified address; and, in such case, the copy shall be forwarded accordingly, and, if the application so requires, by registered post.

NOTE.—A note of this request shall be made against the entry of the application in the Register A (Civil Register No. 25) and it shall be the duty of the superintendent when the copies referred to are ready, to despatch them by post "bearing" to the address given. In every such case the fifth head of the form of endorsement prescribed by rule 25 * of the consolidated copyist rules shall be modified, "copy posted" being substituted for "copy delivered" and in columns 19 and 20 of Register A instead of "the date of delivery" and "the initials of the applicant," "the date of posting" and "the initials of the head of the copyist department" shall be entered. (*Rule* 26 *of the Consolidated Copyist Rules*, 1917.)

132. *Sealing and certificate.*—All copies furnished by the court shall be certified to be true copies, and shall be sealed with the seal of the court. The superintendent of copyists, or other officer appointed by the judge, shall initial every alteration and interlineation in the copy, and shall sign a certificate at the foot thereof that the same is a true copy, and shall also state the number of alterations and interlineations made therein.

NOTE.—I. *Copies to be transcribed on stamped side only*—

Copies must be transcribed on that side only of the paper which bears the stamp. Each page must be signed at the foot by the copyists.
(*Rule* 18 *of the Consolidated Copyist Rules*, 1917.)

II. *Mode of authenticating copies*—

(*a*) The superintendent of copyists should, in authenticating copies granted by him, sign his name in his own handwriting and should not use a *facsimile stamp*. (*H.C. Dis.* 182 *of* 1910.)

(*b*) The practice of having certified copies signed "for" the head of a court or office is clearly wrong. In all courts, civil and magisterial, the officer who is authorized to deliver copies must certify them as true in his own name, and with a statement of his official title as required by section 76 of the Evidence Act and the explanation thereto.
(*H.C. Dis.* 495 *of* 1908.)

III. *Corrections how to be carried out*—

The practice of making erasures by removing (i.e., scratching out or otherwise effacing) words written by mistake is strictly prohibited in regard to all copies. Instead of erasing the incorrect word, the word is simply to be struck through with one line by the pen and the correct word written on above the word so struck through.
(*Rule* 21 *of the Consolidated Copyist Rules*, 1917.)

IV. *Copies of records written in pencil prohibited—but typewritten carbon copies allowed*—

(*a*) The danger of alteration or effacement being so obvious in the case of copies written in pencil, the High Court directs that copies of

* Now rule 133 *infra*.

judgments or other judicial records written in pencil should under no circumstances be furnished to parties.

(*b*) There is no objection to legible typewritten carbon copies being furnished when a number of copies are required. (*H.C. Dis.* 56 *of* 1918.)

133. *Endorsement as to dates.*—Every copy shall bear an endorsement showing the following dates :—

(1) application made;
(2) stamp papers (*or* charges) called for;
(3) stamp papers (*or* charges) deposited;
(4) copy ready; and
(5) copy delivered (*or* posted).

(Vide also rule 25 of the consolidated copyist rules, 1917.)

134. *Copying charges.*—(1) One stamp paper headed or surcharged three annas shall be brought in for every 175 words or fraction thereof.

(2) Four figures shall be taken as equivalent to one word; and words in the Indian languages with short suffixes and inflections shall be counted as single words.

(3) The cost of copying maps, plans, genealogical trees, tabular statements, or other work requiring skilled labour, shall be fixed by the judge, and deposited in court in cash. Notice of the amount so fixed shall be posted on the notice board of the court; and the provisions of rule 129 with respect to the payment of moneys for copies, shall apply.

NOTE.—I. Fees shall not be paid in cash by applicants for copies except in the cases provided for by clause 3 above.
(*Rule* 1 *of the Consolidated Copyist Rules*, 1917.)

II. *Estimate of stamp papers required*—

On the receipt of the originals the superintendent or examiner or other officer, as the case may be, shall enter the date in the Register A, and shall note on the application the estimated number of stamp papers of the value of three annas required for copying the document or documents, calculating at the rate of one stamp paper for every 175 words or a fraction of 175 words, four figures being taken as equivalent to one word.

(*a*) For the purposes of this rule it shall not be necessary for such officer to count all the words to be copied. It will be sufficient for him to make the nearest computation possible of their number and he may afterwards call for additional stamp papers, if required, under the procedure of rule 16 * or return any that have been supplied in excess of actual requirements.

It will be the duty of each copyist to copy as nearly as possible 175 words on each sheet and to certify at foot thereof the number of words it contains. These entries shall be frequently checked by the superintendent or examiner, and initialled by him when checked. Copyists violating this rule will be liable to fine or dismissal according as their fault is occasional or systematic.

(*b*) Where the copies applied for are of maps, plans, genealogical trees, and tabular matter, they shall be prepared by skilled labour. A reasonable fee (proportionate to the skill, labour and time occupied in preparing the copy) shall in each case be fixed by the court and deposited in cash by the party applying in the same manner as for a commissioner under the Code of Civil Procedure, and the whole of such fee shall be

* Now rule 129 *supra*.

paid to the person employed in preparing the copy, who shall supply his own materials. When an enrolled copyist is appointed to prepare the copy, he shall do the work out of office hours or take leave without pay to do it. (*Rule* 15 *of the Consolidated Copyist Rules*, 1917.)

B.—Rules * relating to Copyists Establishment.

1. [*2.*] *Copyists to be enrolled.*—A fixed number of copyists shall be enrolled for each court of civil jurisdiction. But, where two or more courts are situated at the same station (as for instance, a District and District Munsif's Court, a District, Subordinate and District Munsif's Court, or a Subordinate and District Munsif's Court), and where the High Court considers it desirable, a fixed number of copyists shall be enrolled in a central office attached to one of such courts for the preparation of copies for all such courts at that station.

2. [*3.*] *Scale of establishment to be fixed.*—The copyist establishment, inclusive of examiners, readers, superintendent, assistant superintendent, if any, and attender or superior peon, if any, to be entertained for each office together with a provision for contingencies shall be fixed by the District Judge, subject to the orders of the High Court.

3. [*4.*] *Temporary establishments.*—It shall be competent to District Judges, the Judge, City Civil Court, and the Chief Judge, Court of Small Causes, Madras, without the previous sanction of the High Court to employ temporary copyists, examiners and readers when circumstances of special emergency render such a course necessary. Such temporary establishments shall be paid out of the contingent provision.

4. [*4-a.*] *Remuneration to copyists, examiners and readers.*—Copyists employed under this rule shall be paid at the rate of 15 pies for every 150 words or a fraction of 150 words copied by them; examiners at such rate as may be fixed by the District Judge, not exceeding the salary allowed by rule 13 (*a*); and readers at the rate of salary fixed by rule 13 (*c*) *infra*.

5. †[*5.*] *Qualifications for appointment as copyists.*—Enrolled and temporary copyists are ministerial officers and shall be appointed in accordance with the special rules for the Madras Judicial Subordinate Service.

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* The numbers within square brackets in these rules are the corresponding numbers in the "Consolidated Copyist Rules, 1917."
(*H.C. Notfn., d. 12th March* 1917.)

† As amended by *H.C.P. Dis.* 989 *of* 1940.

6. [*6.*] *Superintendents, examiners and readers to be entertained.*—Where a central office has been established and where the funds allow, a superintendent, assistant superintendent and one or more examiners and readers will be appointed. Where the District Judge thinks it necessary, and the funds allow of the expenditure, an attender or superior peon may also be appointed.

6-A. Where no central office has been established and where the copyists are two or more in number, an examiner and a reader may also be appointed.

7. [*7.*] *Registers to be kept.*—Registers in the forms given in the appendix (*vide* Civil Registers Nos. 25–29, Appx. II, Part II of Vol. II), shall be opened and regularly kept in the case of a central office by the superintendent and in any other case by the examiner, or where there is no examiner, by such officer as the court shall direct. These registers shall be examined once every week, in a central office, by such officer as the District Judge shall direct, and in any other case by the head ministerial officer of the court.

8. [*14.*] *Collection of records for copying.*—In the case of every application (which is not defective) and of every application allowed by the judge under rule 13 * of the Consolidated Copyists Rules, 1917, it shall be the duty of the superintendent, examiner or such other officer as the court may direct, forthwith to forward the application with Register B (Civil Register No. 26), to the clerk in charge of the records of which copies are applied for, who shall affix his initials in acknowledgment of receipt in the appropriate column of that register. The original records shall thereupon be at once put up with the application and sent to the superintendent, examiner or other officer, as the case may be. In no case is such application to be returned to the copyist department without the records, unless the originals are not forthcoming, or unless the application is defective, in either of which events the applications will be returned to the superintendent, examiner or other officer, as the case may be, with an appropriate certificate endorsed thereon, attested by the returning clerk's initials. This certificate shall thereupon be signed by the superintendent, examiner or other officer, as the case may be, and the application returned to the applicant, a note of the same being made in Register A (Civil Register No. 25).

9. [*17.*] *Order in which applications should be complied with.*—All stamp papers deposited shall at once be entered in Register A and the preparation of the copies of all documents applied for or such of them as admit of being copied in full on the stamp papers

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* Note V to rule 128 *supra*.

deposited shall (as far as possible) be undertaken in accordance with the serial order of applications, except when the presiding officer of the court, or, in case the application is to a District Court or a Subordinate Judge's Court, the judge or chief ministerial officer of such court makes a special order for precedence as regards any particular application. Provided always that in complying with an application for copies, copies of decrees and judgments, if any, comprised in the application shall have precedence over copies of other documents applied for.

10. [*19.*] *Examination of copies.*—When the copy applied for has been transcribed by the copyist, it shall be compared by the examiner or, where there is no examiner, by such officer as the court shall direct, aided by the reader or by some one of the copyists; but in no case shall a copy be read to the examiner, or the examination in any way assisted in, by the copyist who prepared the copy. Each page must be initialled at foot by the examiner or other officer aforesaid.

11. [*20.*] *Superintendent's responsibilities as to work.*—The superintendent, examiner or such other officer as the court may direct, shall be responsible that the work of copying and the work of reading to the examiner are distributed as equally as possible amongst the enrolled copyists. To ensure copies being fully and legibly written, as many sheets as the presiding officer from time to time fixes according to the congestion of work may be given to each copyist per day. At the close of each day, all original papers and all copies not delivered to the parties, as well as all stamp papers not yet used for copies, shall be taken back from the copyists and secured for the night by the superintendent, examiner or such other officer as the court may direct.

NOTE.—There is no objection to allowing typist copyists to earn twice as much as the ordinary copyists in the office. (*H.C. Dis.* 211 *of* 1904.)

12. [*22.*] *Return of records after copying.*—When the copies are ready for delivery, the original shall be returned to the record-keeper or the clerk from whom they were obtained, and his initials taken in the appropriate column of Register B.

13. [*27.*] *Rate of salaries.*—(*a*) The salary of an examiner shall be Rs. 35—1—40 per mensem.

(*b*) The salary of a superintendent shall be as follows:—

(i) Rs. 35—35—1½—50—1—60 per mensem, where the copyists of two courts are amalgamated in one office;

(ii) Rs. 60—4—80 per mensem where the copyists of more than two courts are amalgamated in one office;

Provided that superintendents of copyists not possessing the minimum general educational qualifications shall be admitted only to the lower scale;

(iii) In any case in which the High Court may sanction the appointment of an assistant superintendent, his salary shall be Rs. 35—1—40 per mensem.

(*c*) In any case in which the High Court may sanction the appointment of a reader, his salary shall be Rs. 25—1—30 per mensem.

(*d*) * The salary of an enrolled copyist shall be proportioned to the amount of work done by him, provided that no enrolled copyist shall receive less than Rs. 20 per mensem. It will be open to all copyists to earn, as provided in rule 16 without limitation of amount, allowances in excess of Rs. 20.

(*e*) The salary of an attender, where appointed, shall not exceed Rs. 18 per mensem.

The increments to the salaries of examiner, superintendent, assistant superintendent and reader shall be annual.

NOTE.—(1) The practice of paying temporary copyists during the vacation may continue in cases in which their temporary appointments have not ceased when the vacation begins. (*H.C. Dis.* 725 *of* 1907.)

† (2) Every examiner, superintendent, assistant superintendent, reader, copyist or attender who was in the service of the Government before the 15th August 1931 in a substantive, officiating or temporary capacity, shall be entitled to the existing scale of pay mentioned in this rule in respect of any post which he holds or may hold, if he had held such post in a substantive, officiating or temporary capacity or had been a probationer therefor at any time before the 4th October 1933, irrespective of any break in his tenure of such post.

† 13-A. *New scale of pay.*—Every examiner, superintendent, assistant superintendent, reader, copyist or attender who was not in the service of the Government before the 15th of August 1931, whether in a substantive, officiating or temporary capacity but who has before the 4th October 1933, held any post on the existing scale of pay mentioned in rule 13, shall be entitled only to the following new scale of pay in respect of such post :—

(*a*) Examiner	..	Rs. 30—2/2—36.
(*b*) Superintendent	..	(1) Rs. 30—3/2—45—2/2—55 where the copyists of two courts are amalgamated in one office; (2) Rs. 55—5/2—70 where the copyists of more than two courts are amalgamated in one office; Provided that superintendents of copyists not possessing minimum general educational qualifications shall be admitted only to the lower scale.
(*c*) Assistant superintendent.		Rs. 30—2/2—36.
(*d*) Reader	.. ..	Rs. 23—2/2—27—1/2—28.
(*e*) Copyist	.. ..	Rs. 19.
(*f*) Attender	.. ..	Not exceeding Rs. 17.

* Subs. by *H.C.P. Dis.* 487 *of* 1927.
† Inserted by *H.C.P. Dis.* 666 *of* 1934.

Provided that all service rendered by any such officer in such post before the 4th October 1933 shall count for increments in the new scale of pay :

Provided further that unless the Provincial Government otherwise direct, in any class of cases, a personal pay shall be granted to such officer equivalent to the difference between (*a*) the pay last drawn by him in the existing scale of pay and (*b*) the pay to which he would be entitled in the new scale under this rule, and any special pay, Presidency allowance or Madras house allowance granted in lieu of any portion of the pay in the existing scale. Such personal pay shall be absorbed in future increments in the manner specified in Fundamental Rule 37.

14. [*28.*] *Salaries how to be drawn and disbursed.*—The salaries of the copyist establishment shall be drawn once a month by a bill, in the same form as that used for the regular establishment's pay, on the nearest Government treasury, and the amount so drawn shall be distributed by the head ministerial officer of the court to which the copyist establishment is attached, and the signature of the payees taken in the same manner as those of the payees of the regular establishment.

15.* [*29.*] *Items of expenditure covered by the stamp paper.*—The present three-anna stamp paper is for copying 175 words. This charge includes, besides the cost of the paper on which the stamp is impressed, the cost of copying, examining and certifying to the correctness of the copy.

16. [*30.*] *Copyists' allowances—How to be calculated.*—The amount of allowances, if any, due to each copyist in excess of the minimum prescribed by rule 13(*d*) *supra* shall for each month be ascertained from and accounted for in Register D (Civil Register No. 28). For the purpose of calculating such extra payments, if any, the hire debitable in Register D on account of the copyists' work shall be at the rate of 15 pies for 150 words or a fraction of 150 words. But extra allowances under this rule shall always be subject to a recovery being made up to the amount of any excess paid to the copyist in either or both of the two last working months in order to make up his minimum salary.

Every calendar month in the year, except the two months in which some part of the annual recess falls, shall be treated as a working month for the purpose of this rule. If the recess of a court extends into three months, the two months in which there is the smallest number of working days shall alone be reckoned as the two non-working months for that court.

17. [*31.*] *Supply of stationery articles.*—Stationery, inclusive of pens, ink, pencils, blotting paper, rulers, etc., will be furnished to the copyist establishment from the supply received by the court on indent from the Superintendent of Stationery. The estimated

* As amended by *H.C.P. Dis.* 989 *of* 1940.

cost of such stationery will be debited monthly in Register E (Civil Register No. 29) to the copyist establishment.

18. [*32.*] *Posts declared pensionable.*—Service on the copyist establishment as superintendent, assistant superintendent, examiner, reader or attender shall qualify for pension, but not service as a copyist.

19. [*33.*] *Check on receipts and disbursements on account of copies.*—Monthly statements of the receipts and charges shall be forwarded, in the case of a court not connected with a central office other than a District Court, to the District Judge and a compiled statement for all the courts of the district shall be forwarded by the District Court to the High Court. Where it appears from the monthly statements that the receipts on account of copies do not fully cover the charges or that the number of copyists is unnecessarily large, it will be the duty of the District Judge to revise the copyist establishment so as to avoid loss to Government.

20. [*35.*] (*a*) *Extent to which these rules apply.*—The above rules apply, with the exception stated in rule 22 *infra*, to all copyists establishments in, and to all copies to be furnished by, District and Sessions Courts, the City Civil Court, Subordinate Judges' Courts and District Munsifs' Courts and also to the Presidency Court of Small Causes. They do not apply to the copyists of, or to the copies furnished by, the courts of magistrates or Revenue officers.

(*b*) (i) *City Civil Court and the Court of Small Causes, Madras.*—In the case, however, of the City Civil Court and the Presidency Court of Small Causes, Madras, the following special scales of pay shall apply :—

		Rs.	
Examiner	... ...	40—1—45	per mensem.
Reader	... ...	30—1—35	,,
Attender	... ...	20	,,
Copyist	... ...	23	,,

The increments to the salaries of examiner and reader shall be annual.

These have come into force as from the 29th May 1923, but the increments of those in service on that date shall be calculated from the 1st September 1922 or from the date of entry into service whichever is later.

The revision of the pay of copyists from Rs. 18 per mensem to Rs. 23 per mensem shall take effect from 1st September 1928.

* NOTE.—Every examiner, reader, copyist or attender who was in the service of the Government before the 15th August 1931, in a substantive, officiating or temporary capacity shall be entitled to the existing scale of pay mentioned in this rule in respect of any post which he holds, or may hold, if he had held such post in a substantive, officiating or temporary capacity or had been a probationer therefor at any time before the 13th April 1933 in the case of Small Cause Court, Madras, or before the

* Inserted by *H.C. P. Dis.* 666 *of* 1934.

4th October 1933 in the case of City Civil Court, Madras, irrespective of any break in his tenure of such post.

* (ii) *New scale of pay.*—Every examiner, reader, copyist or attender who was not in the service of the Government before the 15th August 1931 whether in a substantive, officiating or temporary capacity but who has, before the 13th April 1933 in the case of the Small Cause Court, Madras, or before the 4th October 1933 in the case of the City Civil Court, Madras, held any post on the existing scale of pay mentioned in rule 20 (*b*) (i) shall be entitled only to the following new scale of pay in respect of such post :—

(1) Examiner—Rs. 35—2/2—39—1/2—40.

(2) Reader—Rs. 28—2/2—32—1/2—33.

(3) Copyist—Rs. 22.

(4) Attender—Rs. 19.

Provided that all service rendered by any such officer in such post before the 13th April 1933 in the case of the Small Cause Court, Madras, or before the 4th October 1933 in the case of the City Civil Court, Madras, shall count for increments in the new scale of pay :

Provided further that unless the Provincial Government otherwise direct, in any class of cases, a personal pay shall be granted to such officer equivalent to the difference between (*a*) the pay last drawn by him in the existing scale of pay, and (*b*) the pay to which he would be entitled in the new scale under this rule and any special pay, Presidency allowance or Madras house allowance granted in lieu of any portion of the pay in the existing scale. Such personal pay shall be absorbed in future increments in the manner specified in Fundamental Rule 37.

21. [*36.*] (1) (*a*) *Application of the rules to the copyist establishment of the High Court.*—The above rules apply, *mutatis mutandis*, to the copyist establishment of the High Court, Appellate Side, provided that there shall be—

One superintendent on Rs. 65—4—125 per mensem ;

One assistant superintendent on Rs. 40—40—2½—65—3/2—80 ;

One or more examiners on Rs. 40—1—50 each ;

One or more readers on Rs. 40 each ;

One or more attenders on Rs. 20 each ;

and such number of copyists as may be required on Rs. 30 each with power to earn more at the rate of 15 pies per 150 words. Provided also, that the Registrar shall perform the acts and

* Inserted by *H.C. P. Dis.* 666 *of* 1934.

exercise the powers conferred on District Judges in rules 2, 3, 6, 7, 10, 11 and 19 *supra*, and rule 8 of the Consolidated Copyist Rules, 1917.*

† NOTE.—Every superintendent, assistant superintendent, examiner, reader, attender or copyist who was in the service of the Government before the 15th August 1931, in a substantive, officiating or temporary capacity shall be entitled to the existing scale of pay mentioned in this rule in respect of any post which he holds or may hold, if he had held such post in a substantive, officiating or temporary capacity or had been a probationer therefor at any time before the 14th July 1934, irrespective of any break in his tenure of such post.

† (*b*) *New scale of pay.*—Every superintendent, assistant superintendent, examiner, reader, attender or copyist who was not in the service of the Government before the 15th August 1931 whether in a substantive, officiating, or temporary capacity, but who has, before the 14th July 1934, held any post on the existing scale of pay mentioned in rule 21 (1) (*a*), shall be entitled only to the following new scale of pay in respect of such post :—

(1) Superintendent	Probationer, Rs. 45. Any other, Rs. 55—5/2—70—7½/2—100.
(2) Assistant superintendent.	Rs. 37—3/2—70.
(3) Examiner	Rs. 35—2/2—45.
(4) Reader	Rs. 35.
(5) Attender	Rs. 19.
(6) Copyist	Rs. 28.

Provided that all service rendered by any such officer in such post before the 14th July 1934 shall count for increments in the new scale of pay :

Provided further that unless the Provincial Government otherwise direct in any class of cases, a personal pay shall be granted to such officer equivalent to the difference between (*a*) the pay last drawn by him in the existing scale of pay, and (*b*) the pay to which he would be entitled in the new scale under this rule, and any special pay, Presidency allowance or Madras house allowance granted in lieu of any portion of the pay in the existing scale. Such personal pay shall be absorbed in future increments in the manner specified in Fundamental Rule 37.

‡ (2) Copies of judgments required for the use of the Law Reporter in the preparation of the Madras series of the Indian Law Reports should be granted free of cost.

22. [*37.*] *Exceptions.*—Nothing contained in the above rules shall apply to printed copies or to copies which, under any provision of law for the time being in force, the courts are required to grant free of cost. As to printed copies separate rules have been made. Copies to be granted free of cost shall be made by the regular establishments of the courts.

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* Vide note 1 to rule 128 *supra*.
† Inserted by *H.C. P. Dis.* 666 *of* 1934.
‡ Inserted by *H.C. Dis.* 94 *of* 1920.

C.—RULES FOR COMPULSORY PRINTING OF JUDGMENTS AND ORDERS.

135. (1) *Printing of judgments.*—When a copy of a judgment or order passed by a civil court is applied for by a party to the suit or proceeding for the purpose of appealing against it to the District or Subordinate Judge's Court, the copy shall be printed, provided the length of the judgment or order (excluding the names of parties and witnesses and the list of exhibits) exceeds 700 words. In cases where the length of the judgment or order does not exceed 700 words the production of a printed copy is not compulsory.

Application by both parties.—When the plaintiff and defendant apply separately for copies of the same judgment, each must pay the full printing charges and each application will be dealt with by itself irrespective of the other.

(2) *Printing charges—How calculated.*—The general procedure in applying for such copy and in disposing of the application shall be that laid down in the above rules relating to certified copies. The superintendent, examiner or other officer shall calculate the charges required for printing the judgment or order reckoning at the rate of 4 annas for every 175 words completed and for the remaining words 1 anna for every 50 words or fraction thereof, or at such other rates as may be prescribed by the District Judge with the previous sanction of the High Court. Four figures or four simple letters used as abbreviations, shall be taken to be equivalent to one word. The names of parties and witnesses and the list of exhibits shall also be printed and included in the charges according to the above rates. When tabular statements, genealogical trees and the like form an integral part of the judgment, they shall also be printed. A special rate for printing these shall be fixed by the court concerned in each case, having regard to their length and complexity and the space they occupy.

(3) *Notice* as to amount payable.*—The applicant shall thereupon be informed by notice of the amount payable by him for printing charges and for postage in cases where it is leviable under clause (8) *infra* in the same manner as he is now informed of the number of stamp papers required for a manuscript copy and at the same time he shall be directed to pay that amount in cash by any means he may choose, direct to the authorized printer whose name and address shall be stated, within seven days of the date of the notice in default of which his application for copy will be struck off.

(4) *Number of copies to be supplied by printer.*—The printer shall ordinarily supply four printed copies to the court. On receipt of the four printed copies, they shall be authenticated and two copies shall be delivered to the applicant one bearing an

* For form—Vide C.M.F. No. 43 *printed in the Indian languages only.*

endorsement of dates such as are endorsed upon manuscript copies, save that the word " charges " shall be substituted for the words " stamp papers," to be filed with the appeal and used at the hearing, and the second to be kept by the appellant for his own use. In computing limitation, the court may allow, out of the seven days allowed for the payment of printing charges, as many days as it deems fit in each case as time requisite for obtaining a copy if the printing office is five or more miles distant from the court calling for the charges. The two remaining copies shall be placed with the records of the case, one to be given *gratis* to the respondent and one spare copy for supply, also *gratis*, to a second or more respondent having separate interests, in the subject-matter of the appeal or for any other exceptional use.

Extra copies.—If an appellant requires more than the two copies allowed him by this rule, such extra copies shall be supplied to him on payment of charges calculated at a rate not exceeding one anna per page.

(5) *Printing of judgments passed by appellate courts.*—When a copy of the judgment or order passed by an appellate court is applied for by a party to the suit or proceeding or appeal for the purpose of appealing against it to the High Court, such copies shall likewise be printed.

* On receipt of such application, the superintendent, examiner or other officer may, unless the applicant otherwise requests, call also for the judgment or order of the court of first instance, against which judgment or order was passed in appeal, and shall collect the printing charges calculated according to clause (2) above for printing both. In such case the printer shall ordinarily supply eight printed copies, six of which shall be delivered to the applicant.

* Out of the six copies delivered to him, he shall not be further charged for two of such copies and for the others he shall be charged at a rate not exceeding one anna per page.

If the applicant applies for more copies or if any other party to the suit, appeal, proceeding or connected suit in cases where there is one judgment or order for several connected suits, applies for copies before the order is issued for printing or within a week of the application, whichever is longer, such copies shall be supplied on payment of charges calculated at a rate not exceeding one anna per page.

If any application is made after such date, the full printing charges must be paid and such application will be dealt with irrespective of any other.

The application for a copy under this sub-rule shall be struck off, if the applicant fails to pay the charges for printing within seven days of the date of the notice fixing the amount payable in respect of such application.

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* As amended by *H.C. P. Dis.* 699 *of* 1930.

(6) *Printing of judgments passed by courts of original jurisdiction for the purpose of appeal to the High Court*—

(i) When a copy of the judgment or order passed in the exercise of original jurisdiction by a District or Subordinate Judge, or of the judgment or order of the Madras City Civil Court, is applied for by a party to the suit or proceeding for the purpose of appealing against it to the High Court the same shall be printed.

(ii) On receipt of such application, the superintendent, examiner or such other officer shall collect the necessary charges as in the case of the printing of judgments in second appeals, provided that the number of copies printed under this sub-rule shall be such number as the applicant may desire to have in addition to fourteen copies (twelve of which are required to be filed in the High Court along with the memorandum of appeal) and to the number of copies required for being filed in the records of the lower court.

(iii) The procedure in paragraphs 3 to 6, both inclusive, of clause (5) shall be followed *mutatis mutandis* in the case of printing of judgments in first appeals also.

(7) *Printing of decrees and other papers.*—In order to show cause, when required, why an appeal, from an original order or from an appellate decree or order should not be dismissed without notice under Order XLI, rule 11, read where necessary with Order XLII or Order XLIII, rule 2 of the First Schedule to the Code of Civil Procedure, 1908, a party may apply to the District or Subordinate Judge's Court to print a decree or any other paper, or, if it be not in the English language, may present for printing a translation in English of the same, certified by his pleader to be a true translation; such applications shall be dealt with in the same manner as applications for the printing of appellate judgments, provided that printed copies can be delivered to the applicant with copies of the judgments for which he may have applied under the above rules.

(8) *Rate of postage payable.*—If the court is more than five miles from the printer, the party applying for the copy shall pay for the postage, which like the printing will be taxed as costs in the case. A uniform rate of one anna for every 700 words shall be charged to the applicant for postage in addition to the charges for printing, and it shall be included in the notice given to him under clause (3) *supra* for payment direct to the printer.

136. *Costs of printing or copying.*—Costs of printing or copying or of transmission of copies by post may be taxed and dealt with as costs in the cause.

In rule 135 the old cls. (6) and (7) were renumbered as cls. (7) and (8) and a new cl. (6) was added by *H.C. P. Dis.* 322 *of* 1939. Rule 6 was further amended by *P. Dis.* 1032 *of* 1940.

SUBSIDIARY INSTRUCTIONS REGARDING THE DUTIES OF THE PRINTER AND THE TRANSMISSION OF PAPERS TO AND FROM THE PRESS.

1. *Printer to be authorized by District Court to print judgments.*—The printer (employed to print judgments with reference to rule 135 *supra*) shall be a printer authorized by the District Court to receive judgments and orders for printing, together with cash payment for the same, from the applicant for printing and more than one printer may be appointed by the District Judge, either at his headquarters or at any outlying station, and the subordinate courts shall be directed to which printer they should send their judgments and orders for printing.

2. *Agreement to be entered into and security to be furnished by printer.*—The printer or printers so appointed shall enter into an agreement with the District Judge, and furnish such security as the District Judge, may deem necessary—

(1) To print all judgments and orders received by them, in clear type, on foolscap form, at the rates specified in rule 135 (2) *supra*, each page of printing to contain, as near as can be, 700 words;

(2) to supply four copies thereof legibly printed on thick and durable paper, to be furnished at the printers' own expense, the rate allowed for printing being intended to cover this cost also;

(3) to keep a register showing the dates on which each judgment or order was received, on which the copies thereof were printed and despatched and on which the payment for the same was made, and to grant receipts to the persons making payments. The receipts should be on printed forms to be supplied by the District Court. These forms should be consecutively numbered and show all particulars such as number of suit, name of party, amount paid and how, and date of payment;

(4) to do their work expeditiously, according to time limits to be laid down by the District Judge, and to print strictly according to the priority of application unless otherwise ordered;

(5) to allow their printing presses and registers, etc., to be open to inspection at any time by the District Judge or any officer deputed by him for the purpose;

(6) to obey all instructions laid down by these rules, subjecting themselves to the imposition of a fine, not exceeding Rs. 10, to be inflicted by the District Judge, for every breach of the same, and to the cancelment of their contract for gross or continued disobedience, or for non-payment of fines imposed on them within the time fixed.

The contract should be made terminable at will on one month's notice by either side.

3. *Original judgment or order not to be sent to the printer.*—The judgment or order to be sent to the printer shall not be the one delivered in open court but the fair judgment or order copied therefrom and kept with the records of the case. An intimation, in the form of a memorandum, shall be sent to the printer, of the amount of charges directed to be paid to him by the applicant together with the applicant's name and address and the date on which the period of seven days allowed to him for payment will expire. If the money is paid on or before that date, the printer shall at once intimate the fact of such payment to the court which will forward the judgment or order immediately to the printer who will then at once proceed with the printing. If it is not so paid, the printer shall return the memorandum with an endorsement that payment was not made within the time prescribed.

4. *Proofs.*—The printer's proofs shall be corrected by himself until a clean proof is obtained. The clean proof shall be sent direct to the court concerned for final correction; after which it shall be returned to the printer with directions to correct (if necessary) and to strike off the four impressions required. These will then be despatched to the court concerned,

together with the judgment or order and the memorandum originally received from it, and upon the memorandum the printer shall invariably endorse the date upon which the printing charges were paid to him.

5. *Transmission of papers to and from the printer.*—The transmission of the papers to and fro between the court and the printer shall be effected by a peon, or other messenger of the court, in all cases where the station of the court-house and the printing office is the same, or the distance between the two places does not exceed five miles. In other cases, the papers should be sent through the post office, as manuscript for printing, or printed matter, as the case may be, and the party applying for the copy must pay for the postage, which like the printing will be taxed as costs in the case. A uniform rate of one anna for every 700 words, that is for a page of printed matter, or portion thereof, shall be charged to the applicant for postage in addition to the charges for printing, and it shall be included in the notice given to him under rule 135 (3) for payment direct to the printer. The printer must thereout defray the costs of the transmission to him of the manuscript which shall be sent service-bearing and of the postage back of the printed matter which shall be pre-paid by him. (*Vide rule* 135, *clause* 8 *supra.*)

(*H.C. Dis.* 938 *of* 1896, *as amended by Dis.* 1704 *of* 1924.)

CHAPTER IX.

Proceedings in Execution.

137. *Rules applicable to all proceedings in execution.*—The following rules shall apply to all proceedings in execution, as well of decrees as of orders, and in this chapter the word " decree " includes " order ".

A.—Application for Transmission.

138. *Transmission of decree for execution.*—(1) An application for the transmission of a decree to another court for execution shall be made by a verified execution petition headed with the cause-title of the suit, and the serial number of the execution petition in the suit, and shall state, in addition to the particulars set out in clauses (*a*) to (*i*), inclusive, of Order XXI, rule 11 (2) of the Code, any facts relied on by the applicant to bring the case within the terms of section 39 and Order XXI, rules 4 and 5 of the Code, and shall specify the court to which transmission of the decree is sought, as in Form No. 52.

(2) If the application is admitted, the applicant shall within seven days thereafter, deposit in court the expenses other than postage charges of transmitting the same.

(3) Notice of the application shall be given in all cases in which, under Order XXI, rule 22 of the Code, notice of an application for execution is required.

139. *When sent to District Court of another district.*—If the decree is sent to the District Court of another district for execution by a court subordinate thereto, the District Court shall at once transmit it to the subordinate court, and no application shall be made by the party to the District Court. No charges for transmitting the decree to such subordinate court shall be levied by the District Court.

140. * *Return of decree to the transmitting court.*—If, after a decree has been sent to another court for execution, the decree-holder does not, within six months from the date of the receipt of the decree on such transfer, apply for the execution thereof, the court to which the decree has been sent shall certify the fact that no application for execution has been made, to the court which passed the decree and shall return the decree to that court.

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* This rule was inserted by *H.C. Dis.* 167 *of* 1906 and amended by *P. Dis.* 83 *of* 1938.
For forms—Vide Appx. III-A of Part II, Vol. II.

CIRCULAR ORDERS.

I. COST OF TRANSMITTING RECORDS FOR REFERENCE IN EXECUTION PROCEEDINGS—

Decree-holders who apply to a District Munsif's Court for the execution of their decrees are not to be required to pay for the cost of transmitting the records from the District Court to the District Munsif's Court.

A decree-holder has a right to the execution of his decree in the court in which it was passed, and if the rules for safe custody of records require that the records should be at a central office at a distance from the court in which execution should be had, the suitor should not be charged as a suitor, for what is a measure of public utility. (*H.C. Cir.* 1405 *of* 1882.)

II. USE OF FACSIMILE STAMP—PROHIBITED—

The High Court considers that the use of a *facsimile* stamp will give rise to a great deal of fraud and accordingly directs that certificates and orders of transmission of decrees should issue signed by the presiding officer of the court with his own hand. (*H.C. Dis.* 852 *of* 1924.)

III. ENTRY IN THE REGISTER—

The High Court considers that a separate register for the purpose of checking delay in sending or detecting the omission to send the documents mentioned in Order XXI, rule 6, Civil Procedure Code, is unnecessary. When applications for transmission of decrees are ordered, the entries relating thereto in column 7 of Civil Register No. 5 should be made in red ink, the date of despatch of the necessary documents being noted beneath. (*H.C. Dis.* 725 *of* 1917.)

IV. RECIPROCAL EXECUTION OF DECREES OF THE COURTS IN BRITISH INDIA AND CERTAIN INDIAN STATES—

(*a*) *Courts not established or continued by the authority of the Governor-General in Council—*

G.I. Notifn. No. 321-*I* (*F. and P.*), *d.* 15*th May* 1929, *as subsequently amended—*

In supersession of the notifications mentioned in the Second Schedule annexed hereto and of all notifications amending the same, the Governor-General in Council is pleased—

(1) in exercise of the powers conferred by section 44 of the Code of Civil Procedure, 1908 (Act V of 1908), to declare that the decrees of the courts specified in the second column of the First Schedule hereto annexed, being courts of the States respectively mentioned in the first column of the said Schedule and not established or continued by the authority of the Governor-General in Council, may be executed in British India as if they had been passed by the Courts of British India; and

(2) to notify for general information that the States mentioned in the first column of the First Schedule have agreed that the decrees passed by civil courts in British India may be executed in their respective territories by the courts specified in the third column of the First Schedule.

FIRST SCHEDULE

States.	Names of courts of the States in column (1).		Notification.
	Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.	
(1)	(2)	(3)	(4)
1. BARODA	All civil courts *	All civil courts ..	No 321-I. (F. and P.), dated 15th May 1929.

* For specification of courts see page 160.

States.	Names of courts of the States in column (1).		Notification.
	Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.	
(1)	(2)	(3)	(4)
2. BENARES ..	The following civil and revenue courts, namely :— Chief Court, Ramnagar. District Judge's Court, Gyanpur. Collector's Court, Gyanpur. Collector's Court, Chakia. Collector's Court, Ramnagar. Civil Judge's Court, Chakia. Civil Judge's Court, Ramnagar. Deputy Collector's Court, Gyanpur. Assistant Collector's Court, Tahsil East Gyanpur. Assistant Collector's Court, Tahsil West Gyanpur. Assistant Collector's Court, Chakia. Assistant Collector's Court, Ramnagar.	The courts of the Benares State specified in the second column.	
3. STATES AND ESTATES IN THE WESTERN INDIA STATES AGENCY— *In the Mahi Kantha Agency—*			
Malpur ..	Court of the manager of Malpur.	The courts of the States and Estates in political relations with the Agent to the Governor-General in the States of Western India specified in the second column.	No. 321-I. (F. and P.), dated 15th May 1929, amended by No. 152-I. (F. and P.), dated 1st April 1933, No. 407-I. (F. and P.), dated 1st July 1933, No. 299-I. (F. and P.), dated 25th May 1933, and No. 225-I. (F. and P.), dated 30th May 1934.
Ilol	Court of the manager of Ilol.		
Katosan ..	Court of the manager of Katosan.		
Magodi ..	Court of the Manager of Magodi.		
Vadgam ..	Court of the manager of Vadgam.		
Pethapur ..	Court of the manager of the Pethapur Taluka.		
Sathamba ..	Court of the manager of Sathamba.		
3-A. STATES AND ESTATES IN THE GUJARAT STATES AGENCY—			
Rajpipla ..	Huzur Court of Rajpipla .. Court of the Sar Nyayadhish of Rajpipla. Court of the munsif of Nandod. Court of the munsif of Jhagadia.	The courts of the States and Estates in political relations with the Agent to the Governor-General for the Gujarat States and Resident at Baroda specified in the second column.	No. 321-I. (F. and P.), dated 15th May 1929, amended by No. 152-I. (F. and P.), dated 1st April 1933, No. 407-I. (F. and P.), dated 1st July 1933 and No. 299-I. (F. and P.), dated 25th May 1933.
Chhota Udepur.	Huzur Court of the Chhota Udepur State. District Judge's Court, Chhota Udepur. Court of the Nyayadhish, Chhota Udepur.		
Baria ..	Huzur Court of the Baria State. Court of the Sar Nyayadhish of the Baria State. Court of the Nyayadhish of the Baria State.		

States.	Names of courts of the States in column (1).		Notification.
	Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.	
(1)	(2)	(3)	(4)
3-A. STATES AND ESTATES IN THE GUJARAT STATES AGENCY—*cont.*			
Balasinor ..	Huzur Court, Balasinor. Court of the District Judge, Balasinor. Court of the Nyayadhish, Balasinor.		
Sant ..	Huzur Court of the Sant State. Court of the Karbhari of the Sant State. Court of the Nyayadhish of the Sant State.		
Sachin ..	Court of the Secretary to the Agent to the Governor-General for the Gujarat States and Resident at Baroda. Huzur Court. The Judicial Commissioner's Court. Judicial Officer's Court.	The courts of the States and Estates in political relations with the Agent to the Governor-General for the Gujarat States and Resident at Baroda specified in the second column.	
In the Rewa Kantha, Surgana and the Dangs Agency— Jambughoda.	Court of the Thakor. Court of the Nyayadhish.		
Surgana ..	Court of the Deshmukh of Surgana.	Court of the Deshmukh of Surgana.	
3-B. STATES AND ESTATES IN THE KOLHAPUR RESIDENCY AND DECCAN STATES AGENCY— Kolhapur ..	Court of His Highness the Maharaja of Kolhapur. Combined Court of the Agent to the Governor-General for the Deccan states and Resident at Kolhapur and His Highness the Maharaja of Kolhapur. Court of the Chief Judge, Kolhapur. Court of the First Class Subordinate Judge, Kolhapur. Court of the Second Class Subordinate Judge, Shirol. Court of the First Class Subordinate Judge, Gadhinglaj. Court of the munsif of Katkol. Court of the Jaghirdar of Kagal (Junior). Court of the munsif of Kagal (Junior). Court of the Jaghirdar of Bavda. Court of the munsif of Bavda. Court of the Jaghirdar of Ichalkaranji. Court of the munsif of Ichalkaranji. Court of the munsif of Ajra .. Court of the Jaghirdar of Vishalgad. Court of the munsif of Vishalgad.	The courts of the States and Estates in political relations with the Agent to the Governor-General for the Deccan States and Resident at Kolhapur specified in the second column.	No. 321-I. (F. and P.), dated 15th May 1929, amended by No. 152-I. (F. and P.), dated 1st April 1933, No. 407-I. (F. and P.), dated 1st July 1933, No. 299-I. (F. and P.), dated 25th May 1933, No. 312-I. (F. and P.), dated 28th June 1934, and No. 331-I-B (F. and P.), dated 4th June 1936.

States.	Names of courts of the States in column (1).		Notification.
	Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.	
(1)	(2)	(3)	(4)
3-B. STATES AND ESTATES IN THE KOLHAPUR RESIDENCY AND DECCAN STATES AGENCY—*cont.*			
Kolhapur—*cont.*	Court of the Second Class Subordinate Judge, Kolhapur. Court of the Jaghirdar of Kagal (Senior). Court of the Munsif of Kagal (Senior). Court of the Himat Bahadur, Kolhapur. Court of the Munsif of the Himat Bahadur Jaghir. Court of the Munsif of Kapshi. Court of the Munsif of Sarlashkar Jaghir.		
Sangli	Huzur Court of Sangli. Nyayadhish Court of Sangli. Subordinate Judge's Court, Central Division (Miraj Prant Taluka, including Sangli and the Terdal Taluka). Subordinate Judge's Court, Southern Division (including the Talukas of Shahapur and Shirhatti). Subordinate Judge's Court, Northern Division (including the Talukas of Kuchi and Mangal Wedhe).	The courts of the States and Estates in political relations with the Agent to the Governor-General for the Deccan States and Resident at Kolhapur specified in the second column.	
Miraj (Senior)..	Court of the Chief of Miraj (Senior). Court of the Nyayadhish of Miraj (Senior). Court of the Munsif of Laxmeswar. Court of the Munsif of Modnimb.		
Miraj (Junior).	Huzur Court. Court of the District Judge. Court of the Munsif, Budhgaon. Court of the Munsif of Gudgeri. Court of the Munsif, Khandali.		
Ramdurg ..	Court of the Chief. Court of the District Judge. Court of the First Class Subordinate Judge. Court of the Second Class Subordinate Judge. Court of the Sub-Saranjamdar of Mhysal.		
Kurundwad (Junior).	Huzur Court. Court of the Nyayadhish.		
Savantvadi ..	Huzur Court, Savantvadi. Court of the Minister of Justice and Finance, Savantvadi. Court of the Sar Nyayadhish, Savantvadi. Court of the Nyayadhish of Savantvadi. Court of the Nyayadhish of Kudal.	The courts of the States and Estates in political relations with the Agent to the Governor-General for the Deccan States and Resident at Kolhapur specified in the second column.	

States.	Names of courts of the States in column (1).		Notification.
	Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.	
(1)	(2)	(3)	(4)
3-B. STATES AND ESTATES IN THE KOLHAPUR RESIDENCY AND DECCAN STATES AGENCY—*cont.*			
Janjira.. ..	Court of the Sar Nyayadhish of Janjira. Court of the Munsif of Janjira.	Court of the Sar Nyayadhish of Janjira.	
Akalkot ..	Court of the Regent (High Court), Akalkot. Court of the Sar Nyayadhish (District Court), Akalkot. Court of the Nyayadhish, Akalkot. Court of the Nyayadhish at Pilio. Court of the Nyayadhish at Kurla.	The courts of the States and Estates in political relations with the Agent to the Governor-General for the Deccan States and Resident at Kolhapur specified in the second column.	
Aundh ..	High Court, Aundh State. Court of the Sessions and District Judge, Aundh. Court of the Sub-Judge for Atpadi, Kundal and Gundal Talukas. Court of the Sub-Judge, Aundh Taluka.	Do.	
Jamkhandi ..	Huzur Court of the Raja of Jamkhandi. High Court, Jamkhandi. Court of the District Judge, Jamkhandi. Court of the Nyayadish, Jamkhandi. Court of the Sub-Judge, Kundgol. Court of the Munsif, Wathar. Court of the Munsif, Patkal.	Do.	
Kurundwad (Senior).	High Court, Kurundwad(Senior) State. Court of the Sar Nyayadish (District Judge), Kurundwad. Court of the Nyayadish (First Class Sub-Judge), Kurundwad.	Do.	
Phaltan ..	The High Court of Judicature at Phaltan. Court of the District Judge, Phaltan. Court of the First Class Sub-Judge, Phaltan.	Do.	
4. COOCH BEHAR ..	All civil and revenue courts ..	All civil courts.	
5. KASHMIR ..	High Court of Judicature. Courts of the District Judges and Additional District Judges, Jammu and Kashmir. Courts of the Sub-Judges, Jammu, Mirpur, Kotli, Udhampur, Kathua, Bhadarwah Muzafferabad. Court of the Judge, Small Causes Court, Srinagar.	The courts of the Kashmir State specified in the second column.	No. 296-I-B, dated 14th May 1936.

States.	Names of courts of the States in column (1).		Notification.
	Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.	
(1)	(2)	(3)	(4)
5. KASHMIR—*cont.*	Courts of the Munsifs, Srinagar, Anantnag, Shopayan, Baramulla, Jammu, Sriranbirsinghpura, Samba, Rajori, Ramnagar, Doda, Kishtwar, Mirpur and Bhimber. Courts of the Wazir Wazarats, Leh and Gilgit.		
6. MADRAS STATES—			
Cochin ..	Chief Court of the State of Cochin. District Courts, the courts of munsifs and village panchayat courts of the State of Cochin. Provided that when the decree sent to a court in British India for execution is a decree of the court of a munsif or of a village panchayat court, the documents mentioned in Order XXI, rule 6 of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), bear the counter-signature of the Judge of the District Court to which the Court of the munsif or the village panchayat court is subordinate.	All civil courts in the State of Cochin.	
Pudukottai ..	Chief court of the State of Pudukottai, The court of the Registrar of the Chief Court, and The small cause courts of the State of Pudukottai. Village courts. Courts of Arbitrators appointed for the recovery of sums due to Co-operative Societies, acting through the Chief Court. Provided that when a decree sent to a court in British India for execution is a decree of the court of the Registrar of the chief court or of a small cause court, the documents mentioned in O. XXI, r. 6, of the Code of Civil Procedure, 1908, bear the counter-signature of a Judge of the Chief Court.	All civil courts of the State of Pudukottai.	No 116-I-B, dated 6th February 1936.
Travancore ..	High Court of the State of Travancore. District Courts, the courts of munsifs and the village panchayat courts of the State of Travancore. Provided that when the decree sent to a court in British India for execution is a decree of the court of a munsif or of a village panchayat court, the documents mentioned in O. XXI, r 6, of the Code of Civil Procedure, 1908 (Act V of 1908) bear the counter-signature of the Judge of the District Court to which the court of the munsif or the village panchayat court is subordinate.	All civil courts of the State of Travancore.	

States.	Names of courts of the States in column (1).		Notification.
	Whose decrees may be executed by courts in British India.	To which decrees passed by civil courts in British India may be sent for execution.	
(1)	(2)	(3)	(4)
7. MYSORE ..	*All civil and revenue courts of the Mysore State.	†All civil courts of the Mysore State.	
8. SIKKIM ..	Chief Court of Sikkim in the exercise of its civil jurisdiction.		
9. MANIPUR ..	All civil courts	All civil courts ..	No. 111-I, dated 22nd March 1933.

* When decrees are sent for execution to a court situate outside the territories of Mysore, they should, if not in English, be invariably accompanied by an English translation of the same. (C.L. 111, dated 7th March 1893 of the chief court, Mysore.) (*H.C. Letter* 1220, *dated 24th April* 1893).

† All decrees of courts subordinate to the Madras High Court, when forwarded for execution to a court in the province of Mysore, shall, unless such decrees have been originally written in English or in Kanarese or Telugu language, be accompanied by a translation in the Kanarese or Telugu language. If a translation in the Kanarese or Telugu language cannot conveniently be made, a translation in the English language should accompany the decree forwarded for execution.

(*H.C. Rule, dated 21st November* 1879.)

SECOND SCHEDULE.

Notification No. 53-J., dated the 7th March 1879.
Notification No. 233-I.J., dated 25th November 1881.
Notification No. 4035-I., dated 10th December 1885.
Notification No. 4036-I., dated 10th December 1885.
Notification No. 4395-I.A., dated 8th December 1904.
Notification No. 2877-I.A., dated 13th July 1906.
Notification No. 2684-I.A., dated 3rd July 1908.
Notification No. 1341-I.B., dated 30th June 1911.
Notification No. 2053-I.B., dated 22nd September 1911.
Notification No. 3209-I.B., dated 3rd July 1919.
Notification No. 2855-I.B., dated 26th August 1920.

List of Courts in Baroda.

When a decree of a civil court in the Madras Presidency is sent for execution to a court in the Baroda State, it should be sent direct to the court which is to execute it and not in all cases to the District Court, as required by Order XXI, rule 5 of Schedule I of the Code of Civil Procedure, 1908. A list of the civil courts of the Baroda State is given below.

Name of court.	Location.		Area of jurisdiction.	Remarks.
	Locality.	District.		
(1)	(2)	(3)	(4)	(5)
1 Baroda Prant Nyayadhishi.	Baroda ..	Baroda ..	Baroda district ..	The Prant Nyayadhishi is the District Court.
2 Baroda City Munsif Court.	Do. ..	Do. ..	Baroda City, Baroda taluka and Waghodia taluka.	
3 Petlad Mahal Nyayadhishi.	Petlad ..	Do. ..	Petlad taluka and Bhadran Peta Mahal.	
4 Dabhoi Mahal Nyayadhishi.	Dabhoi ..	Do. ..	Dabhoi taluka.	
5 Sunkheda Mahal Nyayadhishi.	Sunkheda ..	Do. ..	Sunkheda taluka.	
6 Sinore Mahal Nyayadhishi.	Sinore ..	Do. ..	Sinore taluka.	
7 Padra Mahal Nyayadhishi.	Padra ..	Do. ..	Padra taluka	
8 Karjan Mahal Nyayadhishi.	Karjan ..	Do. ..	Karjan taluka and Baroda taluka.	
9 Saoli Mahal Nyayadhishi.	Saoli ..	Do. ..	Saoli taluka	

Name of court. (1)	Location. Locality. (2)	Location. District. (3)	Area of jurisdiction. (4)	Remarks. (5)
10 Chandod Vahiwatdar's Nyayadhishi.	Chandod in Baroda.	Baroda ..	Chandod.	
11 Tilakwada Diwani Kamdar's Court.	Tilakwada in Baroda.	Do. ..	Tilakwada Peta mahal.	
12 Kadi Prant Nyayadhishi.	Mehsana ..	Kadi ..	Kadi district ..	The Prant Nyayadhishi is the District Court.
13 Pattan Mahal Nyayadhishi.	Pattan ..	Do. ..	Pattan taluka and Haj Peta mahal.	
14 Sidhpur Mahal Nyayadhishi.	Sidhpur ..	Do. ..	Sidhpur taluka.	
15 Visnagar Mahali Nyayadhishi.	Visnagar ..	Do. ..	Visnagar and Kheralu talukas and Wadnagar Peta mahal.	
16 Kadi Maha Nyayadhishi.	Kadi ..	Do. ..	Kadi taluka.	
17 Kalol Mahal Nyayadhishi.	Kalol ..	Do. ..	Kalol taluka.	
18 Mehsana Mahal Nyayadhishi.	Mehsana ..	Do. ..	Mehsana taluka.	
19 Vijapur Mahal Nyayadhishi.	Vijapur ..	Do. ..	Vijapur taluka.	
20 Dehegam Mahal Nyayadhishi.	Dehegam ..	Do. ..	Dehegam taluka and Attarsumba Peta mahal.	
21 Chanasma Mahal Nyayadhishi.	Chanasma ..	Do. ..	Chanasma taluka.	
22 Mandwa Nyayadhishi.	Mandwa ..	Do. ..	Villages in the jurisdiction of the Mia of Mandwa.	Mandwa is situated on the Vatrak River, and these villages adjoin it in the Baroda enclave, which is bounded by the Vatrak River on the west and by the Mahi Kantha and the Kapadvanj and Prantij telisils on the remaining sides.
23 Naosari Prant Nyayadhishi.	Naosari ..	Naosari ..	Naosari district ..	The Prant Nyayadhishi is the District Court.
24 Kathore Mahal Nyayadhishi.	Kathore ..	Do. ..	Kathore, Uelachha and Kamrej talukas and Wakal Peta mahal.	
25 Vyara Mahal Nyayadhishi.	Vyara ..	Do. ..	Vyara, Palsana, Mahuva and Songad talukas.	
26 Vajpur Diwani Kamdar's Nyayadhishi.	Vajpur ..	Do. ..	Vajpur Peta mahal.	
27 Malangdeo Diwani Kamdar's Nyayadhishi.	Malangdeo ..	Do. ..	Malangdeo Peta mahal.	
28 Salher Diwani Kamdar's Nyayadhishi.	Salher ..	Do. ..	Salher Peta mahal.	
29 Umarpada Diwani Kamdar's Nyayadhishi.	Umarpada ..	Do. ..	Umarpada Peta mahal.	
30 Amreli Prant Nyayadhishi.	Amreli ..	Amreli ..	Amreli district ..	The Prant Nyayadhishi is the District Court.
31 Dhari Mahal Nyayadhishi.	Dhari ..	Do. ..	Dhari taluka.	
32 Kodinar Mahal Nyayadhishi.	Kodinar ..	Do. ..	Kodinar taluka.	
33 Okhamandal Mahal Nyayadhishi.	Dwarka ..	Do. ..	Okhamandal taluka.	
34 Bet Diwani Kamdar's Nyayadhishi.	Bet ..	Do. ..	Bet Shankhodhar.	
35 Ratanpur Diwani Kamdar's Nyayadhishi.	Ratanpur ..	Do. ..	Ratanpur Peta mahal.	

Name of court.	Location.		Area of jurisdiction.	Remarks.
	Locality.	District.		
(1)	(2)	(3)	(4)	(5)
36 Bhimkatta Diwani Kamdar's Nyayadhishi.	Bhimkatta ..	Amreli ..	Bhimkatta Peta mahal.	
37 Khamba Diwani Kamdar's Nyayadhishi.	Khamba ..	Do. ..	Khamba Peta mahal.	

(*H.C. Dis.* 482 *of* 1912.)

(*b*) *Courts established or continued by the Governor-General in Council, to which the provisions of section* 45, *C.P.C., have been made applicable*—

(1) *G.I. Notifn. No.* 786-*I.B., d. 9th April* 1913—

The Governor-General in Council is pleased to notify that the courts specified in the schedule hereto annexed which have been established or continued by the Governor-General in Council, have power to serve summonses issued by courts in British India under the Code of Civil Procedure, 1908 (V of 1908).

The Governor-General in Council is further pleased to declare that the provisions of section 45 of the said Code apply to the said courts.

The notifications of the Government of India in the Foreign Department, Nos. 1361-I and 1362-I., dated 29th March 1889, as subsequently amended, are hereby cancelled.

SCHEDULE.

Agency.	Courts.
BALUCHISTAN	All civil courts in the territories administered by the Agent to the Governor-General in Baluchistan as such Agent.
BARODA	The District Court and the Court of Small Causes in the Cantonment of Baroda. The District Courts and the subordinate civil courts of the sections in the Baroda State of the— Ahmedabad-Parantij Railway, Anand-Godhra Branch } of the Bombay- Baroda-Godhra Chord } Baroda and Central India Railway, Mehsana-Viramgam Railway, Petlad-Cambay Railway, Rajputana-Malwa Railway and Tapti Valley Railway.
CENTRAL INDIA	The District Courts and the Court of Small Causes in the Cantonments of Mhow, Nimach and Nowgong, the Indore Residency Bazaars and the Civil Lines of Nowgong. The District Court, the Civil Court and the Court of Small Causes in the Cantonment of Sehore. The Court of the Assistant to the Resident at Gwalior at Guna.

Agency.	Courts.
CENTRAL INDIA—*cont.*	The District Courts and the Court of Small Causes of the sections in Central India of the— Bhopal-Itarsi Railway, Bhopal-Ujjain Railway, Bina-Guna-Baran Railway, Great Indian Peninsula Railway, Godhra-Ratlam-Nagda Railway, Nagda-Muttra Railway, Nagda-Ujjain Railway and Rajputana-Malwa Railway.
HYDERABAD *	The District Court and the Court of Small Causes in the Cantonments of Secunderabad and Aurangabad, the Hyderabad Residency Bazaars and the sections in the Hyderabad State of His Highness the Nizam's Guaranteed State Railway system, the South East main line of the Great Indian Peninsula Railway, and the broad gauge north-west line of the Madras and Southern Mahratta Railway. The District Court and the subordinate civil courts of the sections in the Hyderabad State of the Barsi Light Railway, Dhond Manmad Branch of the Great Indian Peninsula Railway and metre gauge main line of the Madras and Southern Mahratta Railway.
KASHMIR	The courts of the Assistants to the Resident in Kashmir.
MYSORE	The District Court and the Court of Small Causes in the Civil and Military Station of Bangalore. The District Court and the Courts of Small Causes of the Hindupur Railway. Kolar Gold Fields Railway, and the Madras and Southern Mahratta Railway— (i) from Mysore to Bangalore, and (ii) from Bangalore to the Mysore frontier near Kuppam. The District Court and the subordinate civil courts of the sections of the Harihar Branch of the Madras and Southern Mahratta Railway in the Mysore State.

* It has been brought to the notice of the High Court that some of the lower courts relying on the notification of the Government of India, Foreign and Political Department, No. 786 I.B., dated 9th April 1913, have been transmitting decrees and orders of their courts for execution in the areas of the Hyderabad State directly administered by His Exalted Highness the Nizam's Government. The said notification enables decrees of British Indian courts to be executed only in the areas administered by the Honourable the Resident at Hyderabad and not in areas directly under the administration of His Exalted Highness the Nizam's Government. With a view to avoid irregularities in future a list of such areas and the courts within their jurisdiction is given below :—

The areas administered by the Honourable the Resident are—
1. The Railway lands in Hyderabad State,
2. The Cantonments of Aurangabad and Secunderabad, and
3. The Hyderabad Residency Bazaars.

The civil courts in these areas are—
1. Judicial Officer's Court at Aurangabad,
2. District Munsif's Court in Secunderabad, and
3. District Judge's Court in Secunderabad.

Decrees from British India for execution in the abovementioned areas can therefore be forwarded to these courts, or preferably to the District Court, Secunderabad. They should not be transmitted for execution to courts in the areas directly under the administration of His Exalted Highness the Nizam's Government. (*H.C.P. Dis. No.* 244 *of* 1932.)

Agency.	Courts.
RAJPUTANA	The courts in the District of Abu.* The District Courts and the Courts of Small Causes of the sections in Rajputana of the— Baran-Kotah Railway, Bina-Guna-Baran Railway, Great Indian Peninsula Railway, Nagda-Muttra Railway, and Rajaputana-Malwa Railway, other than the Cawnpore-Achnera section. The District Courts and the subordinate civil courts of the lengths in Rajputana of the— Agra-Delhi Chord Railway, and the Cawnpore-Achnera section of the Rajputana-Malwa Railway.

(2) *G.I. Notifn. No.* 787-*I. B., d. 9th April* 1913 *as amended by No.* 137-*I. d. 1st April* 1933—

The Governor-General in Council is pleased to notify that the courts specified in the schedule hereto annexed, which have been established or continued by the Governor-General in Council, have power to serve summonses issued by courts in British India under the Code of Civil Procedure, 1908 (V of 1908).

The Governor-General in Council is further pleased to declare that the provisions of section 45 of the said Code apply to the said courts, except courts of Thanadars.

The Notifications of the Government of India in the Foreign Department Nos. 4049-I-A. and 4050-I-A., dated 18th September 1902, are hereby cancelled.

SCHEDULE.

Agency.	Courts.
THE DECCAN STATES AGENCY AND KOLHAPUR RESIDENCY.	The District Court and the subordinate civil courts of the section of the Madras and Southern Mahratta Railway in the Savanur State. The Court of the Secretary to the Agent to the Governor-General for the Deccan States and Resident at Kolhapur. The Court of the Under Secretary to the Agent to the Governor-General for the Deccan States and Resident at Kolhapur. The District Courts and the subordinate civil courts of the sections of the Madras and Southern Mahratta Railway in the States of Aundh and Phaltan.
THE GUJARAT STATES AGENCY AND BARODA RESIDENCY.	The District Court and subordinate civil courts of the section of the Petlad-Cambay Railway in the Cambay State. The courts of the Political Agent, the Assistant Political Agent, the District Deputy Assistant Political Agent, and the Huzur Deputy Assistant Political Agent in the Rewa Kantha. The courts of the Thanadars of Jambughoda, Pandu and Sankheda.

* Substituted by Notification No. 2228-I.B., dated 1st October 1917, see *Gazette of India*, 1917, Part I, page 1637.

Agency.	Courts.
THE GUJARAT STATES AGENCY AND BARODA RESIDENCY—*cont.*	The District Court and the subordinate civil courts of the sections of the Bombay, Baroda and Central India, Godhra-Lunavada, Godhra-Ratlam-Nagda and Rajpipla Railways in the Rewa Kantha. The District Court and the subordinate civil courts of the sections of the Billimora-Kalamba and Tapti Valley Railways in the Bansda and Sachin States.
SABAR KANTHA	The courts of the Political Agent, the Assistant Political Agent, the District Deputy Assistant Political Agent and the Huzur Deputy Assistant Political Agent in the Sabar Kantha. The court of the Deputy Political Agent, Palanpur. The courts of the Thanadars of the Bavisa Zilla, Gadhwara, Katosan Sabar Kantha, Vatrak Kantha, Deodar, Kankrej, Santalpur and Varahi. The court of the Deputy Thanadar at Mahisa. The District Court and the subordinate civil courts of the sections of the Ahmedabad-Parantij and the Mehsana Railways, respectively, in the Sabar Kantha. The District Court and the subordinate civil court having jurisdiction over the Railways in Palanpur.
THE PUNJAB STATES AGENCY ..	The District Court and the subordinate civil courts of the section of the North-Western Railway in the Khairpur State.
KATHIAWAR	The court of the District Judge in Kathiawar. The court of the Subordinate Judge in Kathiawar. The courts of the Thanadars of Babra, Bhoika Chock Datha, Chotila Dasada Dhrafa, Lakhapadar, Lodhika, Palias, Songdh and Wadhwan District and Jhinjhuwada. The District Court and the subordinate civil courts having jurisdiction over the Railways in Kathiawar.

(3) *G.I. Notifn. No.* 788-*I.B., d. 9th April* 1913—

The Governor-General is pleased to notify that the courts specified in the schedule hereto annexed, which have been established or continued by the Governor-General in Council, have power to serve summonses issued by courts in British India under the Code of Civil Procedure, 1908 (V of 1908).

The Governor-General in Council is further pleased to notify that the provisions of section 45 of the said Code apply to the said courts.

SCHEDULE.

1. The Court of the Political Agent at Manipur.
2. All civil courts in Berar.

(4) *G.I. Notifn. No.* 789-*I.B., d. 9th April* 1913—

The Governor-General in Council is pleased to declare that the provisions of section 45 of the Code of Civil Procedure, 1908 (V of 1908), apply to the Court of the Political Officer in Sikkim.

V. RECIPROCAL EXECUTION OF DECREES OF THE COURTS IN BRITISH INDIA AND CERTAIN OTHER COUNTRIES—

(A) United Kingdom.

(i) *Extract from "The Reciprocal Enforcement of Judgments (British India and British Burma) Order, 1938" passed by His Majesty in Council*—

(1) This order may be cited as "The Reciprocal Enforcement of Judgments (British India and British Burma) Order, 1938" and shall come into operation on the 19th November 1938.

(2) Part I of the Foreign Judgments (Reciprocal Enforcement) Act, 1933, shall extend to British India, and British Burma.

(3) The following courts of British India shall be deemed superior courts of British India for the purposes of Part I of the Foreign Judgments (Reciprocal Enforcement) Act, 1933, that is to say:

(*a*) The High Courts in Calcutta, Madras, Bombay, Allahabad, Lahore, Patna and Nagpur, the Chief Court in Oudh, the Judicial Commissioner's Courts in the North-West Frontier Province and in Sindh, any other court in British India constituted or reconstituted under Chapter II of Part IX of the Government of India Act, 1935, as a High Court and any other comparable court in British India which His Majesty in Council may declare to be a High Court for the purposes of that Act.

(*b*) All District Courts.

(*c*) All other courts whose civil jurisdiction is subject to no pecuniary limit, provided that the judgment sought to be registered under the said Act of 1933 is sealed with a seal showing that the jurisdiction of the court is subject to no pecuniary limit.

(ii) *G.I. Notifn. No.* 366/37, *Home (J.), d. 10th November* 1938—

In pursuance of sub-section I of the Code of Civil Procedure (Amendment) Act, 1937 (VIII of 1937), the Central Government is pleased to appoint the 19th day of November 1938 as the date on which the said Act shall come into force.

(B) Aden.

(i) *G.I. Notifn. No.* 148/38, *Home (J.), d. 21st November* 1938—

In exercise of the power conferred by explanation 2 to section 44-A of the Code of Civil Procedure, 1908 (Act V of 1908), the Central Government is pleased to declare the Colony of Aden to be a reciprocating territory, and the supreme court of the said colony to be a superior court of that territory for the purposes of the said section.

(ii) *G.I. Notifn. No.* 148/38, *Home (J.), d. 25th May* 1939—

The following notification No. 3 of 1939, dated 7th February 1939, issued by the Governor of Aden regarding reciprocity between British India and the colony of Aden in the matter of execution of decrees is published for general information:—

In exercise of the power conferred by sub-section (5) of section 41 of the Civil Courts Ordinance, 1937 (No. 5 of 1937) the Governor is pleased to declare British India to be a reciprocating territory, and the courts of British India set out in the Schedule * hereto to be superior courts of British India for the purposes of the said sub-section.

(C) Burma.

(i) *G.I. Notifn. No.* 286/36, *Home (J.), d. 27th March* 1939—

In exercise of the power conferred by explanation 2 to section 44-A of the Code of Civil Procedure, 1908 (Act V of 1908), the Central Government is pleased to declare British Burma to be a reciprocating territory, and the High Court of Judicature at Rangoon and all District Courts in British Burma to be superior courts of that territory for the purposes of the said section.

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* Vide list of courts specified under paragraph 3 of item (A) (i) above.

(ii) *G.I. Notifn. No. 286-I/36, Home (J.), d. 27th March* 1939—

The following notification, Judicial I Branch, No. 141, dated 7th March 1939, issued by the Government of Burma regarding reciprocity between British India and British Burma in the matter of execution of decrees is published for general information:—

Whereas the Code of Civil Procedure (Amendment) Act, 1937 (India Act VIII of 1937), has been brought into force in British India by notification by the Government of India with effect from the 19th November 1938:

And whereas the Governor of Burma is satisfied that the Government of India have agreed to declare British Burma to be a reciprocating territory and the High Court of Judicature at Rangoon and all District Courts in Burma (vide list given below) to be superior courts for the purposes of section 44-A of the said Code):

Now, therefore, the Governor of Burma declares British India to be a reciprocating territory and the following courts * of British India to be superior courts for the purposes of section 44-A of the Code of Civil Procedure. (*H.C. P. Dis.* 389 *of* 1939.)

NOTE.—The following is a list of District Courts in Burma:—

Names of District Courts.	Names of places.
Akyab	Akyab or Kyaukpyu or Sandoway.
Kyaukpyu	
Sandoway	
Pegu	Pegu.
Tharrawaddy	Tharrawaddy.
Hanthawaddy	Rangoon.
Insein	Insein.
Prome	Prome or Thayetmyo.
Thayetmyo	
Bassein	Bassein.
Henzada	Henzada.
Myaungmya	Myaungmya or Maubin.
Maubin	
Pyapon	Pyapon.
Salween	Salween.
Thaton	Thaton.
Amherst	Moulmein.
Tavoy	Tavoy or Mergui.
Mergui	
Toungoo	Toungoo.
Magwe	Magwe or Minbu.
Minbu	
Myingyan	Myingyan or Pakokku or Meiktila.
Pakokku	
Meiktila	
Mandalay	Mandalay.
Kyaukse	
Yamethin	Pyinmana.
Bhamo	Bhamo.
Myitkyina	Myitkyina.
Shwebo	Shwebo or Katha.
Katha	
Sagaing	Sagaing or Monywa.
Lower Chindwin	
Upper Chindwin	Mawlaik.

(*H.C.P. Dis. No.* 858 *of* 1939.)

B.—APPLICATION FOR EXECUTION.

141. *Application for execution.*—(1) Except when made under Order XXI, rule 11 (1) of the Code, an application for execution

* Vide list of courts specified under paragraph (3) of item (A) (i) above.

of a decree shall be by petition, and, in addition to the particulars set forth in Order XXI, rule 11 (2) of the Code, shall be headed with the cause-title of the suit and separately numbered in each suit.

(2) The petition shall, if it relates to any property of the judgment-debtor, pray for the realization thereof, in the manner appropriate to the nature of the property, as in Form No. 53; and shall also set out the whole of the relief which the applicant requires at the time of presenting the same. The court shall not grant any relief not claimed by the execution petition.

142. *Certified copy of decree to be fixed.*—The judgment-creditor shall, together with the first petition for execution or transmission of a decree, file in court a certified copy of the decree sought to be executed, and shall not be required, upon any subsequent application, to file a further copy of the same decree, unless the copy already filed has been sent to another court, under Order XXI, rule 6 of the Code, and has not been returned and application is made to the court which passed the decree for concurrent execution.

143. *Non-compliance with rules.*—A petition not complying with the provisions of the Code or these rules, or not claiming any substantial relief, shall be returned for amendment or rejected.

144. *Procedure on and after hearing of petition.*—Upon the hearing of the petition, the court shall ascertain whether the provisions of the Code and these rules have been complied with, and shall determine whether notice thereof is to be served on any person. If the petition is admitted, the court shall adjourn the further hearing to a fixed day, and the applicant shall, within two days or such other period as may be fixed by the judge, bring into court the fees prescribed for issue of process, and, if the application is for arrest of the debtor, the subsistence moneys fixed by the judge under Order XXI, rule 39 (1) of the Code. At the adjourned hearing the court may, if the prescribed fees and subsistence moneys have been paid, order process to issue; or in case of default, may extend the time for payment, or dismiss the petition. Provided that the court may, if it thinks fit, on admitting the petition, in any case in which the prescribed fees and subsistence moneys have been paid, order process to issue forthwith.

NOTE.—USE OF THE WORD "RECORDED" AS A FINAL ORDER DEPRECATED—The High Court considers that even in the case of execution petitions which have been successful the use of the word "Recorded" as a final order should be avoided, as it does not represent any judicial act. If what is intended is that the proceedings in an execution petition are closed and that no further proceedings in execution will be taken without a fresh execution petition, the petition may be "Struck off", i.e., taken off the file of pending applications and sent to the Record room. (*H.C. Dis.* 778 *of* 1926.)

For forms—Vide Appx. III-A of Part II, Vol. II.

145. *Determination of question arising in execution of decree.*—If any question arises for the determination of the court executing a decree, the same shall be heard and determined upon the hearing of the petition, or an application made therein, and, if evidence is taken orally, the court shall record the evidence of the witness, and mark all exhibits admitted in evidence, in accordance with Order XVIII, rules 4 and 9 of the Code. The court shall, in any case, record its judgment and draw up its order, in the same manner as upon the hearing of a suit.

146. *Order to appoint day for sale.*—In the case of an application for the attachment and sale of any property, unless the court otherwise orders, the order for attachment shall appoint a day for the sale of the attached property, which shall be not more than three months from the date of the order and shall adjourn the hearing of the petition to a fixed date.

147. *Joint decree-holders.*—When an application is made by one or more of several joint decree-holders, unless a written authority signed by the other decree-holders for the applicant to execute the decree and to receive the money or property recovered is filed in court, the court shall give notice of the order, if any, passed for the execution of the decree, to all the decree-holders who have not joined in the application; and may also in its discretion give notice of any application for payment out of court, or delivery to the applicant, of any money or property recovered in execution.

Execution Applications.

148. *Oral application for relief.*—At the hearing or any adjourned hearing of an execution petition, the judgment-creditor may apply orally for any relief prayed for by the petition; and any other party may, upon giving three days' notice in writing to the opposite party, make any application with respect thereto.

149. *Application in pending petition.*—If it is necessary to make an application in connexion with a pending execution petition, otherwise than at the hearing or any adjourned hearing thereof, the application shall be headed with the cause-title of the suit, and the serial number of the execution petition, and shall also be separately numbered in each execution petition.

150. *Application of rules.*—Rules 29 to 32 and 145 *supra* shall apply to all applications by a party to the suit or matter made in or with respect to a pending execution petition.

C.—Mode of Execution.

I. Execution of documents by the Judge.

151. *Procedure in case of execution of documents by court.*—The procedure prescribed by Order XXI, rule 34 (1) to (4) of the

For forms—Vide Appx. III-A of Part II, Vol. II.

Code shall apply to all documents whereof the execution by any party has been directed by the court.

152. *Decree-holder to bring into court the draft and fees for service of notice.*—The decree-holder shall, together with the draft in Order XXI, rule 34 (1) of the Code mentioned, bring into court a duplicate thereof and two copies of a notice in Form No. 54 and the prescribed court-fee stamps for service thereof. One of the said copies shall be annexed to the draft, and shall be served on the person directed to execute the document in manner prescribed for service of summons on a defendant to a suit.

153. *Form of deed and of endorsement of negotiable instrument.*—In the case of a deed, the concluding portion shall be in Form No. 55, and in the case of a negotiable instrument, the endorsement shall be in Form No. 56; and the judge shall sign the name of the party directed to execute the document, and his own name, as in the said forms, and shall affix the seal of his court thereto.

II. Payment and Satisfaction.

154. *Amount realized in execution to be paid into court.*—Except when payment is made to the decree-holder under rule 162, all moneys recovered by an officer of the court, or received by an auctioneer, shall be paid into court in manner prescribed below for payment of moneys into court and notice of the payment shall be posted on a notice-board of the court and a certificate thereof shall be endorsed on the lodgment schedule.

155. *Payment into court in satisfaction of decree.*—Except when payment is made to the decree-holder under rule 162, a person paying money or bringing property into court in satisfaction of a decree shall give notice of such payment or deposit to the judgment-creditor.

156. *Application to certify payment or adjustment.*—An application under Order XXI, rule 2 of the Code, shall be by petition; or, if an execution petition is then pending, by an application at the hearing thereof or an execution application made in the said petition.

III. Payment into and out of court: Procedure to be observed.

(*a*) Payment into court.

157. *Lodgment-schedule to be brought in.*—A person desirous of paying money into court, hereinafter called the payer, shall bring into court a lodgment schedule in Form No. 57, headed with the cause-title of the suit, appeal, or matter, and the particular account therein, if any, to which the money is to be credited, and

For forms—Vide Appx. III-A of Part II, Vol. II.

stating the decree or order, if any, in pursuance of which the payment is made, or the reason for the payment, and the several sums and the total amount to be paid into court. An order for lodgment and counterfoil receipt, in Form No. 58, stating the date of issue, and bearing a serial number, shall then be filled in, except as to the date of payment and the signature of the receiving officer, by the officer of the court, and issued to the payer.

158. *Delivery to bank or treasury officer.*—The payer shall deliver the money and the order and counterfoil receipt to the bank or treasury officer mentioned therein, who shall retain the order, and return the receipt, duly signed and dated, to the payer, who shall return the said receipt to the court.

NOTE.—The receipt, when filed in court must be attached by gum to the office counterfoil of the lodgment book. (*H.C. Dis.* 727 *of* 1906.)

159. *When bank or treasury is closed.*—If the bank or the treasury is closed, the money may, with the leave of the judge, be paid to the officer of the court; in such case the lodgment schedule shall be endorsed with a receipt to be signed by the judge, and the amount shall, on the next day on which the bank or treasury is open, be sent, together with an order and counterfoil receipt, by the officer of the court to the bank or treasury officer, who shall return the said receipt to the court.

In the case of deposits by purchasers in court auctions, when the deposit is made when the bank or the treasury is closed, the payment should be made to the officer conducting the sale. The payment shall be entered forthwith in the cash book and the ledger, and the money left for safe custody with the head clerk until the next day on which the bank or treasury is open. The lodgment schedule shall be endorsed with a receipt to be signed by the judge, and shall also be signed by the head clerk in token of his having received the money. A lodgment order shall also be issued on the same day.

On the next day on which the bank or treasury is open, the officer of the court to whom the money was originally paid shall receive it back from the head clerk, and shall in token of having done so sign the lodgment schedule; and he shall with all convenient speed send the money together with an order and counterfoil receipt to the bank or treasury officer who shall return the said receipt to the court. The number of the bank or treasury receipt shall then be forthwith entered in the accounts.

The same procedure shall apply, as far as may be, to amounts collected by amins and peons on warrants of attachment or warrants of arrest when the money is brought into court when the bank or treasury is closed.

NOTE.—Money paid into court under this rule must be remitted to the treasury or bank with the least possible delay and in no instance should an interval of more than 24 hours be allowed to occur if the treasury or

bank be open. But where there is no sub-treasury or bank in the station, daily remittances of petty amounts of less than Rs. 25 to the treasury or bank, which involve expenditure on travelling allowance out of proportion to the amounts remitted, should be avoided.
(*H.C. Dis. 727 of 1906 and P. Dis. 343 of 1937.*)

160. *Receipt.*—Upon the return of the said receipt to the court by the payer, or by the bank or treasury officer under the preceding rule, a receipt signed by the judge shall be issued to the payer, and the amount paid shall be entered to the credit of the account in respect of which the payment is made.

NOTE.—The High Court considers that the receipt contemplated by this rule may be signed by the chief ministerial officer of the court authorized in this behalf by the District Judge. (*H.C.P. Dis. 459 of 1928.*)

161. *Transmission of money payable in satisfaction of decree.*—Unless it appears to the court that the personal attendance of the party is necessary, money payable in satisfaction of a decree or order may be transmitted to the court by postal money-order or in Government currency notes. In such case, the payer shall, before transmitting the money, send to the court, in a pre-paid registered cover, a lodgment schedule in the form prescribed by rule 157, and stating the manner in which the money is to be sent.

(*b*) Payment out of court.

162. *Cash payment.*—If the person entitled to immediate receipt of the amount or his duly authorized agent is present at the court with the payer, the money may, with the leave of the judge, be paid at once to the person so entitled or the said agent. In such case the lodgment schedule shall be endorsed with an order for payment to the person so entitled, signed by the judge, and with an acknowledgment of receipt, signed by the payee : and satisfaction *pro tanto* of the decree or order, if any, in pursuance of which the money is paid, shall be entered up.

163. *Application for payment out in other cases.*—Except as provided by rules 162 and 172, payment of money out of court shall be made only upon the order of the judge, made at the hearing of a suit, appeal, or matter, or upon an interlocutory or execution application, supported by affidavit showing how the applicant is entitled to receive payment.

164. *Order for payment.*—The order may be for payment to the applicant or his duly authorized agent; provided that payment shall not be directed to be made to the pleader of the applicant, unless his vakalat contains an express authority for this purpose, and if such payment is directed, the full name of the pleader shall be inserted in the order of the judge.

165. *Payment schedule to be brought in.*—A person desirous of obtaining payment of money out of court, hereinafter called

For forms—Vide Appx. III-A of Part II, Vol. II.

PRICE, 3 *pies*]

EIGHTH LIST OF CORRECTIONS TO THE CIVIL RULES OF PRACTICE AND CIRCULAR ORDERS, VOLUME I (1940 EDITION).

22 JUL 43

No. 58.

Page 172.—*Insert* the following as a circular order after Rule 161:—

172

Instructions regarding the investment of suitors' moneys deposited in Court.

Suitors' moneys which have been placed in Civil Court deposit are held by Courts in trust in all cases and can be invested only in securities specified in Section 20 of the Trusts Act. Amounts up to Rs. 3,000 may also be deposited in the Post Office Savings Bank.

(*P. Dis. No.* 88 *of* 1943.)

[VIII list, dated 20-4-43]

the payee, shall bring into court a payment schedule, in Form No. 59, headed with the cause-title of the suit, appeal, or matter, and the particular account, if any, to which the payment is to be debited, and stating the decree or order authorizing the payment, and the several sums, and the total amount, to be paid out of court, and also a receipt for the said amount, signed by the payee. If the payee is the agent of the person entitled to receive the money, he shall also file a power-of-attorney, duly stamped, authorizing him to receive payment. An order for payment and counterfoil receipt, in Form No. 60, stating the date of issue, the amount to be paid, and the account to which the payment is to be debited, shall then be issued to the payee.

NOTE.—The receipts taken from parties for sums paid out of court must be attached by gum to the office counterfoil of the payment order book. (*H.C. Dis.* 727 *of* 1906.)

166. *Presentation of order.*—The order shall be presented for payment within the account month in which it is issued; and, if not presented within the period, shall be returned to the court; and may then, after being re-dated and initialled by the judge, be re-issued to the payee.

NOTE.—Where a payment order is re-dated and re-issued, the further date should be entered in the office counterfoils of the original order book. (*H.C. Dis.* 727 *of* 1906.)

167. *Receipt by payee.*—On payment of the amount of the order, the payee shall sign a receipt therefor endorsed on the order.

168. *Order not to issue after 25th of the month except in cases of urgency.*—Except in cases of urgency, no order for payment of money out of court shall be issued after the 25th day of each calendar month.

(*c*) Delivery of Securities or other Valuables into and out of court.

169. *Rules as to delivery of securities, jewellery or other valuables, into and out of court.*—The foregoing rules shall apply to the delivery of securities, jewellery or other valuables, into and out of court, with the following modifications :—

(1) Government promissory notes and other negotiable securities, shall be endorsed " the Judge of the court of ".

(2) When jewellery or other valuables are to be brought into court, two copies of a descriptive list thereof shall be presented with the lodgment schedule, and shall be checked and signed by the officer of the court in the presence of the depositor. The jewellery or other valuables shall be placed in a box furnished with a lock and key, to be provided by the depositor. The box shall then be locked and sealed with the seal of the court, and forwarded by the court to the bank or treasury officer together with one of the copies

of the said list, and the key shall be retained by the officer of the court. The remaining copy of the said list shall be returned to the depositor; and on the return of the counterfoil receipt by the bank or treasury officer, a receipt signed by the judge shall be given to the depositor in exchange for the said descriptive list.

NOTE.—Deposit receipts of moneys belonging to minors or concerned in land acquisition cases should be treated as 'valuables' and sent to the treasury for safe custody. (*H.C.P. Dis.* 806 *of* 1937.)

(*d*) Cash Deposits.

170. *Cases where payment may be made in cash to officer of court.*—Notwithstanding anything contained in this chapter, moneys for any of the purposes hereunder mentioned may be paid in cash to an officer of the court, to be appointed by the judge :—

(1) service of summons in respect of which the fees cannot be paid in stamps;
(2) allowances to witnesses;
(3) commission fees;
(4) money-order commission for transmission of commissioners' fees;
(5) judgment-debtors' subsistence moneys;
(6) tom-tom charges;
(7) charges for the conveyance of attached property, and for feeding attached cattle;
(8) postage and other charges for calling for records for reference, or for transmission of decrees to other courts for execution :

Provided that, if, in the opinion of the said officer, disbursement of the said money is not likely to be made within a month, the procedure prescribed by rules 157 to 168 inclusive shall be followed :

Provided also that if any cash deposit, or any part thereof, is not expended, and if it is not probable that the same will be refunded to the depositor within a month * from the date on which it became available for refund, it shall be forthwith remitted to the bank or treasury officer.

171. † *Presentation of receipt.*—The person making any such deposit as aforesaid shall present therewith a memo., in Form No. 61, headed with the cause-title of the suit, appeal, or matter, and specifying the purpose for which the deposit is made; and a receipt ‡ shall be granted to the depositor.

172. *Repayment.*—(1) The repayment of any cash, which has not been expended for the purpose for which the same was deposited,

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* Subs. for the word "fourteen days" by *H.C.P. Dis.* 199 *of* 1927.
† As amended by *H.C.P. Dis.* 459 *of* 1928.
‡ Vide Civil Register No. 51-A in Appx. II of Part II, Vol. II.

shall be made upon the production of the said receipt, and under the immediate superintendence of the judge, who shall satisfy himself as to the identity of the person to whom such repayment is made and of his authority to receive it.

(2) Provided that if the amount so deposited, or the unexpended portion thereof has been sent by the court to a bank or treasury officer, rules 163 to 168, inclusive, shall apply to an application for repayment.

(3) If the applicant is unable to produce the said receipt, he shall file an affidavit accounting for its non-production.

CIRCULAR ORDERS.

1. PAYMENT TO THE JAIL AUTHORITIES DURING VACATION—

The jail authorities have been authorized to remit into the treasury the amounts received by them from civil debtors during the vacation of the courts which have committed them. Intimation of such remittances should be sent to the courts concerned at the time the amounts are received.

(*H.C. Dis.* 324 *of* 1912.)

2. COST OF CARRIAGE OF MONEY COLLECTED UNDER DECREES—

When large sums of money are collected by amins or peons on the process-serving establishment in execution of decrees and are brought to the courts, the cost of carriage shall be borne by the judgment-debtor.

(*H.C. rule* 499, *d.* 12–3–1896.)

3. ALTERATION OF THE BOUNDARIES OF LAND SPECIFIED IN DECREES—

(1) The boundaries where specified in the decree, and not the exact extent by subsequent measurement, indicate the identity of the lands of which possession is to be given to the decree-holder.

(*Pro.*, *d.* 25–1–1848.)

(2) When decrees have been passed by civil courts affecting boundaries demarcated by the Survey Department, the courts shall themselves execute their decrees; and when the decree alters a survey boundary line, the amin of the court, entrusted with the execution, shall plant the new boundary marks and remove the old ones, where necessary. The amin will at once prepare a tracing from the survey village map and mark upon it the alteration made by him in execution. This tracing or sketch will then be returned to the court along with the warrant of execution by the amin; and it will be attached to the copy of the decree to be submitted to the Superintendent of Revenue Survey. Whenever a civil court alters a survey boundary, a copy of the decree, together with the amin's tracing or sketch of the alteration should be sent immediately after execution to the Superintendent through the District Judge. The Survey Department will then be enabled to make the alteration at once in their maps.

(*H.C. Cir.* 1262 *of* 1887.)

(3) In cases where demarcation by a skilled surveyor is necessary, there is nothing in the High Court Circular 1262 of 1887, which precludes the civil court executing the decree from having the demarcation made by the Survey Department, with the consent of that department and of the parties to the suit. (*H.C. Cir.* 1999 *of* 1887.)

IV. Arrest, Detention and Release.

1. REPORT IN CASES OF ILLNESS—

Whenever a person who has been arrested under a civil warrant appears to be too ill to be removed from his residence or other place where he may be after his arrest and before he is brought to court, the officer who has arrested such a person shall forthwith report the matter to the court by arzi and shall remain with the prisoner and retain him in his custody until the order of the court is obtained under section 59 (2), Civil Procedure Code. (*H.C. Dis.* 284 *of* 1901.)

2. RAILWAY OFFICIALS AND PUBLIC SERVANTS—

(*a*) *Railway officials—General—*

Whenever a court has occasion to issue a warrant for the arrest of any person in the employment of a Railway Company, the court shall enter in the warrant a direction to the bailiff or process-server to whom it is entrusted for execution requiring him, before making the arrest, to acquaint the immediate official superior of the person to be arrested with the fact that the arrest is about to be made. The words "immediate official superior" shall be deemed to include a railway official of the rank of station master, foreman or inspector, but not one of lower rank. (*H.C. Cir.* 2730 *of* 1893 *and* 1111 *of* 1907.)

(*b*) *Public servants—General.*

Whenever a civil court issues a warrant for the arrest of a public servant, notice in writing of the intended arrest shall be sent by the court issuing the warrant to the immediate official superior of the person to be arrested. The notice shall be delivered to the official superior, before the warrant is executed by the process-server or bailiff to whom the warrant is entrusted for execution, unless it appears to the court issuing the warrant that the delivery of the notice in this way is likely to delay the execution of the warrant unduly, in which case the notice shall be despatched to the official superior, before the warrant is handed over to the process-server or bailiff, by post or by such other means as appear proper to the court issuing the warrant. (*H.C. Cir.* 1111 *of* 1907).

(c) *Officers empowered to countersign warrants of civil courts for the arrest of subordinates of the M. & S. M. and S. I. Railways, and of the Posts and Telegraphs, the Jail and the Police Departments.*

In exercise of the powers conferred by sub-section (2) of section 55 of the Code of Civil Procedure, 1908 (V of 1908), and in modification of the previous rules on the subject, His Excellency the Governor of Madras is hereby pleased to declare that no employee of the Madras and Southern Mahratta Railway Company, Limited, the South Indian Railway Company, Limited, and of the Posts and Telegraphs Departments shall be liable to arrest in execution of the decrees of civil courts otherwise than in accordance with the following rule:—

Where a judgment-debtor against whom a warrant of arrest in execution of a decree or order has been issued is a person in the employment of either of the said railway companies, or of the Posts and Telegraphs departments, the court issuing the warrant shall send the same to the official superior of the person to be arrested, as specified in the annexed lists, for countersignature; and the official superior shall, with as little delay as practicable, return the warrant, with his countersignature to the court by which it was issued, for execution in the usual course.

ANNEXURE.

THE MADRAS AND SOUTHERN MAHRATTA RAILWAY COMPANY, LIMITED (INCORPORATED IN ENGLAND).

Designation and station of officer or official.	Categories of staff working directly under the control of the officer or official.
(1)	(2)
Agency Department.	
Secretary to the Agent and General Manager, Madras.	All staff of the Agent and General Manager's department including railway schools but excluding statistical branch.
Statistical Officer, Madras	All staff working in statistical branch.
Engineering Department.	
Chief Engineer, Madras	All staff in the Chief Engineer's Office, Park Town, Madras.
Signal Engineer, Madras	All staff in the Signal Engineer's Office, Park Town, Madras, and all signal staff throughout the railway.

Designation and station of officer or official. (1)	Categories of staff working directly under the control of the officer or official. (2)
Engineering Department—cont.	
District Engineer, Rayapuram ..	All staff of this department between Madras (inclusive) to Bangalore Cantonment (inclusive) including Broad Gauge Yard at Bangalore City; Wallajah Road-Ranipet and Kolar Gold Fields branches.
District Engineer, Gooty	All staff of this department between mile 41/22 and Arkonam (inclusive) to Raichur (inclusive); Dharmavaram (exclusive) to Pakala; Pakala to Renigunta; Renigunta to Gudur (exclusive) but inclusive of Gudur Metre Gauge track; Pakala to Katpadi (exclusive) but including the Metre Gauge track at Katpadi.
District Engineer, Bezwada	All staff of this department between Basin Bridge (exclusive) to Bezwada (inclusive) and Guntur (exclusive) to Repalle (inclusive).
District Engineer, Godavari	All staff of this department between Bezwada (exclusive) to Gopalapatnam (exclusive) including Bezwada-Masulipatam, Gudivada-Bhimavaram, Nidadavolu-Narsapur, Cocanada-Kotipalle branches.
District Engineer, Guntakal	All staff of this department between Guntakal (inclusive) exclusive of Broad Gauge tracks at Guntakal to Guntur (inclusive) and Guntur to 100 feet south of mixed gauge crossing South end of Sitanagaram Station and Guntur-Macherla Branch Line.
District Engineer, Bellary	All staff of this department between Guntakal (exclusive) to Mysore Frontier mile 119/13—Guntakal (exclusive) to Gadag (exclusive) including Rayadrug, Kottur and Samehalli branches.
Works Manager, Engineering Workshops, Arkonam.	All staff employed in the Engineering Workshops, Arkonam.
Traffic and Commercial Departments.	
Chief Operating Superintendent, Madras.	All staff in Chief Operating Superintendent's Office, Park Town, Madras.
Chief Commercial Manager, Madras ..	All staff in Chief Commercial Manager's Office, Park Town, Madras.
Traffic Department.	
District Transportation Superintendent, Traffic, Rayapuram.	All staff on the undermentioned sections— Madras (Central Station) to Bangalore Cantonment (inclusive) including Broad Gauge Goods Shed at Bangalore City including Ranipet Branch and Kolar Gold Fields Railway, Arkonam to Raichur (excluding Guntakal) and Madras (Beach) to Ennore (exclusive).
District Transportation Superintendent, Traffic, Bezwada.	Ennore (inclusive) to Waltair (exclusive) including Guntur, Repalle, Narsapur, Cocanada Port and Kotipalle Branches and Tadepalle (inclusive) to Masulipatam including Bhimavaram branch.
District Transportation Superintendent, Traffic, Guntakal.	Gadag (exclusive) to Tadepalle (exclusive) including Rayadrug, Kottur, Samehalli and Macherla branches and Guntakal to Hindupur (inclusive).
District Transportation Superintendent, Traffic, Pakala.	Gudur (exclusive) to Katpadi (exclusive) excluding Renigunta and Pakala to Dharmavaram (exclusive).
Power Department.	
District Transportation Superintendent, Power, Rayapuram.	Madras (Central Station) to Bangalore Contonment (inclusive) including Broad Gauge, Bangalore City including Ranipet branch and Kolar Gold Fields Railway, Arkonam to Raichur (excluding Guntakal) and Madras (Beach) to Ennore (exclusive).
District Transportation Superintendent, Power, Bezwada.	Ennore (inclusive) to Waltair (exclusive) including Guntur Repalle, Narsapur, Cocanada Port and Kotipalle branches and Tadepalle (inclusive) to Masulipatam including Bhimavaram branch.
District Transportation Superintendent, Power, Guntakal.	Gadag (exclusive) to Tadepalle (exclusive) including Rayadrug, Kottur, Samehalli and Macherla branches and Guntakal to Hindupur (inclusive)—Gudur (exclusive) to Katpadi (exclusive) excluding Renigunta and Pakala to Dharmavaram (exclusive).

Designation and station of officer or official. (1)	Categories of staff working directly under the control of the officer or official. (2)
	Mechanical Department.
Chief Mechanical Engineer, Perambur.. or	Assistant Mechanical Engineers, Works Managers, Assistant Works Managers.
Deputy Chief Mechanical Engineer, Perambur.	All office staff ncluding Drawing Office, Perambur.
Loco Works Manager, Perambur ..	Shop Foreman, Chargemen, shop clerks, Watch and Ward staff; Time Office staff.
Carriage Works Manager, Perambur ..	Do. do.
Production Engineer, Perambur ..	Do. do.
Chemist and Metallurgist, Perambur ..	Do. do.
Shop Foremen	Daily rated workshop staff.
	Audit Department.
Chief Auditor and Accountant, Madras.	All staff in General Audit and Traffic Audit. Pay and cash branches at Madras. Record room staff at Rayapuram. All Travelling Inspectors of Accounts stationed in Madras Presidency.
Senior Assistant Auditor, Workshop and Stores Branch, Perambur.	All staff working in the Workshops and Stores Branch, Perambur.
Press Superintendent, Rayapuram ..	All staff employed in the Forms Depot, Ticket Printing Office and the Press, Rayapuram.
District Engineers enumerated under Engineering Department.	All Divisicnal Accountants and Head Clerks and Accountants attached to the offices of the respective District Engineers.
	Electrical Department.
Chief Electrical Engineer, Madras ..	All office staff in Chief Electrical Engineer's Office, Madras. Electrician, New General Offices and Train Lighting Depot and staff working under them. Electricians at Rayapuram, Arkonam, Bezwada, Jalarpet and Guntakal.
Electric Telegraph Inspector, Madras ..	Staff working under his control.
Electric Telegraph Inspector, Rayapuram.	Do.
District Electrical Engineer, Perambur.	All office and executive subordinate supervisory staff. Weighing Machinery staff at Perambur, Arkonam, Jalarpet, Gooty, Nellore, Guntur and Rajahmundry. Power and Lighting and Train Lighting staff at Tenali, Gudur, Nidadavole, Samalkot, Bhimavaram and Bitragunta. Train Lighting Depot, Bezwada, Renigunta and Katpadi.
Train Lighting Inspector, Perambur ..	All staff in Train Lighting shop at Perambur.
Electrical Workshop Foreman, Perambur.	All staff in Electrical Workshops, Perambur.
Chief Electrician, Perambur	All staff working under him.
Mechanical Supervisor, Perambur ..	Do.
Electric Telegraph Inspector, Perambur.	Do.
Electric Telegraph Inspector, Bezwada.	Do.
Electric Telegraph Inspector, Bitragunta South.	Do.
Electric Telegraph Inspector, Bitragunta North.	Do.
Electric Telegraph Inspector, Rajahmundry South.	Do.
Electric Telegraph Inspector, Rajahmundry North.	Do.
Electric Telegraph Inspector, Trivellore.	Do.
Electric Telegraph Inspector, Katpadi.	Do.
Electric Telegraph Inspector, Renigunta.	Do.
Electric Telegraph Inspector, Cuddapah.	Do.
Electric Telegraph Inspector, Adoni ..	Do.
Electric Telegraph Inspector, Guntur.	Do.

Designation and station of officer or official. (1)	Categories of staff working directly under the control of the officer or official. (2)
Electrical Department—cont.	
Electric Telegraph Inspector, Dharmavaram.	All staff working under him and Weighing Machine staff.
Electric Telegraph Inspector, Pakala ..	Do. do.
Electric Telegraph Inspector, Nandyal.	Do. do.
Electric Telegraph Inspector, Guntakal.	Do. do.
Electric Telegraph Inspector, Jalarpet.	Do. do.
Medical Department.	
Chief Medical Officer, Madras ..	All staff in Chief Medical Officer's Office, Madras.
District Medical Officer, Perambur ..	All staff working under him.
District Medical Officer, Guntakal ..	Do.
District Medical Officer, Bezwada ..	Do.
Assistant Surgeon, Madras	Do.
Sub-Assistant Surgeon, Rayapuram ..	Do.
Sanitary Inspector, Rayapuram ..	Do.
Sub-Assistant Surgeon, Tondiarpet ..	Do.
Sub-Assistant Surgeon, Arkonam ..	Do.
Sub-Assistant Surgeon, Haffeldpet (Arkonam).	Do.
Sanitary Inspector, Arkonam	Do.
Sub-Assistant Surgeon, Katpadi ..	Do.
Assistant Surgeon, Jalarpet	Do.
Sanitary Inspector, Jalarpet	Do.
Sub-Assistant Surgeon, Bowringpet ..	Do.
Sub-Assistant Surgeon, Renigunta ..	Do.
Sub-Assistant Surgeon, Nandalur ..	Do.
Sub-Assistant Surgeon, Gooty	Do.
Sub-Assistant Surgeon, Raichur ..	Do.
Sub-Assistant Surgeon, Nandyal ..	Do.
Sub-Assistant Surgeon, Donakonda ..	Do.
Sub-Assistant Surgeon, Bellary ..	Do.
Sub-Assistant Surgeon, Hospet ..	Do.
Sub-Assistant Surgeon, Pakala ..	Do.
Sub-Assistant Surgeon, Dharmavaram	Do.
Sub-Assistant Surgeon, Madanapalle Road.	Do.
Sub-Assistant Surgeon, Bitragunta ..	Do.
Sanitary Inspector, Bitragunta.. ..	Do.
Sub-Assistant Surgeon, Bapatla ..	Do.
Sub-Assistant Surgeon, Rajahmundry..	Do.
Sub-Assistant Surgeon, Samalkot ..	Do.
Sub-Assistant Surgeon, Bhimavaram ..	Do.
Sanitary Inspector, Perambur	Do.
Sanitary Inspector, Bezwada	Do.
Sanitary Inspector, Guntakal	Do.
Stores Department.	
Controller of Stores, Perambur ..	All staff working in Controller of Stores Office, Perambur.
District Controller of Stores, Perambur.	
Assistant Controller of Stores, Perambur.	
Superintendent and Accountant, Perambur.	
Foreman, Clothing Factory, Perambur.	For all staff working under him.
District Controller of Stores, Perambur.	Staff working in general stores, Perambur.
Assistant Controller of Stores, Perambur.	
Depot Store-keeper, Perambur ..	
Assistant Controller of Stores, "Mechanical," Perambur.	All staff in New Loco Stores, Perambur.

SOUTH INDIAN RAILWAY COMPANY, LIMITED.

Serial number and particulars.	Designation of Official Superiors to whom arrest warrant should be sent for countersignature.	Station.
(1)	(2)	(3)
Audit Department.		
1 Staff of the Audit Department working in the Headquarters Offices at Trichinopoly Junction and Inspecting Officials such as travelling Auditors, stock verifiers and cashiers working at Divisions.	Chief Auditor	Trichinopoly Junction.
2 Staff of the "Workshop Accounts and Audit" Branch at Golden Rock.	Workshop Accountant and Auditor.	Golden Rock.
3 Staff of the Stores Accounts Section at Negapatam and Out-depots.	Chief Auditor, Stores Accounts.	Negapatam.

Engineering Department.

Staff against whom warrants should be sent to the Chief Engineer for countersignature.

1 Clerks, draughtsman and menials at Chief Engineer's office, Trichinopoly.
2 Bridge Inspectors and Assistant Bridge Inspector and their trolly men.
3 Plant Chargeman and all other staff employed in the Tools and Plant Depot, Golden Rock.
4 Sleeper Despatching Inspector at Kallayi.

The jurisdictions of the District Engineers are given below :—

District Engineer—	
Villupuram	Madras Beach Station to Talanallur (inclusive) with Arkonam-Katpadi branch and Pondicherry branches.
Tanjore	Villupuram (Ex.) to Golden Rock (Ex.) with Nagore, Arantangi, Mannargudi, Karaikal, Point Calimere and Tranquebar branches.
Golden Rock	Talanallur (Ex.) to Chettinad (In.), Trichinopoly Goods Yard, Trichinopoly to Cammerford Gate, Trichinopoly Junction and North Infantry Lines.
Madura	Trichinopoly Junction (Ex.) to Thirumangalam (In.), Chettinad (Ex.) to Dhanushkodi (In.) including Pamban-Rameswaram branch, Madura to Manamadura and Madura-Bodinayakkanur branches.
Tinnevelly	Thirumangalam (Ex.) to Trivandrum Central with Tuticorin and Tiruchendur branches and Virudunagar to Tenkasi.
Salem	Jalarpet (Ex.) to Cauvery (Ex.) with Krishnagiri, Hosur, Mettur Dam branches and Salem to Vriddhachalam (Ex.) and Vriddhachalam to Cuddalore Junction.
Podanur	Cauvery (In.) to Podanur (In.), Podanur to Ootacamund, Podanur to Dindigul (Ex.), Trichinopoly Junction (Ex.) and Cammerford side outer at Trichinopoly, Classification Yard to Erode and Pollachi and Palghat (Ex.).
Cannanore	Podanur (Ex.) to Mangalore-Olavakkot, Palghat-Shoranur to Ernakulam and Shoranur to Nilambur.

NOTE.—"Ex." means outer signal of the railway station. "In" means up to the outer signal of the railway station.

Arrest warrants against the following categories of staff should be sent to the respective District Engineers as shown above :—

1 Clerks, draughtsmen and menials of District Engineers' offices.
2 Permanent-Way Inspectors, Relieving Permanent-Way Inspectors and Signal Wire Inspectors.
3 Overseers and Supervisors.
4 Sub-Inspectors.
5 Ballast train timekeepers.
6 Permanent-Way Inspector writers.
7 Artizans—
  (*a*) Bricklayer.
  (*b*) Bricklayer coolies.
  (*c*) Carpenter.
  (*d*) Hammermen.
  (*e*) Painters
  (*f*) Store coolie.
8 Trollymen.
9 Keyman.
10 Gang coolies.
11 Gate keepers.
12 Night watchman.
13 Watchman.
14 Water works Inspectors and Sub-Inspectors.
15 Building Inspectors and Sub-Inspector.
16 Building and Road Inspectors and Sub-Inspectors.
17 Drainage Inspectors and Sub-Inspectors.
18 Colony Inspectors and Sub-Inspectors.
19 Garden Inspectors.
20 Gardeners.
21 Plat-laying maistris.
22 Painting maistris.
23 Scherzer bridge operators.
24 Store coolies.

Engineering Department—cont.

25 Winchman.
26 Plumbers.
27 Timekeepers.
28 Time cocks.
29 Fitter and fitter coolies.
30 Lorry drivers and cleaners.
31 Steam and motor road-roller drivers and cleaners.
32 Chickman.
33 Sewage farm staff.
34 Sweepers.
35 Pipe layers.
36 Drivers and cleaners.

Mechanical Department.

Authority to whom arrest warrant should be sent for countersignature.	Headquarters.	Extent of charge.	Designation of staff.
(1)	(2)	(3)	(4)
Chief Mechanical Engineer.	Golden Rock.	....	Deputy Chief Mechanical Engineers, District Mechanical Engineers, Assistant Mechanical Engineers, Electrical Engineer, District Electrical Engineer and Assistant Electrical Engineers. Clerks, draughtsmen, peons, sweepers, water carrier, carriage attendant, watchmen, ferro typer employed in Chief Mechanical Engineer's Office, Golden Rock.
Deputy Chief Mechanical Engineer (Works).	Do.	Central Workshops, Golden Rock.	Foremen, yard foremen, chargemen, charge engineers, crane inspector, meter inspector, clerks, draughtsmen, estimators, Inspectors, planners, semi-technical clerks, progress chasers, progress supervisors, lighters, loco coolies, engine cleaners, serangs, shunters, coolie serang, drivers, power-house drivers, switch board attendants, stockers, power-house cleaners, gate sergeants, head patrol men, watchmen, Lecturers (Apprentices School), peons, boiler inspectors, sweepers, boiler-smiths, electric fitters, fitters, spray painters, armature winders, moulders, pattern makers, smiths, turners, welders, wood machinists, machinists, wiremen, carpenters, springsmiths, coppersmiths, tinsmiths, battery fitters, bricklayers, carriage fitters, crane drivers, electro platers, painters, rivetters, tool and store issuers, strikers, upholsterers, chucklers, fetlers, oil furnacemen, ratteners, slingers, beltmen, hammer drivers, firemen, coolies, boys apprentices, melters, improvers. Drivers, firemen (trial engine shed).
Deputy Chief Mechanical Engineer (Power).	Trichinopoly.	....	Fuel inspectors, and their peons and rolling stock inspector and draughtsmen.
Electrical Engineer.	Golden Rock.	....	Electrical foreman, Distribution, Golden Rock; Electrical Foreman, Trichinopoly; Electrical Foreman, Erode; Electrician, Golden Rock; Line Electrician, Golden Rock, clerks, draughtsmen and peons of the office and wiremen working under the Electrician, Golden Rock, and the Line Electrician, Golden Rock.
Electrical Foreman, Distribution.	Do.	Golden Rock Colony and Trichinopoly Sub-station.	Electrician, clerk, line electrician, mechanical fitter, night watchman, peon, jointer, pump attendants, cleaners, switch-board attendants, electric maistri, electric fitters, wiremen, coolies and tool and store issuer.
District Mechanical Engineer.	Villupuram.	....	Clerical staff and peons of the District Mechanical Engineer's Office, Loco Inspectors and Loco Foremen, Weighbridge Inspectors, Rolling Stock Inspector and Crane Inspector.
Do.	Madura ..	....	Do. do.
Do.	Podanur ..	....	Do. do.

Authority to whom arrest warrant should be sent for countersignature.	Headquarters.	Extent of charge.	Designation of staff.	
(1)	(2)	(3)	(4)	
		Mechanical Department—cont.		
Loco Foreman ..	Villupuram.	Madras Beach to Mayavaram Junction (exclusive) including Arkonam, Katpadi and Pondicherry branches.	Clerical staff and peons of Loco Foremen's Office, Train Examiner's Office, Fitter, chargemen's office Fitter and Boiler Chargemen, shed turner, serangs, engine cleaner maistris, engine cleaners, lighters, pump and stationary engine drivers, washout drivers, washout firemen, coal coolies, yard coolies, loco coolies, watchmen, sweepers, train examiners, apprentice train examiners, carriage cleaner chargemen, rolling stock fitters, carriage cleaners, carriage sweepers, stores issuer. Drivers, shunting drivers, Rail motor drivers, I Firemen, II Firemen, cocks and box boys, water carriers. Fitters, boilersmiths, machinists, turners, painters, carpenters, smiths, coppersmiths, tinsmiths, strikers, rivetters, upholsterers, crane drivers, coolies, electrician (train lighting), wiremen, power-house drivers, power-house coolies, train lighting fitters, train lighting coolies, electric fitters, electricians, headlight fitters, tool and store issuers, sub-station attendants, filter attendants, pump attendants, jointers, line electrician and power-house cleaners.	
Do. ..	Mayavaram.	Mayavaram Junction to Kuttalam (both inclusive), Mayavaram Junction to Arantangi, Peralam Junction to Karaikal, Tiruturaipundi Junction to Point Calimere, Mayavaram Junction to Tranquebar.	Do.	do.
Do. ..	Tanjore ..	Kuttalam to Golden Rock (both exclusive), Tanjore Junction to Nagore and Nidamangalam Junction to Mannargudi.	Do.	do.
Do. ..	Trichinopoly Junction.	Trichinopoly Junction to Villupuram Junction (exclusive) via Chord and Cuddalore Junction (exclusive) to Salem Town (inclusive).	Do.	do.
Do. ..	Madura ..	Trichinopoly Junction (exclusive) to Dhanushkodi (both routes), Dindigul Junction to Palghat (exclusive), Madura Junction to Bodinayakkanur, Pamban Junction to Rameswaram, Madura Junction to Virudunagar Junction (inclusive) and Pollachi Junction to Podanur Junction (exclusive).	Do.	do.

Authority to whom arrest warrant should be sent for countersignature.	Headquarters.	Extent of charge.	Designation of staff.
(1)	(2)	(3)	(4)
		Mechanical Department—cont.	
Loco Foreman ..	Quilon ..	Virudunagar Junction (exclusive) to Tuticorin, Maniyachi Junction to Trivandrum Central, Tinnevelly Junction to Tiruchendur and Virudunagar Junction (exclusive) to Tenkasi Junction via Chord.	Clerical staff and peons of Loco Foremen's Office, Train Examiner's Office, Fitter, chargemen's office Fitter and Boiler Chargemen, shed turner, serangs, engine cleaner maistris, engine cleaners, lighters, pump and stationary engine drivers, washout drivers, washout firemen, coal coolies, yard coolies, loco coolies, watchmen, sweepers, train examiners, apprentice train examiners, carriage cleaner chargemen, rolling stock fitters, carriage cleaners, carrige sweepers, stores issuer. Drivers, shunting drivers, Rail motor drivers, I Firemen, II Firemen, cocks and box boys, water carriers. Fitters, boilersmiths, machinists, turners, painters, carpenters, smiths, coppersmiths, tinsmiths, strikers, rivetters, upholsterers, crane drivers coolies, electrician (train lighting), wiremen, power-house drivers, power-house coolies, train lighting fitters, train lighting coolies, electric fitters, electricians, headlight fitters, tool and store issuers, sub-station attendants, filters attendants, pump attendants, jointers, line electrician and power-house cleaners.
Do. ..	Erode ..	Jalarpet Junction to Tiruppur (exclusive), Tiruppattur Junction to Krishnagiri, Morappur Junction to Hosur, Salem Junction to Salem Town (exclusive), Salem Junction to Mettur Dam and Erode Junction to Trichinopoly Junction (exclusive).	Do. do.
Do. ..	Shoranur ..	Tiruppur to Tirur (exclusive) including Ernakulam and Nilambur Road branches, Olavakkot Junction to Palghat and Podanur Junction to Mettupalaiyam (exclusive).	Do. do.
Do. ..	Calicut ..	Tirur (inclusive) to Mangalore.	Do. do.
Do. ..	Coonoor ..	Mettupalaiyam (inclusive) to Ootacamund.	Do. do. and brakesmen, N.M. Railway.
Electric Traction Engineer.	Tambaram.	....	Foreman, car shed, chargemen, train examiner, electric train examiner, R.S. fitters, fitters, welders, blacksmiths, turners, carpenters, battery fitters, spray painters, painters, tool issuers, coolies, assistant carriage cleaners, chargemen, carriage cleaners and carriage sweepers.

Designation. (1)	Headquarters. (2)	Extent of charge. (3)
	Medical Department.	
Chief Medical Officer ..	Golden Rock ..	Staff stationed at Trichinopoly Junction, Trichinopoly Fort and staff attached to P.M.O.'s Office, Golden Rock.
District Medical Officer.	Do. ..	Staff attached to Golden Rock Hospital, D.M.O.'s Office and Sircarpalayam Water Works.
District Medical Officer (North).	Do. ..	Staff stationed at Tanjore, Tiruvarur, Mayavaram, Villupuram, Vriddhachalam, Chingleput, Tambaram and Madras; staff attached to D.M.O.'s Office (North).
District Medical Officer.	Madura ..	Staff stationed at Palni, Madura, Mandapam, Dhanushkodi, Karaikudi, Tinnevelly, Tuticorin, Shencottah Quilon and staff attached to D.M.O.'s Office.
Do.	Podanur ..	Staff stationed at Palakodu, Salem, Erode, Podanur, Mettupalaiyam, Coonoor, Shoranur, Calicut, Cannanore, Mangalore and staff attached to D.M.O.'s office.

In cases of subordinates the respective District Medical Officer or the Chief Medical Officer as the case may be are empowered to countersign the warrants. In case of menials the Assistant Surgeons or the Apothecaries concerned are empowered to countersign the warrants.

List of staff of the Medical Department according to categories.

Subordinates. (1)	Inferior servants. (2)
1 Assistant Surgeons.	1 Ward attendants.
2 Apothecaries.	2 Laboratory attendant.
3 Laboratory Assistant.	3 Hospital peons.
4 Junior Laboratory Assistant.	4 Butlers.
5 Medical Storekeeper.	5 Servers.
6 Compounders.	6 Ayahs.
7 Head Nurse.	7 Mateys.
8 Nurses.	8 Water carrier.
9 Water Works Superintendent.	9 Cleaners (kitchen).
10 Dais (midwives).	10 Office peons.
11 Cooks.	11 Sanitary maistris.
12 Chargeman.	12 Sanitary peons.
13 Theatre attendant.	13 Sweepers.
14 Head Clerk.	14 Watchmen.
15 Clerks.	15 Cleaners (waterworks) (Sircarpalayam).
16 Sanitary Inspectors.	

List of hospitals and dispensaries with the upper subordinates in charge who are empowered to countersign warrants with their headquarters.

	Designation. (1)	Headquarters. (2)
1	Apothecary	Madras Egmore.
2	Do.	Tambaram.
3	Do.	Chingleput.
4	Do.	Vriddhachalam.
5	Assistant Surgeon	Villupuram.
6	Apothecary	Mayavaram.
7	Do.	Tiruvarur.
8	Assistant Surgeon (in charge)	Golden Rock.
9	Apothecary	Tanjore.
10	Assistant Surgeon	Trichinopoly Junction.
11	Do.	Trichinopoly Fort.
12	Do.	Madura.
13	Apothecary	Palni.
14	Do.	Mandapam.
15	Do.	Dhanushkodi.
16	Do.	Karaikudi.
17	Do.	Tuticorin.
18	Do.	Tinnevelly.
19	Do.	Shencottah.
20	Do.	Quilon.
21	Do.	Palakodu.
22	Do.	Salem.
23	Assistant Surgeon (in charge)	Erode.
24	Apothecary	Podanur.
25	Do.	Mettupalayam.
26	Do.	Coonoor.
27	Do.	Shoranur.
28	Do.	Calicut.
29	Do.	Cannanore.
30	Do.	Mangalore.

Designation of officers. (1)	Headquarters. (2)	Extent of their charge. (3)	Grades of staff. (4)
		Transportation and Commercial Departments.	
Chief Transportation Superintendent.	Trichinopoly.	....	Deputy Transportation Superintendent, District Traffic Superintendents, Assistant Traffic Superintendents, pupil candidates, Office Superintendent, head clerks, clerks, attenders, carriage attendants, peons, sorters (Central Despatch office), Senior Assistant Train Controllers, Headquarters Traffic Inspectors, Junior Assistant Train Controller, Reweighment Inspector, (Traffic Training School) Instructors, Telegraph Instructor, peon, watchman, maintainer, assistant electric fitter, telegraph head lamp examiner, fitters, lampmen, binder and probationary relieving clerks.
Chief Commercial Superintendent.	Do.	....	Deputy Commercial Superintendent, District Superintendent (Claims), Assistant Traffic Superintendents, Office Superintendent, Rate Superintendent, head clerks, clerks, probationers, attenders, peons, traffic canvassers, claims inspectors, district canvassing clerks, peons to traffic canvassers (travelling ticket examining staff), Senior Inspector, travelling ticket inspectors, travelling ticket examiners, box boys and peons, Theni-Cumbum and Coimbatore-Satyamangalam, South Indian Railway lorry services—motor drivers, cleaners, clerks (outstations), porters, draughtsmen and artist, packers, advertisement inspectors, prosecuting inspector, court clerk, assistant court clerk, Indian Refreshment Room inspector, fruit stall and Muhammadan Refreshment Room inspectors, Junior Indian Refreshment Room inspector, stock takers, head cooks, assistant cooks, stall keepers, servers, call boys and cleaners.
Deputy Chief Mechanical Engineer (Power).	Do.	....	Chief clerk, senior clerk, head clerks, clerks and peons.
Signal and Telegraph Engineer.	Do.	....	Senior Assistant Signal and Telegraph Engineer, Junior Assistant Signal and Telegraph Engineers (office staff), head draughtsman, technical assistant draughtsman, estimators, chief clerks, clerks, peons (power signalling staff), Chief Signal Inspector (Electrical), District Signal Inspector (Electrical), District Signal Inspector (Cables), Assistant Signal Inspector (Cable), Assistant Signal Inspector (Electrical), Relay Inspector, jointers, signal and interlocking maintainers (Electrical), assistant electric signal fitter, assistant fitter, jointer's mate, blacksmith, assistant signal and interlocking maintainer (mechanical), hammermen, painters, painters' coolies, coolies, Chief Signal Inspectors (Electrical), lascar (signal and interlocking branch), Chief Signal Inspectors, District Signal Inspectors, Assistant Signal Inspectors, apprentice signal inspectors, signal and interlocking maintainers, assistant signal and interlocking maintainers, blacksmiths, tinkers, painters, hammermen, tinkermates, junior assistant signal and interlocking maintainers (mechanical), lascars, carpenters, mechanic (telegraph branch), Traffic Telegraph Supervisor, Chief Telegraph Inspectors, Telegraph Inspectors, electric fitters, Telegraph linemen, assistant electric fitter (telegraphs), fitter

Designation of officers.	Headquarters.	Extent of their charge.	Grades of staff.	
(1)	(2)	(3)	(4)	
Transportation and Commercial Departments—cont.				
Signal and Telegraph Engineer —*cont.*	Trichinopoly —*cont.*	....	(minimum extinguisher) (telegraph shop), chargeman, assistant chargeman (watch ward and staff), gate sergeant, head watchman, watchmen, coolie maistri, coolies, packer, clock and watch repairers and sweeper.	
District Traffic Superintendent.	Madras ..	Madras Beach to Tanjore (exclusive), Chingleput to Arkonam, Villupuram to Katpadi, Villupuram to Pondicherry, Villupuram to Vriddhachalam (exclusive), Vriddhachalam to Cuddalore Old Town, Mayavaram to Tranquebar, Peralam to Karaikal and Mayavaram to Tiruvarur (exclusive).	Assistant Traffic Superintendent, head clerks, clerks, peons, carpenters, carpenter mates, tinker, tinker mates, Enquiry Office Inspector, Station Superintendent, Station Masters, Station Ma[illegible], Station Masters (relieving), Probationary (Assistant Station Masters), signalmen, clerks-in-charge, block operators, platform foremen, gate warder, train clerks, station clerks, matrons, waiting room attendant, shunters, goods and transhipment clerks, booking and parcel clerks, general clerks, relieving clerks, station ticket collectors, goods and transhipment porters, cranemen, markers, sealers, chief train controller, assistant train controllers, control train clerks and peons, head pointsman, pointsman, coupling pointsman, cabinmen, retiring room attendants, water carriers, sweepers, sanitary peon, sanitary maistri, porters, gatemen, guards, brakesmen, guards cooks, call boys, box boys, parcel van clerks, road van clerks, travelling porters, signallers, telegraph peons and telephone operators.	
Assistant Traffic Superintendent.	Trichinopoly.	Trichinopoly junction (inclusive) to Vriddhachalam (inclusive), Vriddhachalam to Salem town, Trichinopoly to Tanjore (inclusive), Tanjore to Nagore, Nidamangalam to Mannargudi, Tiruvarur to Arantangi, Tiruturaipundi to Point Calimere.	Do.	do.
District Traffic Superintendent.	Madura ..	Trichinopoly junction (exclusive) to Tuticorin, Trichinopoly junction (exclusive) to Dhanushkodi, Dindigul to Pollachi, Pollachi to Palghat (exclusive) and Madura to Bodinayakkanur.	Do.	do.
Assistant Traffic Superintendent.	Tinnevelly ..	Maniyachi to Trivandrum Central, Tinnevelly to Tiruchendur, Tenkasi to Virudhunagar (Maniyachi and Virudhunagar exclusive).	Do.	do.
District Traffic Superintendent.	Podanur ..	Jalarpet to Shoranur, Shoranur to Ernakulam, Tirupattur to Krishnagiri, Morappur to Hosur, Salem to Salem market (exclusive), Salem to Mettur dam, Erode to Trichinopoly junction (exclusive), Podanur to Pollachi (exclusive), Olavakkot to Palghat and Podanur to Ootacamund.	Do.	d..
Assistant Traffic Superintendent.	Calicut ..	Shoranur to Nilambur and Shoranur to Mangalore (Shoranur exclusive).	Do.	d.

Designation of officers.	Headquarters.	Extent of their charge.	Grades of staff.
(1)	(2)	(3)	(4)
Transportation and Commercial Departments—cont.			
Electric Traction Engineer.	Tambaram.	Madras beach to Tambaram.	Foreman (maintenance), overhead line inspector, assistant inspectors (bonding), chargeman, senior clerks, clerks, draughtsman, peons, linesmen, coolies, assistant fitters (bonding), keymen, lorry drivers, fitters, wiremen, drivers, guards, district traction controller, senior assistant traction controllers, junior assistant traction controllers, sub-station attendants, control train clerks and call boys.

OTHER DEPARTMENTS.

Authority to whom arrest warrants should be sent for countersignature.	Headquarters.	Designation of staff.
(1)	(2)	(3)
Agency Department.		
Agent and General Manager.	Trichinopoly ..	Clerks, peons, carriage attenders of the office of the Agent and General Manager. For general offices—water carriers, cleaners, watchmen and sweepers. General Office Inspector, enquiry clerk and supervising headmistress of railway schools.
Marine Department.		
Marine Superintendent.	Mandapam ..	Office clerks, peons, messengers, water-carriers, trollymen, pier staff, ferry steamer staff and Marine workshop staff.
Stores Department.		
Superintendent of Stores.	Negapatam ..	Staff employed at Negapatam, Madras, Metre Gauge Depot at Golden Rock, Broad Gauge Depot at Podanur, Marine Depot at Mandapam.
Deputy Superintendent of Stores.	Golden Rock ..	Staff employed in the office and stores of the Deputy Superintendent of Stores, Tambaram Electric Depot, Loco Depots at Villupuram, Madura and Erode.
Colony Committee.		
xecutive Officer ..	Golden Rock ..	Office clerks, peons, attenders, lascars, house inspectors, health and sanitary inspectors, watch and ward staff, vaccinators, cattlemen and sweepers.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

Designation of officers empowered to countersign.	Employees under their control.
(1)	(2)
Postal and Railway Mail Service.	
ıperintendents of Post offices (vide list of divisions and headquarters below).	All Inspectors of post offices, sub-postmasters, clerks, overseers, postmen, village postmen and all other officials under their control.

Division. (1)	Headquarters. (2)
1 Bangalore division	Bangalore.
2 Bellary division	Bellary.
3 Chingleput division	Chingleput.
4 Godavari division	Rajahmundry.
5 Guntur division	Guntur.
6 Madura division	Madura.
7 Malabar division	Calicut.
8 Mysore division	Mysore.
9 Nellore division	Nellore.
10 Nilgiris division	Coimbatore.
11 Tanjore division	Tanjore.
12 Tinnevelly division	Palamcottah.
13 Travancore division	Trivandrum.
14 Trichinopoly division	Trichinopoly.
15 Vellore division	Vellore.
16 Vizagapatam division	Vizagapatam.

Designation of officers empowered to countersign.	Employees under their control.
(1)	(2)
Postal and Railway Mail Service—cont.	
Presidency Postmaster, Madras Postmaster, Madura Postmaster, Hyderabad (Deccan) Postmaster, Bangalore	All officials under their control.
Superintendent, Railway Mail Service, 'M' Division, Madras and Superintendent, Railway Mail Service, 'T' Division, Trichinopoly.	All Inspectors, R.M.S. sorters, clerks, van peons, porters, etc., in the 'M' and 'T' divisions, respectively.
Postmaster-General, Madras Circle, Madras ..	All officials in the office of the Postmaster-General and the Dead Letter Office, Madras.
Telegraphic Traffic.	
The Chief Superintendent, Central Telegraph Office, Madras.	All officials under his control.
The Superintendent, Government Telegraph Office, Bangalore, Calicut and Madura.	All officials under the control of respective superintendents.
Postmaster-General, Madras Circle, Madras ..	All officials in the Government Telegraph offices at Bellary, Bezwada, Cocanada, Mangalore, Ootacamund, Pondicherry, Secunderabad, Trichinopoly, Trivandrum, Tuticorin and Vizagapatam.
Telegraph Engineering.	
The Divisional Engineers, Telegraphs, Madras, Coimbatore and Trichinopoly divisions.	All Subdivisional officers, telegraphs, telephone operators, line staff, etc., and all other officials under their control.
Wireless Branch.	
The Divisional Engineer, Telegraphs, Madras.	All officials of the Wireless Branch working under his control.

(*G.O. Ms.* 1978, *Home, dated* 29*th April* 1940 *and H.C.P. Dis.* 43 *of* 1941.)

Officials of the Jail Department.

No employee of the Jail Department shall be liable to arrest in execution of the decrees of civil courts otherwise than in accordance with the following rule :—

Where a judgment-debtor against whom a warrant of arrest in execution of a decree or order has been issued is a person in the employment of the Jail Department, the court issuing the warrant shall send the same to the official superior of the person to be arrested, as specified in the annexed list for countersignature ; and the official superior shall, with as little delay as practicable, return the warrant with his counter-signature to the court by which it was issued for execution in the usual course.

Designation of officers.	Employees under their control.
Inspector-General of Prisons ..	Clerks and menials employed in the Inspector-General's office. Superintendents of Central and District Jails and the Tanjore Borstal Institution.
Superintendents of the jails concerned.	Other officers of the Jail Department and clerks, teachers, chief reserve and ordinary head warders, warders and others including sub-assistant surgeons and compounders employed in jails and sub-jails.

OFFICIALS OF THE POLICE DEPARTMENT.

When a judgment-debtor against whom a warrant of arrest in execution of a decree or order has been issued is an officer or a member of the Police force subordinate to the Commissioner of Police in the City of Madras or to the Superintendent of Police in a district, the court issuing the warrant shall send the same to the Commissioner of Police or the Superintendent of Police, as the case may be, to be countersigned by him or such other officer as he may authorize in this behalf and the Commissioner or Superintendent or other officer so authorized shall, with as little delay as practicable, return the warrant with his countersignature to the court by which it was issued, for execution in the usual course.
(*H.C. Dis.* 105 *of* 1911 *and* 85 *of* 1916.)

(*d*) *Exemption from arrest—*

Persons in the Army, Navy and Air Force in British India are exempt from arrest. [For detailed instructions see Memorandum from the Government of India, Home Department, No. F. 311-37, Judicial, dated 29th July 1937, reproduced as Circular Order A at page 195 *infra*.]

3. WARRANT OF COMMITMENT—PARTICULARS TO BE NOTED—

(*a*) In determining the question whether the maximum period of imprisonment should be six months or six weeks, no account should be taken of interest accruing subsequent to the date of the decree nor of execution costs nor of any amounts already realized. The question depends solely on whether the amount due on the date of the decree (*i.e.*, the amount decreed, including interest up to the date of the decree, and the costs of the suit, if any) is more or less than Rs. 50.
(*H.C. Dis.* 831 *of* 1905.)

(*b*) It has been recently brought to the notice of the High Court that Superintendents of Jails are put to difficulties by the practice of civil courts entering in the form of warrant of commitment of civil debtors prescribed by the Civil Procedure Code, 1908 (Form No. 14, Appendix E), the amount to be realized on release and not the amount of the decree in execution of which the debtor is to be detained in the civil prison. Under Rule 222 of the Madras Jail Manual, Superintendents of Jails are responsible for examining warrants and under section 58, Civil Procedure Code, the decree amount determines the period of detention. The High Court accordingly directs that all civil courts, when committing judgment-debtors to prison, shall in future enter the amount due on the date of the decree and the interest and costs of execution subsequent to decree separately in the warrant. (*H.C. Dis.* 2403 *of* 1916.)

4. WARRANT OF COMMITMENT NOT TO BE SIGNED BY MINISTERIAL OFFICERS—

High Court Proceedings No. 241, dated 31st January 1888, empowering the presiding judge of every court of original jurisdiction to appoint the chief ministerial officer of the court to issue, during the absence of the presiding judge, a warrant under section 55 of the Code of Civil Procedure, for the commitment to the civil jail of any judgment-debtor arrested and brought before the court in execution of a decree, who refuses to pay the decree amount and elects to go to the civil jail, are withdrawn.
(*H.C. Dis.* 557 *of* 1914.)

5. SUBSISTENCE MONEY NOT TO BE INCLUDED IN WARRANT—

Certain instances having come to notice in which civil courts, when issuing warrants under section 337 (now Order XXI, rule 38), Civil Procedure Code, for the confinement of civil debtors in jail, have included in the warrant, as part of the debt due, sums paid for the subsistence of the debtor while in jail, the High Court, at the request of the Government, directs the attention of all civil courts to the proviso to section 340 (now Order XXI, rule 39) of the Civil Procedure Code and to the subjoined opinion on the subject expressed by the Advocate-General on a reference by the Government. (*H.C. Cir.* 2115 *of* 1894.)

"Section 340 (now Order XXI, rule 39) of the Code of Civil Procedure declares that the amount disbursed by a decree-holder for the subsistence of the judgment-debtor in jail shall be deemed to be costs in the suit, and shall, therefore, be recoverable as such, but that the judgment-debtor shall not be detained in jail or arrested on that account. The amount of such allowance cannot be legally included in the warrant for the debtor's detention, for, by such inclusion, the warrant is a direct violation of the section."
(*Advocate-General's opinion.*)

6. SUBSISTENCE ALLOWANCE—

(1) If a debtor be imprisoned on account of several decrees obtained against him by the same creditor, subsistence money need not be deposited in each case. Where several plaintiffs may apply for the imprisonment of a judgment-debtor, each plaintiff must provide the regulated monthly allowance for the debtor's subsistence.

(2) (*a*) *Scales of subsistence allowance.*—The monthly scales of subsistence allowance for civil debtors are prescribed by Government from time to time under Section 57 of the Code of Civil Procedure.

(*b*) The scales of monthly allowance payable for the subsistence of civil debtors now in force are set out below:—

	Non-vegetarian.	Vegetarian.
	RS.	RS.
1. First class	25	20
2. Second class	12½	10

(*G.O. Ms.* 2010, *Home, dated* 12*th April* 1939, *H.C.R. Dis.* 333 *of* 1939.)

(*c*) On medical or other special grounds, to be recorded in each case, the court may order such increased allowance as may to it seem fit, and the court may, in like manner, from time to time cancel or modify such order.
(*H.C. Dis.* 884 *of* 1898.)

(*d*) The above rule allows a discretion to the courts to vary the rates mentioned herein only in individual cases on medical or other special grounds and for reasons to be recorded in each case, and gives them no discretion to vary the rates generally, as for instance, on account of the increase in the price of foodstuffs. (*H.C. Dis.* 608 *of* 1915.)

(3) *Detention dependent on payment of subsistence allowance and cost of return journey home.*—No civil debtor shall be received into a jail unless the preliminary payment of the monthly subsistence allowance, cost of conveyance for his journey and feeding charges during transit from the civil prison to his usual place of residence according to the rate mentioned in the court's warrant of committal, has been made, and no civil debtor shall be detained when the time limited for any subsequent payment lapses without its being duly made.
(*Rule* 699 *of the Madras Prison and Reformatory Manual, Vol. II.*)

(4) *First payment of subsistence allowance.*—The first payment of the monthly subsistence allowance fixed by the court shall be for such portion of the current month as remains unexpired when the civil debtor is committed to jail. This payment shall be made to the proper officer of the committing court and will be transmitted to the Superintendent.
(*Rule* 701 *of the Madras Prison and Reformatory Manual, Vol. II.*)

(5) *Subsequent payments.*—Subsequent payments of the monthly subsistance allowance shall be paid to the Superintendent by the detaining creditor by monthly payments in advance before the first day of each month (Order XXI, rule 39 of the Code), and each payment shall be the full amount due for the ensuing month or for as many days less than a month as the civil debtor may have to be detained to complete the full period of his imprisonment. Payment by instalments shall not be permitted.
(*Rule* 702 *of the Madras Prison and Reformatory Manual, Vol. II.*)

No. 59.

Page 190.—In Circular Order 6, subsistence Allowance *for* paragraph (*b*) of clause (2), *substitute* the following :—

(*b*) The following scales of monthly allowance, payable for the subsistence of civil debtors set out below will be in force for a period of one year with effect from 1st March 1943 :—

	Non-vegetarian.	Vegetarian.
	RS. A. P.	RS. A. P.
1. 1st Class	37 8 0	30 0 0
2. 2nd Class	18 12 0	15 0 0

(G.O. Ms. No. 336, Home, dated 11th February 1943 ; High Court R. Dis. 26 of 1943.)

[VIII list, dated 20-4-43]

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(6) *Latest date of payment.*—If any monthly payment of the subsistence allowance is not received by the Superintendent in advance before the first day of each month, and if it is afterwards tendered, it shall be refused. Every payment shall be made during ordinary business hours; and money tendered after lock-up or on Sundays or other jail holidays shall not be received until the next working day.

(*Rule* 703 *of the Madras Prison and Reformatory Manual, Vol. II.*)

7. DISPOSAL OF MONEY ON DEBTOR'S RELEASE—

(1) On the discharge of a civil debtor, any amount paid to the Superintendent under clause (1) of the first proviso to section 58 of the Code of Civil Procedure, shall be forwarded by the Superintendent to the committing court.

(2) The unexpended balance (if any), of the first payment forwarded by the committing court with the civil debtor, shall be returned to the court, but any balance of subsistence allowance subsequently received at the jail from the decree-holder in the suit shall be refunded direct to the party. (*Rule* 708 *of the Madras Prison and Reformatory Manual, Vol. II.*)

8. RELEASE OF JUDGMENT-DEBTOR—

Subject to the provisions of Order XXI, rule 40 (5-A) of the Code of Civil Procedure, the presiding judge of every court shall during a temporary absence from his court, authorize some competent officer of the court to act during his absence to release persons arrested on civil process where no detention batta is paid and where batta is paid, detain them in the custody of an officer of the court for a period not exceeding ten days in the aggregate.

Nothing in this rule is to be understood as impugning the right of a judgment-debtor to his immediate release on payment of the amount mentioned in the warrant of committal to the officer in charge of the jail or where the allowance for his support is unpaid or where the limited period of imprisonment allowed by law has been undergone.

(*H.C. Cir.* 835 *of* 1882 *and P. Dis.* 370 *of* 1930.)

Orders on the recommendations of the Civil Justice Committee relating to proceedings in Execution.

(*a*) The High Court desires to impress on all judicial officers the necessity for closer supervision over the conduct of process-servers in executing warrants of arrest.

(*b*) The High Court invites the special attention of presiding officers to the observations of the Committee regarding the proper exercise of the power to require security under Order XLI, rule 5 (3) (*c*), and the sparing use of the power to issue temporary injunctions under Order XXXIX, rule 1, staying execution— (*H.C. Dis.* 404 *of* 1926.)

"Stay of execution is another main source of delay at present. The difficulty lies in differentiating between the claims of a judgment-debtor with a real grievance and of one who only wishes to delay. Stay of execution can be made either under Order XXI, rule 26, or under Order XLI, rule 5, or by means of an injunction under Order XXXIX, rule 1. We have already dealt with Order XXI, rule 26. As regards Order XXXIX, rule 1, we think the words 'or wrongfully sold in execution of a decree' and certain consequential words should be altogether removed from that rule, for an injunction under that rule practically negatives the right of the decree-holder in most cases. The court that can best know whether the execution should be stopped or not is the executing court. A person who has filed a suit can very well apply to the court executing the decree to stay its hand pending the result of the suit, if he is a party to the decree. He should not be allowed to ask a court which knows nothing and can only act upon affidavits till a very elaborate enquiry is held, to stay the hands of another court

often superior in grade. It may be that in certain cases the executing court may wrongly refuse to stay execution but that can be remedied by an appeal against the order and by applying to the appellate court to stay the execution under Order XLI, rules 5 and 8. If the appellate court refuses to stay execution, the case is not one for the issue of a temporary injunction under Order XXXIX, rule 1. In these circumstances we think that if the applicant under Order XXXIX, rule 1, is a party to the decree there is absolutely no necessity to invest a third court with power to stay execution. If he is not a party to the decree, then his interests will not be affected by the sale and therefore there is no necessity to stop the sale at all. At the worst it may happen that he may be put out of possession in execution by the purchaser. But he can object to the delivery of possession and if there is any substance in his claim he would not be disturbed; for that will be a case to which Order XXI, rule 99, will apply. We therefore suggest that the power to grant a temporary injunction under Order XXXIX, rule 1, to stay execution of any decree should be taken away. As regards the stay of execution under Order XLI, rule 5, the law, as it stands, is quite enough and the difficulty seems to arise only because a wrong exercise is sometimes made of the powers under it. We would draw the particular attention of the courts to clause 3 of that rule which says that not only the conditions in clauses (*a*) and (*b*) of that clause should be satisfied but that security should be given for the due performance of the decree or order as may ultimately be binding upon him. The word 'and' used between clauses (*b*) and (*c*) should be specially noted. If the power to ask for security is properly exercised and if in proper cases the security is made to take the form of money deposited in court there will be little room for complaint. Ordinarily a stay should only be given on the terms laid down by rule 5. An order under rule 6 means that unless the respondent finds security, the court is prepared to stay execution, i.e., without putting the appellant upon terms. To utilize rule 6 as a common-form method is merely to abrogate the provisions of rule 5. The consequence will often be that a defendant with no real defence will succeed in making the plaintiff find security, and then further proceed to litigate with him in execution. It seems undesirable that rule 6 should be applied save in cases in which the plaintiff has succeeded in attaching property which is admittedly the judgment-debtor's and which he can at once proceed to sell."

(*Civil Justice Committee's Report.*)

V. Attachment.

(*a*) Attachment of property in custody of Public Officer.

173.*

174.*

175. *Attachment of property in custody of Public Officer.*—If the property sought to be attached is in the custody of a Public Officer, the execution petition shall ask that the property may be brought into court and realized; and the notice of attachment shall request that the money or property may be brought into court, or that such officer will state whether he has any and what objection to so doing. If any objection is raised by such officer, notice may be issued, in manner provided by Order XXVII of the Code for issue of summons, for the determination of such objection.

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* Superseded by proviso (ii) to r. 52 of O. XXI, C.P.C. [G.Os. Ms. 1480 and 1764, Law (G.), d. 29-4-1935 and 22-5-1935. *H.C. P. Dis.* 445 *of* 1935.]

176. *Form to be used.*—Form No. 62 of Appendix III-A, Part II of Volume II hereto shall be used in place of Form No. 21 of Appendix E of the First Schedule of the Code.

NOTE.—(1) *Attachment of Railway Station—*

The attachment of a Railway station in execution of a decree is not illegal, but where the defendant is a Railway Company, as to the solvency of which there can be no reasonable doubt, the court will be justified in ordering sufficient notice to issue prior to attachment, unless it sees reason to think that the Company was wilfully avoiding performance of the decree. (*H.C. Cir.* 3750 *of* 1884.)

(2) *Mode of issuing notice—*

Courts are authorized to send notices of attachment under order XXI, rule 52, Civil Procedure Code, to other courts, but not to other officers, singly. The receipt of the notice must, however, invariably be acknowledged, by post or otherwise, by the court to which it is addressed. (*H.C. Dis.* 1833 *of* 1919.)

(*b*) Attachment of Decrees.

177. *Attachment of decree.*—An application for the attachment of a decree shall also pray that the applicant may be at liberty to apply for execution thereof. If an order of attachment is made, it may be as in Form No. 63 or 64 and the application shall be adjourned to a fixed day for the applicant to apply to the court, or if the decree of another court is attached, to that court, for execution of the attached decree; and notice may, if the court thinks fit, be given to the holder of the decree. The application shall be made by execution petition, entitled in the suit or matter in which the attached decree was made; and shall be accompanied by certified copies of the order of attachment, and of the decree sought to be executed, provided that, if the attached decree is the decree of another court other than a decree for money, the applicant shall also pray for the transmission of the decree sought to be executed to that court, and the court may transmit the same accordingly, together with a notice in Form No. 65. The applicant may then apply to the former court by execution petition entitled in the suit or matter in which the attached decree was made, for execution of its decree.

178. *Decree not to be sold in execution of another decree.*—No decree shall be ordered to be sold in execution of another decree.

179. *Attachment of decree by several decree-holders.*—If a decree is attached by more than one decree-holder, liberty to execute the same shall be given to the decree-holder whose attachment is first in date; and the court shall direct any money or property recovered by the said decree-holder to be brought into court for rateable distribution. Provided that, if the decree-holder to whom liberty is given as aforesaid does not show due diligence in executing the attached decree, or for any other sufficient reason, the court may give to any other decree-holder liberty to execute the attached decree in place of the former decree-holder.

For forms—Vide Appx. III-A of Part II, Vol. II.

(*c*) Claims to attached property.

180. *Claim to attached property.*—An application by a claimant or objector, under Order XXI, rules 58, 97, 99 and 100 of the Code shall be made by a verified execution application entitled in the execution petition under which the property in question has been attached and shall set forth the particulars of the claim in the manner prescribed for the plaint in a suit as in Form No. 66.

181. *Procedure when application admitted.*—If the application is admitted, the claimant or objector shall, within seven days thereafter or such other period as may be allowed by the judge, bring into court the prescribed fees for service of notice on the attaching creditor, and the same shall be served in manner prescribed for service of summons on a defendant to a suit.

182. *Hearing of application.*—At the hearing of the application the court shall record the evidence, and mark all exhibits admitted in evidence and shall draw up its order thereon.

(*d*) Realization of attached property.

183. *Realization of attached debts by the appointment of a Receiver.*—(1) Unless it is made to appear to the court that, from the smallness of the amount of the debt attached, or otherwise, the appointment of a Receiver to collect the same would be worthless or vexatious, no debt or right to any periodical payment shall be realized by sale.

(2) If a Receiver is appointed, he shall be empowered to sue in the name of the judgment-debtor, and to grant receipts for any moneys or property recovered by him; and the order appointing him may be in the form prescribed by paragraph 7 of Form No. 5 of Appendix III-D, * so far as it may be applicable.

CIRCULAR ORDERS.

(1) COURTS' CHECK OVER RECEIVERS' ACCOUNTS—

The High Court has lately had to consider the case of a Receiver appointed to manage property during the pendency of a protracted litigation. For many years there was no audit, and, when one took place, it was found that the property had been mismanaged in almost every important particular. The deterioration in its condition can be repaired only by careful management in future, and it is possible that those ultimately found entitled to it may not be able to recover compensation from the Receiver responsible for the direct loss of income in the past. Such unfortunate results can be avoided only by the court's careful and timely exercise of its control over any Receiver it may appoint. The simplest method of exercising such control is by insistence on an audit of the estate accounts at regular intervals from the beginning of the Receiver's tenure.

The property to be entrusted to the Receiver is no doubt in some cases so small and the probability of his tenure being short so clear that ordinary scrutiny of his accounts prior to his discharge and of the accounts of receipts and charges, which are usually submitted periodically, will be sufficient; and it is obviously impossible to fix definite limits, within which this will be the case. But the High Court is constrained, in view of the

* Vide Part II, Vol. II.

case above referred to, to impress on all civil courts the advisability of insisting on a regular and independent audit by competent agency in the case of properties having a gross estimated annual income, say, Rs. 3,000. It would suggest that the easiest way of doing this is to provide for it and for the formation of a fund for the payment of the auditor in the order appointing the Receiver. The fund can ordinarily be formed by the deduction of a percentage from the receipts as they are realized. The selection of an auditor may conveniently be made shortly before the accounts are closed for each year, the important qualifications being his competence and independence. It is no doubt impossible to prescribe any general method of securing them; and it can only be suggested that the court should not as a matter of course, accept any nominee of the parties on the sole ground that he will do the work cheaply, but should, as far as possible, insist on the appointment of a certified accountant,* a pleader of experience and position or a capable pensioned officer; in short of some person with a reputation to lose. In cases of really large estates it may be possible in communication with the Collector to obtain the loan of the services of an officer still in service. (*H.C. Dis.* 1160 *of* 1918.)

The High Court is not convinced of the necessity to modify its Circular Dis. No. 1160, dated 26th July 1918, as the time has not yet come to issue a hard and fast rule either in the matter of exclusive appointment of professional auditors or in prescribing a general scale of fees for audit. (*H.C. Dis.* 1962 *of* 1926.)

(2) APPOINTMENT OF MINISTERIAL OFFICERS OF COURTS AS INTERIM RECEIVERS DEPRECIATED—

It has come to the notice of the High Court that ministerial officers of courts are being appointed as interim Receivers in pending suits. The High Court considers that the appointment of Nazir or officers of the court as Receivers is undesirable, since they are fully occupied with their other legitimate duties. (*H.C. Dis.* 118 *of* 1923.)

184. *Realization of property attached by seizure.*—When an attachment of property is made by actual seizure, the court shall, if within one month from the date of the attachment the property has not been sold or the attachment has not been removed, of its own motion, direct the property to be sold by the officer of the court; and the proceeds of the sale after payment of the expenses of the sale, and the prescribed fees shall be brought into court to the credit of the suit or matter in which the attachment was made.

CIRCULAR ORDERS.

A. Attachment of Salaries.

(1) MEMORANDUM SHOWING THE POSITION IN THE MATTER OF ARREST AND ATTACHMENT OF PAY AND ALLOWANCES OF PERSONS IN THE ARMY, NAVY AND AIR FORCE IN BRITISH INDIA.

Instances have occurred in the past, and are still occurring, of the issue of attachment orders by civil courts against the pay and allowances, etc., of persons in military service who are by law exempt from such attachment. The intention of this memorandum is to state in comprehensive (and, it is hoped, intelligible) terms what persons in the Army, Navy and Air Force are exempt, and what persons are not exempt, from arrest and from attachment in British India of their pay and allowances.

2. *Army.*—As regards persons subject to the Indian Army Act, 1911, the relevant provisions are sections 119 and 120 of the Act and clause (*j*) of the

* The correct designation of an auditor enrolled on the Register of Accountants is "Registered Accountant."
(*G.O. Ms.* 853, *Dev., d. 9th April* 1937. *H.C.P. Dis.* 327 *of* 1937.)

proviso to sub-section (1) of section 60 of the Code of Civil Procedure. The effect of these provisions is that such persons are exempt from arrest and the arms, clothes, equipment, accoutrements or necessaries used by any such person for the discharge of his duty, and his pay and allowances, are all totally exempt from attachment by direction of any court, whether civil or revenue.

The persons so exempted (see section 2 of the Indian Army Act) are Indian commissioned officers, Viceroy's commissioned officers and Indian warrant officers; persons enrolled under the Act; and also persons not otherwise subject to military law who, on active service, in camp, on the march, or at certain frontier posts are employed by, or are in the service of, or are followers of, or accompany any portion of, His Majesty's Forces, whilst so employed, etc.

(NOTE.—The frontier posts above mentioned are specified in Army Department Notification No. 281, dated 13th May 1933. They are certain places in the Peshawar, Kohat, Waziristan, Baluchistan, and Presidency and Assam District and the Zhob Independent Brigade Area.)

Under section 121 of the Indian Army Act, persons belonging to the Indian Reserve Forces when called out for or engaged upon or returning from military training or service, and junior officers, non-commissioned officers and men of the Indian Territorial Force, while subject to the Indian Army Act under section 11 (2) and (3) of the Indian Territorial Force Act, 1920, are also entitled to the same privileges.

3. As regards the (British) Army Act, the relevant provisions are sections 136 and 144. Under proviso (1) to the latter section, the soldiers of regular forces are exempt from arrest and the pay, arms, ammunition, equipments, regimental necessaries, or clothing of any such soldier are totally exempt from attachment.

Persons subject to military law are stated in Army Act, sections 175 and 176.

(The term " soldier of the regular forces " as applied to the British Army is defined in section 190 of the Act. It includes warrant officers and non-commissioned officers, but does not include commissioned officers.)

4. It will be seen that the provisions quoted above do not give exemption from attachment of pay, etc., to commissioned officers who are subject to the (British) Army Act. These officers, however, have the benefit of the provisions of the Code of Civil Procedure which apply in general terms to public officers. Under clauses (*i*) and (*l*) of the proviso to sub-section (1) of section 60 of the Code, public officers are exempt from attachment in the following respects:—

(*i*) Salary to the extent of the first hundred rupees and one half of the remainder of such salary is exempt. Where the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently for a total period of twenty-four months, such portion is exempt from attachment until the expiry of a further period of twelve months and, where such attachment has been made in execution of one and the same decree, is finally exempt from attachment in execution of that decree.

(*l*) Any allowances forming part of emoluments which the Governor-General in Council may by notification in the *Gazette of India* declare to be exempt from attachment, and any subsistence grant or allowance made to any such officer while under suspension, are also exempt.

NOTE 1.—In clause (*i*) " salary " means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (*l*), derived by a person from his employment whether on duty or on leave.

NOTE 2.—These exemptions have effect in respect of any proceedings arising out of any suit instituted on or after the 1st June 1937. The exemptions in force where the suit was instituted before that date are less generous.

It is to be noted in this connexion that in the case of military officers who draw their leave salaries in England, the India Office become the " disbursing officer " for purposes of Order XXI, rule 48 of the Code of Civil Procedure,

and such salaries cannot therefore be attached by direction of a civil court in India.

Similarly, persons belonging to the Auxiliary Force (India), senior officers of the Indian Territorial Force and officers of the Army in Indian Reserve of Officers, while subject to the Army Act, by reason of section 21 of the Auxiliary Force Act, section 11 (1) of the Indian Territorial Force Act, and section 175 (9) of the Army Act, respectively, also enjoy total or partial exemption from attachment according to their status.

5. *Air Force.*—Persons in Air service in India are subject either to the Indian Air Force Act, 1932, or to the (British) Air Force Act.

6. The position under the Indian Air Force Act, 1932, is precisely the same as that under the Indian Army Act, 1911. Sections 122 and 123 of the former correspond to sections 119 and 120 respectively of the latter, and section 2 of the former to section 2 of the latter. Thus the exemption for persons subject to the Indian Air Force Act is the same as that stated in paragraph 2 above.

7. Similarly, the (British) Air Force Act corresponds to the (British) Army Act, sections 136 and 144 being the same in both, and the expression "airman" being defined in section 190 of the Air Force Act in exactly the same terms as "soldier" in section 190 of the Army Act. Thus the position as regards the Royal Air Force in India is just the same as that stated in paragraphs 3 and 4 above.

Persons subject to the Air Force Act are stated in sections 175 and 176 of that Act.

8. *Navy.*—Persons in Naval Service in India are subject either to the Indian Navy (Discipline) Act, 1934, or to the (British) Naval Discipline Act, 1866 (29 and 30 Vict., c. 109).

9. *The Indian Navy (Discipline) Act*, 1934, applies to the Royal Indian Navy. There is no specific provision in that Act corresponding to section 120 of the Indian Army Act. As regards exemption from arrest—see section 97 of the Act: but as regards pay and allowances clause (*j*) of the proviso to sub-section (1) of section 60 of the Civil Procedure Code gives total exemption from attachment to persons other than commissioned officers to whom the Indian Navy (Discipline) Act applies. Thus all persons in the Royal Indian Navy other than commissioned officers enjoy this total exemption, and commissioned officers enjoy the total or partial exemption under clauses (*i*) and (*l*) of the proviso to sub-section (1) of section 60 of the Civil Procedure Code which is described in paragraph 4 above.

Persons subject to the Indian Navy (Discipline) Act are stated in sections 87 and 90 (1) of that Act.

10. The (British) Naval Discipline Act, 1866, contains no provisions protecting the pay or allowances of a person subject to that Act. Therefore, the only protection afforded is by clauses (*i*) and (*l*) of the proviso to sub-section (1) of section 60 of the Civil Procedure Code described in paragraph 4 above: and it appears from the definition of "public officer" in the Code that this protection will apply only to commissioned officers of the Royal Navy.

Section 97 of (British) Naval Discipline Act, 1866, provides for exemption from arrest for debt.

Persons subject to the Naval Discipline Act are stated in sections 87 and 90 (1) of that Act.

(*G.I. Letter No. F.* 311/37-*J.*, *d.* 29-7-1937. *H.C. P. Dis.* 570 *of* 1937.)

(2) EXEMPTION FROM ATTACHMENT OF ALLOWANCES PAYABLE TO OFFICERS IN INDIA, SUBJECT TO THE (BRITISH) ARMY AND AIR FORCE ACTS—

In pursuance of clause (*l*) of the proviso to sub-section (1) of section 60 of the Code of Civil Procedure, 1908 (Act V of 1908), the Central Government is pleased to declare that the allowances payable to officers in India subject to the (British) Army and Air Force Acts shall be exempt from attachment by order of a court in satisfaction of a liability incurred after the 31st December 1938.

(*G.I. Notifn. No.* 191/38-*J.*, *d.* 3-11-1938. *H.C.P. Dis.* 87 *of* 1939.)

(3) EXEMPTION FROM ATTACHMENT OR SALE OF STIPENDS AND GRATUITIES OF CERTAIN FAMILY PENSION FUNDS—

In pursuance of section 60, sub-section (1), clause (*g*) of the Code of Civil Procedure, 1908, the Governor-General in Council is pleased to declare that the stipends and gratuities payable by the undermentioned Family Pension Funds shall not be liable to attachment or sale in execution of a decree of a Court of Law :—

(1) The Bombay Uncovenanted Service Family Pension Fund.
(2) The Bengal Uncovenanted Service Family Pension Fund.
(3) The Bengal and Madras Service Family Pension Fund.

(*G.I. Notifn. No.* 1, *d.* 1-1-1909.)

(4) EXEMPTION FROM ATTACHMENT OF TEACHING GRANTS—

Teaching grants are not subject to attachment in suits against managers of schools.

[*G.O.* No. 522, *L.* (*Edn.*), *d.* 1-5-1922. *H.C.P. Dis.* 388 of 1929.]

(5) OFFICERS TO WHOM NOTICES OF ORDERS ATTACHING THE SALARY OR ALLOWANCE OF CERTAIN OFFICERS ARE TO BE SENT—

(*a*) *Notifications by the Provincial Government*—

Under the provisions of Order XXI, rule 48, of the First Schedule of the Code of Civil Procedure, 1908, the Governor in Council is pleased to appoint the officers mentioned in column (2) of the sub-joined table to be the persons to whom notice should be given of orders of attachment of the salary or allowances of the persons named in column (1).

Class of judgment-debtor.	Officer to whom notice of attachment should be given.
(1)	(2)
Gazetted officers of Government (except Officers of the Forest Department and Treasury Officers).	In the mufassal—The District Treasury officer concerned. In the Presidency town—The Accounts Officer who audits the salary bill.
Non-gazetted officers of Government ..	The head of the judgment-debtor's office or the officer whose duty it is to disburse the salary.
Officers of the Forest Department—	
(*a*) Gazetted officers in charge of divisions.	The Accountant-General, Madras.
(*b*) Gazetted officers not in charge of divisions.	The District Forest Officer concerned.
Treasury Officers	The Collector of the district concerned.
Servants of local authorities, i.e., District Boards, Taluk Boards, Municipal Councils, etc.	The President or Chairman of the Board or council concerned.

(*G.O.* 704, *Judicial*, *d.* 30-4-1912 *and* 3656, *Ms. Home*, *d.* 14-9-1937. *H.C. Dis.* 693 *of* 1912 *and P. Dis.* 944 *of* 1937).

(*b*) *Notifications by the Central Government*—

(i) COMMERCE DEPARTMENT.

In pursuance of Order XXI, rule 48, sub-rule (1), of the rules in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), and in supersession of the notification of the Government of India in the Department of Commerce, No. 292-C. (3), dated the 9th May 1931, the Central Government is pleased to direct that notices of orders attaching the salary or allowances of persons employed in the Department of Commerce of the Government of India and in the offices attached and subordinate to that Department shall be sent to the Officers specified in each case in column (2) of the Schedule hereto annexed.

SCHEDULE.

Department or office in which judgment-debtor is employed.	Officer to whom notice should be sent.
(1)	(2)
Part I.—Gazetted Officers.	
* * *	* * *
Office of the Principal Officer, Mercantile Marine Department, and Superintendent of Lighthouses, Madras district.	Accountant-General, Madras.
* * *	* * *
Part II.—Non-gazetted Officers.	
* * *	* * *
Madras Inspection Branch, Indian Stores Department.	Inspector-in-Charge, Madras Inspection Branch, Madras.
* * *	* * *
Office of the Principal Officer, Mercantile Marine Department and Superintendent of Lighthouses, Madras district, Madras.	Principal Officer, Mercantile Marine Department and Superintendent of Lighthouses, Madras district, Madras.
* * *	* * *
Personnel employed on the Headquarters Establishment of the Central Lighthouse Department in Madras.	Under Secretary to the Government of India, Department of Commerce, New Delhi, Simla.
[*Commerce Department Notification No.* 91-*G.*-(1)/38, *d.* 25-3-1939, *Gazette of India*, 1939, *Part I, page* 549.]	

(ii) DEFENCE DEPARTMENT.

In pursuance of Order XXI, rule 48, sub-rule (1) of the rules in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), and in supersession of the notification of the Government of India in the late Army Department, No. 180, Judicial, dated the 16th February 1929, the Central Government is pleased to direct that notices of orders attaching the salaries or allowances of civil gazetted officers, or civil non-gazetted officers employed in the Defence Department and in the services or offices under its control, Royal Indian Navy Officers, Military Officers [not being officers subject to the Indian Army Act, 1911 (VIII of 1911)] and Air Force Officers, [not being officers subject to the Indian Air Force Act, 1932 (XIV of 1932)], shall be sent to the officers specified in each case in column (2) of the Schedule hereto annexed.

SCHEDULE.

Department or office in which judgment-debtor is employed.	Officer to whom notice should be sent.
(1)	(2)
Defence Department.	
(*a*) Commissioned or Gazetted officers.	Accountant-General, Central Revenues New Delhi.
(*b*) Non-gazetted establishments ..	Secretary to the Government of India, Defence Department, Simla/New Delhi.
Royal Indian Navy.	
Commissioned or gazetted officers ..	Controller of Naval Accounts, Bombay.
Non-gazetted establishments	Flag Officer Commanding, Royal Indian Navy, Bombay.

Department, or office in which judgment-debtor is employed. (1)	Officer to whom notice should be sent. (2)
Army.	
Commissioned or gazetted officers at Army Headquarters, excluding Departmental officers, borne on the ministerial establishment.	Military Accountant-General (Pay Section), Simla.
Commissioned or gazetted officers at Headquarters, Northern Command and under Peshawar, Kohat, Waziristan and Rawalpindi Military Districts.	Controller of Military Accounts, Northern Command, Rawalpindi.
Commissioned or gazetted officers under the Lahore Military District.	Controller of Military Accounts and Pensions, Lahore Cantonment.
Commissioned or gazetted officers at Headquarters, Eastern Command and under the Presidency and Assam, Lucknow and Meerut Military Districts and the Delhi Independent Brigade Area.	Controller of Military Accounts, Eastern Command, Meerut.
Commissioned or gazetted officers at Headquarters, Southern Command and under the Deccan, Bombay and Madras Military Districts and Poona Independent Brigade Area.	Controller of Military Accounts, Southern Command, Poona.
Commissioned or gazetted officers at Headquarters, Western Command and under the Baluchistan Military District and Sind and Zhob Independent Brigade Areas.	Controller of Military Accounts, Western Command, Karachi.
Commissioned or gazetted officers in Ordnance and Clothing Factories, Clothing Depot, Shahjahanpur, and Inspectorates.	Controller of Army Factory Accounts, Calcutta.
All non-gazetted establishments paid from Defence Services Estimates, and departmental officers borne on the ministerial establishment.	Head of the office under whom the particular individual is serving.
Service out of India but under the orders of the Government of India and paid out of His Majesty's Indian Revenues.	Military Accountant-General, Simla or New Delhi, for transmission to the proper Controller or Accountant dealing with the officer's salary.
Royal Air Force.	
Commissioned or gazetted officers of Headquarters, Royal Air Force and offices subordinate thereto.	Controller, Royal Air Force Accounts, Ambala.
Non-gazetted establishments	Head of the office under whom the particular individual is serving.

[*Defence Department, Part B (Judicial), Notification No.* 710, *d.* 18–9–1937, *Gazette of India*, 1937, *Part I, page* 1580.]

(iii) DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

In pursuance of Order XXI, rule 48, sub-rule (1) of the rules in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908) and in supersession of the notification of the Government of India in the Department of Education, Health and Lands, No. 1010-G., dated the 29th July 1924, the Central Government is pleased to direct that notices of orders attaching the pay or allowances of persons employed in the *Department of Education, Health and Lands* of the Government of India and in offices under the administrative control of that Department shall be sent to the officers specified in each case in column (2) of the Schedule hereto annexed.

SCHEDULE.

Department or office in which judgment-debtor is employed. (1)	Officer to whom notice should be sent. (2)
Part I.—Gazetted Officers.	
* * *	* * *
Office of the Imperial Dairy Expert including offices of the Imperial Dairy Institute, Bangalore, and Milk Depot, Wellington.	Accountant-General, Central Revenues, New Delhi.
* * *	* * *
Survey of India	Accountant-General, Bengal.
Port Health Department, Madras ..	Accountant-General, Madras.
Port Health Department, Cochin ..	Do.
Port Health Department, Vizagapatam.	Do.
* * *	* * *
Part II.—Non-gazetted Officers.	
Office of the Superintendent, Archæological Survey, Southern Circle.	Superintendent, Archæological Survey, Southern Circle, Mylapore, Madras.
* * *	* * *
Office of the Government Epigraphist for India.	Government Epigraphist for India, Ootacamund.
Office of the Superintendent for Epigraphy.	Superintendent for Epigraphy, Mylapore, Madras.
* * *	* * *
Office of the Imperial Dairy Expert and offices of the Imperial Dairy Institute, Bangalore, and Milk Depot, Wellington.	Imperial Dairy Expert, Bangalore.
* * *	* * *
Survey of India.[1]	
* * *	* * *
No. 6 (South India) Party	Officer-in-charge, No. 6 (South India) Party, Bangalore.
* * *	* * *
Port Health Department, Madras ..	Port Health Officer, Madras.
Port Health Department, Cochin ..	Port Health Officer, Cochin.
Port Health Department, Vizagapatam.	Port Health Officer, Vizagapatam.
* * *	* * *

(*Education, Health and Lands Department Notification No. F.* 25-3/38, *d.* 7-6-1938. *Gazette of India*, 1938, *Part I, page* 1123.)

(iv) FINANCE DEPARTMENT.

In pursuance of Order XXI, rule 48, sub-rule (1) of the rules in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908) and in supersession of the notification of the Government of India in the Finance Department, No. 3719-A, dated the 28th August 1924, the Governor-General in Council is pleased to direct that notices of orders attaching the pay or allowances of persons employed in the Finance Department of the Government of India, and in offices attached or subordinate to it, shall be sent to the officers specified in each case in column (2) of the schedule hereto annexed.

[1] Entries regarding the Survey of India include members of the upper and lower subordinate and ministerial services and printers, engravers, photographers, artificers, etc., etc.

SCHEDULE.

Department or Office in which judgment-debtor is employed. (1)	Officer to whom notice should be sent. (2)
Part I.—Gazetted Officers.	
* * *	* * *
Office of the Accountant-General, Madras.	[1] Accountant-General, Madras.
* * *	* * *
Office of the Deputy Accountant-General, Posts and Telegraphs, Madras.	[2] Deputy Accountant-General, Posts and Telegraphs, Madras.
* * *	* * *
Office of the Assistant Director of Army Audit, Southern Command.	[3] Assistant Director of Army Audit, Southern Command, Poona.
* * *	* * *
Office of the Audit Officer, Vizagapatam Harbour Construction.	Director of Railway Audit, New Delhi.
* * *	* * *
Office of the Government Examiner of Accounts, Madras and Southern Mahratta and South Indian Railways.	[4] Government Examiner of Accounts, Madras and Southern Mahratta and South Indian Railways, Madras.
* * *	* * *
Office of the Audit Officer, Cauvery-Mettur Project.	Accountant-General, Madras.
* * *	* * *
Madras Salt Revenue Department ..	Accountant-General, Madras.
* * *	* * *
Madras Customs Department	Accountant-General, Madras.
* * *	* * *
Income-tax Department, Madras ..	Accountant-General, Madras.
* * *	* * *
Office of the Income-tax Officer, Bangalore.	Accountant-General, Madras.
* * *	* * *
Office of the Currency Officer, Madras.	Accountant-General, Madras.
* * *	* * *
Part II.—Non-gazetted Officers.	
* * *	* * *
Office of the Accountant-General, Madras.	Accountant-General, Madras.

[1] Except where the head of the office is himself concerned in which case the Auditor General, New Delhi, is the appointed officer.

[2] Except where the head of the office is himself concerned in which case the Accountant-General, Posts and Telegraphs, Delhi, is the appointed officer.

[3] Except where the head of the office is himself concerned in which case the Director of Army Audit, Simla, is the appointed officer.

[4] Except where the head of the office is himself concerned in which case the Director of Railway Audit, New Delhi, is the appointed officer.

Department or office in which judgment-debtor is employed. (1)	Officer to whom notice should be sent. (2)
Part II.—Non-gazetted Officers—cont.	
* * *	* * *
Office of the Audit Officer, Cauvery-Mettur Project.	Audit Officer, Cauvery-Mettur Project, Mettur.
* * *	* * *
Office of the Deputy Accountant-General, Posts and Telegraphs, Madras.	Deputy Accountant-General, Posts and Telegraphs, Madras.
* * *	* * *
Office of the Government Examiner of Accounts, Madras and Southern Mahratta and South Indian Railways.	Government Examiner of Accounts, Madras and Southern Mahratta and South Indian Railways, Madras.
Office of the Audit Officer, Vizagapatam Harbour Construction.	Audit Officer, Vizagapatam Harbour Construction, Vizagapatam.
* * *	* * *
Office of the Assistant Director of Army Audit, Southern Command.	Assistant Director of Army Audit, Southern Command, Poona.
* * *	* * *
Madras Salt Revenue Department ..	Collector of Salt Revenue, Madras.
* * *	* * *
Madras Customs Department	Collector of Customs, Madras.
* * *	* * *
Income-tax Department, Madras ..	Commissioner of Income-tax, Madras.
* * *	* * *
Office of the Income-tax Officer, Bangalore.	Income-tax Officer, Bangalore.
* * *	* * *
Office of the Currency Officer, Madras. ..	Currency Officer, Madras.

(*Finance Department Notification No. F.-50-V-Excise I-31, d. 9-5-1932. Gazette of India, 1932, Part I, page 605*).

(v) FINANCE DEPARTMENT (MILITARY FINANCE).

In pursuance of Order XXI, rule 48, sub-rule (1), of the rules in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908) and in supersession of the notification of the Government of India in the Finance Department (Military Finance), No. 751-G, dated the 16th June 1911, the Governor-General in Council is pleased to direct that notices of orders attaching the salary or allowances of persons employed in the *office of the Financial Adviser, Military Finance and offices subordinate thereto*, shall be sent to the officers specified in each case in column (2) of the schedule hereto annexed.

SCHEDULE.

Department or office in which judgment-debtor is employed. (1)	Officer to whom notice should be sent. (2)
Part I.—Gazetted Officers.	
* * *	* * *
Office of the Controller of Military Accounts, Southern Command and Poona District.	Controller of Military Accounts, Southern Command and Poona District, Poona.

Department or office in which judgment-debtor is employed.	Officer to whom notice should be sent.
(1)	(2)
Part I—Gazetted Officers—cont.	
* * *	* * *
Office of the Controller of Military Accounts, Madras District.	Controller of Military Accounts, Madras District, Bangalore.
* * *	* * *
Office of the Deputy Assistant Controller of Army Factory Accounts, Cordite Factory, Aruvankadu. Office of the Deputy Assistant Controller of Army Factory Accounts, Clothing Depot, Madras.	Controller of Army Factory Accounts, Calcutta.
Part II.—Non-gazetted Officers.	
* * *	* * *
Office of the Controller of Military Accounts, Madras District.	Controller of Military Accounts, Madras District, Bangalore.
* * *	* * *
Office of the Deputy Assistant Controller of Army Factory Accounts, Cordite Factory, Aruvankadu.	Deputy Assistant Controller of Army Factory Accounts, Cordite Factory, Aruvankadu.
* * *	* * *
Office of the Deputy Assistant Controller of Army Factory Accounts, Clothing Depot, Madras.	Deputy Assistant Controller of Army Factory Accounts, Clothing Depot, Madras.
* * *	* * *

[*Finance Department* (*Military Finance*) *Notification No.* 3677–*E.*, *dated 9th September* 1924. *Gen. R. & O., Vol. III, page* 527.]

(vi) DEPARTMENT OF INDUSTRIES AND LABOUR.

In pursuance of Order XXI, rule 48, sub-rule (1), of the rules in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), and in supersession of the notification of the Government of India in the Department of Commerce and Industry, No. 8907-162, dated the 17th December 1910, the Governor-General in Council is pleased to direct that notices of orders attaching the salary or allowances of persons employed in the *Department of Industries and Labour of the Government of India* and in offices and departments subordinate to the Department of Industries and Labour shall be sent to the officers specified in each case in column (2) of the schedule hereto annexed.

SCHEDULE.

Department or office in which judgment-debtor is employed.	Officer to whom notice should be sent.
(1)	(2)
Part I.—Gazetted Officers.	
* * *	* * *
Posts and Telegraphs Department.	
Officers other than those attached to the Office of the Director-General, Posts and Telegraphs, employed in the Province of Madras.	Postmaster-General, Madras Circle (Headquarters, Madras).
* * *	* * *

Department or office in which judgment-debtor is employed.	Officer to whom notice should be sent.
(1)	(2)
Part I—Gazetted Officers—cont.	
Indian Stores Department.	
* * *	* * *
Office of the Inspector-in-Charge, Madras Inspection Agency, Madras.	Audit Officer, Indian Stores Department, Simla/Delhi.
* * *	* * *
Meteorological Department.	
* * *	* * *
Meteorological Office and Observatory, Madras. * * * Office of the Director, Kodaikanal Observatory.	Accountant-General, Central Revenues, Calcutta.
* * *	* * *
Part II.—Non-gazetted Officers.	
* * *	* * *
Posts and Telegraphs Department.	
* * *	* * *
Officers other than those attached to the office of the Director-General, Posts and Telegraphs, employed in the province of Madras.	Postmaster-General, Madras Circle (Headquarters, Madras).
* *	* * *
Indian Stores Department.	
* * *	* * *
Office of the Inspector-in-Charge, Madras Inspection Agency, Madras.	Inspector-in-Charge, Madras Inspection Agency, Indian Stores Department, Madras.
* * *	* * *
Meteorological Department.	
Meteorological Office and Observatory, Madras.	Meteorologist, Madras.
* * *	* * *
Office of the Director, Kodaikanal Observatory.	Director, Kodaikanal Observatory, Kodaikanal.
* * *	* * *

[*Industries and Labour Department Notification No. G. (E-163), d. 10-9-1924. G.R. & O., Vol. III, page 533.*]

(vii) RAILWAY DEPARTMENT (RAILWAY BOARD).

In pursuance of Order XXI, rule 48, sub-rule (1), of the rules in the First Schedule to the Code of Civil Procedure, 1908, and in supersession of the previous notification on the subject, the Governor-General in Council is pleased to direct that notices of orders attaching the salary or allowances of persons employed under the Railway Board, and in railway offices subject to the administrative control of the Railway Board, shall be sent to the officers specified in each case in column 2 of the schedule hereto annexed.

SCHEDULE.

Department or office in which judgment-debtor is employed.	Officer to whom notice should be sent.
(1)	(2)
* * *	* * *
Office of Senior Government Inspector, Circle No. VII, Madras.	The Senior Government Inspector concerned except when he is personally concerned in which case the Chief Auditor, Oudh and Rohilkhand Railway, is the appointed officer.
Office of Government Examiners of Railway Accounts of different railways.	The Government Examiner concerned except when he is personally concerned in which case the Accountant-General, Central Revenues, is the appointed Officer.

[*Railway Department (Railway Board) Notification No.* 577-(*E.*), *d.* 30-6-1924. *G. R. & O., Vol. III, page* 513.]

(viii) EAST INDIAN AND OUDH AND ROHILKHAND RAILWAYS.

Attachment orders in respect of persons employed within the jurisdiction of the Chief Auditor and the Divisional Audit Officers of the amalgamated East Indian and Oudh and Rohilkhand Railways should be sent to those officers according to their jurisdiction as specified below :—

Chief Auditor.

Jurisdiction of the Chief Auditor extends to auditing pay sheets and disbursing salary of the staff in the Head Office Building at Calcutta, viz., Agency, his own office, Supervising Staff posted in the Divisions under Audit and Operating Department, Chief Auditor's Office in Lucknow and the whole staff of Stores, Medical, Colliery, Electric and Watch and Ward Departments, on the amalgamated railway and the Chief Commercial Manager's Office at Howrah.

Divisional Audit Officers.

Jurisdiction of Divisional Audit Officers for auditing pay sheets and disbursing salary of the staff employed in the division excluding Gazetted officers.

Division.	Jurisdiction.
(1) Howrah	From Howrah to Khana Junction (inclusive). From Khana to Jamalpur. Howrah, Burdwan Chord branch. Bandel-Barharwa branch. Tarakessur branch. Naihati branch. Azimgunje branch. Rajmehal branch. Monghyr branch.
(2) Asansol	Khana Junction (exclusive) to Jhanjha (exclusive). Sitarampur to Manpur. Ondal to Sainthia. Barabani Loop. Ikrah to Gourangdi. Katras branch. Patherdihi branch. Giridih branch. Deoghur branch.
3) Dinapore	Jhajha (inclusive) to Cheoki (exclusive). Manpur to Moghalserai . Jamalpur (exclusive) to Kiul. South Behar Railway. Patna-Gya branch. Daltongunge branch. Mokameh Ghat branch. Dighaghat branch. Tarighat branch.

Division.	Jurisdiction.
	Divisional Audit Officers— cont.
(4) Allahabad	Cheoki to Ghaziabad (exclusive). Cheoki to Jubbulpore. Farakkabad branch. Agra branch. Hatras branch. Khurja-Hapur branch.
(5) Lucknow	Moghalserai to Lucknow. Loop line, Benares to Lucknow *via* Fyzabad. Akbarpur-Tanda branch. Chord-line Moghalserai to Lucknow *via* Partabgarh and Rai Bareilly. Allahabad-Fyzabad branch. Allahabad-Jaunpur-Allahabad. Rai Bareilly. Cawnpur-Unchahar branch. Bahramghat. Lucknow-Cawnpur branch. Besides there is a Workshop Auditor at Lucknow who deals with the pay sheets of the Workshop offices of Loco and Carriage at Lucknow.
(6) Moradabad	Allamnagar to Saharanpur. Auhadpur-Balaman branch. Balaman-Sitapur branch. Rosa-Sitapur branch. Aligarh branch. Chandausi-Moradabad branch. Sambhal-Hati Sarai branch. Delhi branch. Gajronla-Chandpur-Sian branch. Hapur-Meerut branch. Kotdwara branch. Dehra Dun branch.

(*H.C. Dis. No.* 1762 *of* 1925.)

(6) Mode of Remittance to Courts by Railway Authorities.

With a view to prevent frauds and defalcations of public money, the Railway Board have given instructions to the various Railway authorities that all remittances to courts, of amounts realized under their prohibitory orders should be sent by crossed cheques and that the present practice of sending amounts over Rs. 25 by cheques not crossed and amounts of Rs. 25 and less by money orders should be discontinued. The High Court considers that the change in the procedure is desirable and accordingly directs the presiding officers of all civil courts to accept such crossed cheques which will be sent to them hereafter by the various Railway authorities, in making remittances of amounts collected under their prohibitory orders.

(*H.C.P. Dis. No.* 309 *of* 1936.)

* B. Rules for the custody of attached movable property and for the maintenance of attached livestock made under Order XXI, rule 43, Code of Civil Procedure.

1. In these rules, the term "court" means the court by which an attachment is made; the term "decree-holder," the person at whose instance property is attached; and the term "judgment-debtor," the person alleged by the decree-holder to be the owner of the property attached.

2. The District Judge shall fix, and may, from time to time, alter the rates to be charged for the maintenance of every description of livestock

* *H.C. Pro., d.* 11-7-1884.

attached by the several courts in his district with reference to seasons and local circumstances.

3. Every person applying to the court to attach movable property shall, in addition to the process fee, deposit such reasonable sum as the court may direct for the cost of its removal to the court-house and of its custody, and if such property is livestock, for its maintenance in accordance with the rates prescribed by rule 2. If such deposit, when ordered, be not made, the attachment shall not issue.

4. The court may, at any time during the pendency of an attachment, direct the decree-holder to pay into court, within a time to be prescribed, such additional sum as may be necessary to provide the costs mentioned in rule 3; and if such payment is not made within the time prescribed, may withdraw the attachment.

5. So much of the sums deposited or paid into court under rules 3 and 4 as may not be applied to the purposes indicated by those rules shall be refunded to the decree-holder.

6. When movable property is not sold under the proviso to Order XXI, rule 43, Civil Procedure Code, the officer making the attachment shall deal with it as directed by rules 7 to 10.

* 7. When the property attached consists of livestock, agricultural implements or other articles which cannot conveniently be moved, the officer making the attachment may, at the instance of the judgment-debtor or of the decree-holder or of any person claiming to be interested in such property, leave it in the village or place where it has been attached—

(*a*) in the charge of the person at whose instance the property is retained in such village or place, provided such person enters into a bond in the form prescribed—(vide Form No. 15-A † of Appx. E of the First Schedule to the Code) with one or more sufficient sureties for its production when called for; or

(*b*) in the charge of a peon, if a suitable place for its safe custody be provided and the wages of the peon, at the rate of 8 annas per diem for 15 days, be paid in advance.

8. Whenever attached property is kept in the village or place where it is attached, the officer shall forthwith report the fact to the court, and shall, with his report, forward an accurate list of the property seized, so that the court may thereupon issue the order for sale if such order has not been already issued. [Vide Order XXI, rule 43-A (1) of Schedule I of the Code of Civil Procedure.] †

9. Whenever attached property so kept in the village or place is livestock, the person, at whose instance it was so retained, shall provide for its maintenance, and, if he fails to do so and a peon is in charge, it shall be removed to the court-house. [Vide Order XXI, rule 43-B (1) of Schedule I of the Code of Civil Procedure.] †

10. If attached property is not retained in the village or place where the attachment was made under rule 7, it shall be brought to the court-house and delivered to the nazir or deputy nazir. [Vide Order XXI, rule 43-A (2) of Schedule I of the Code of Civil Procedure.] †

11. If the property attached consists of cash, Government or other securities, jewels or other valuable articles of small bulk, the nazir may send it for safe custody to the nearest Government Treasury. Subject as aforesaid, attached property brought to the court shall be retained by the nazir in the court-house, if it can be conveniently stored or kept there.

N.B.—Parcels of attached property to be sent to the treasury from civil courts under the above rule shall be secured in strong sealed coverings and marked in such a manner as to be easily identifiable. A descriptive list of such articles shall be forwarded. (*H.C. Cir.* 1450 *of* 1890.)

12. In order to provide for the custody of property which cannot be conveniently stored or kept in the court-house, the District Judge may appoint a curator for any court or group of courts who shall furnish

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* *H.C. Pro., d.* 19-8-1893—vide also Order XXI, rule 43 (1) of Schedule I of the Code of Civil Procedure.

† Vide local amendment—Madras.

security, in any form approved for public servants, to an amount to be fixed in each case by the District Judge.

13. The nazir or curator, as the case may be, shall be responsible for the due preservation of all property entrusted to him until he delivers it up under the order of the court.

N.B.—The feeding charges of cattle and livestock must be brought into the accounts of the court, when received by the nazir, but not when received by a curator. The practice of postponing payment of charges till sale or release of the livestock is objectionable and the pre-payment of feeding charges should be insisted on in all cases. (*H.C. Dis.* 2319 *of* 1915.)

14. For his remuneration and expenses incurred in the custody and preservation of attached movables which cannot be conveniently stored in the court-house, the nazir or curator, as the case may be, shall receive such reasonable sums as the District Judge by general rule, or the court by special order, shall prescribe.

15. In the case of livestock, the judgment-debtor or any person claiming to be interested in such stock may make such arrangements for feeding the same as may not be inconsistent with its safe custody. Where no such arrangements are made, there shall be paid to the nazir or curator the rates fixed under rule 2. [Vide Order XXI, rule 43-B (1), Civil Procedure Code.] *

16. Where the judgment-debtor or person claiming to be interested has undertaken to provide for the maintenance of livestock and makes default, the nazir or curator shall immediately report such default to the court.

17. The court may direct that any sums expended by the attaching officer, or payable to the nazir or curator under these rules and which have not been duly deposited, be recovered from the proceeds of the property, if sold, or be paid by the person declared entitled to delivery before receiving the same.

18. The court may order that any sums deposited or paid under these rules be recovered as costs of the attachment from any party to the proceedings. [Vide Order XXI, rule 43-B (2), Civil Procedure Code.]*

[*N.B.*—For rules regarding the sale of movables and livestock—vide rules 188 to 192 *infra*.]

VI. Sale of Attached Property.

185. *Application for sale of attached property.*—The decree-holder may apply, at an adjourned hearing of the execution petition orally, and at any other time, by written application in Form No. 67, for the sale of any attached property.

186. *Applicant to file affidavit, and in case of immovable property a certificate of search.*—The applicant shall, not less than five days before the adjourned hearing, or together with his written application, file in court an affidavit or affidavits as prescribed by rule 194 *infra* which shall also state the interest of the judgment-debtor in the attached property, and whether any person other than the judgment-debtor has any, and, what interest, therein; and, in the case of immovable property, when the amount for the realization of which the sale is held exceeds Rs. 100 † or when the court has so ordered, that a search has been made in the office of the Registrar of Assurances of the district, or sub-district, in

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* Vide local amendment—Madras.

† Rs. 100 was substituted for Rs. 500 by *H.C. Dis.* 2133 *of* 1918—Cl. (3) of this rule has been deleted, vide G.O. No. 1870, L. (G.), d. 23-6-1924, and cl. (2) by *H.C. Dis.* 985 *of* 1927.

For forms—Vide Appx. III-A of Part II, Vol. II.

which the property is situate, for not less than 12 years prior to the date of the attachment as in Form No. 68. A certificate of the result of such search shall be filed with the said affidavit.

187. *Order for sale.*—* If the provisions of the Code and these rules have been complied with and the proclamation of sale is approved by the judge, the application shall then be adjourned to a fixed day and the applicant shall, within two days or such other period as may be fixed by the judge, bring into court the prescribed fees for proclamation. An order for sale shall then be made. The *batta* for the sale warrant shall be paid a week before the date fixed for sale and the warrant of sale shall then issue. In case of default, the court may adjourn the application to a fixed day, or may dismiss the execution petition.

188. *Date and place for sale.*—The District Judge shall fix a particular place and a particular day in the week for the sale of such movable properties as may be brought to court. When there are more courts than one in the same station, the sales for all such courts shall be held on the same day, and in the same place, in such sequence as the District Judge may, by general or special order, determine. All sales at court shall begin at noon, and the sale of any lots, not put up before 5 p.m. shall be adjourned to noon on the next court day.

189. *Sale of livestock, etc.*—Unless the court otherwise orders, all sales of livestock, agricultural produce, articles of local manufacture, and other things commonly sold at country markets, which have not been brought to court shall be held at such market in the neighbourhood of the place where the goods were attached as may appear to be for the greatest advantage of the debtor, regard being had to be prospect of good prices and to the saving of expenses in conveyance and carriage. A list of all property to be sold at a weekly market shall be forwarded to the munsif of the village in which the market is held and shall be posted in a conspicuous part of the market, at least eight days before the day fixed for the sale.

190. *When movable property is in custody of Nazir or Curator.*—If movable property is in the custody of nazir or curator, and it appears to the court that an immediate sale is necessary, the court may authorize him to sell the same by public auction and may give such directions as to the date and place of sale and the manner of publishing the same as the circumstances of the particular case admit.

191. *Sale by public auction.*—If the officer attaching movable property is under Order XXI, rule 43 of the Code, authorized to sell it at once, the sale shall be made by public auction, and after

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* Subs. by *H.C. Dis.* 985 *of* 1927.
For forms—Vide Appx. III-A of Part II, Vol. II.

cation and notice, as the circumstances of the particular ; and the officer shall, not more than two days after the into court, his report of the sale, in manner prescribed 0.

ale of guns or other arms by public auction in execution—

ver guns or other arms in respect of which licences have to be urchasers under the Indian Arms Act, XI of 1878, are sold by ion in execution of decrees, the court directing the sale shall tice to the Magistrate of the district, of the names and addresses hasers and of the time and place of the intended delivery to the of such arms, so that proper steps may be taken by the Police to requirements of the Indian Arms Act. (*H.C. Dis.* 297 *of* 1900.)

pplicability of general rules about sale of property infra.— the foregoing rules, the provisions of rules 193 to 205 sale of property under order of court shall apply to all ecution of a decree.

eral Rules about Sale of Property under order of Court.

onduct of sale under order of court.—Subject to the of rules 185 to 191 inclusive, with respect to the sale d property, a sale by public auction of any property, cted in any suit or matter, shall be conducted in manner hereunder.

he order for sale shall direct the party applying for the nafter called " the applicant " to bring into court—

Affidavits.—An affidavit or affidavits by himself or some on acquainted with the property, giving the particulars by Order XXI, rule 66 of the Code, and also stating his opinion, is the best time and place of sale and method ising the same, and the lots, if any, into which the hould be divided;

Affidavit of fitness.—If an officer of the court is not to ted an affidavit as to the fitness of the proposed auctioneer;

Certificate of search.—In the case of immovable property earch has been made under rule 195, a certificate of the the search.

earch of encumbrances.—In the case of a sale of e property the applicant shall, when [the amount for the n of which the sale is held]* exceeds Rs. 100 † and in case in which the court so orders, cause a search to be he office of the Registrar of Assurances of the district or t in which the property is situate. If a previous search made in the suit or matter, the search shall be made from on which the previous search was made, but so that the riod shall be not less than 12 years, or, if no search has

by *H.C. Dis.* 1916 *of* 1913.
† figure 100 was subs. for 500 by *H.C. Dis.* 2133 *of* 1918.

been made, then for a period of not
the date of the execution application o

NOTE.—In connection with a proposa
rule 149 (now rule 195) of the Civil Rul
to the period which should be covered b
substituting the words "Prior to the dat
which the sale is ordered" *for* the words "
sale," an objection has been raised that t
hardship and will also be impracticable i
which are generally situated far away fr
month after the date of application to issu
the certificate is issued only up to the date
cate. It has been represented that it w
relates to the period up to the date of su
to that date are *pendente lite* and will n
well as the auction purchaser. The Hon
opinion that any rule requiring the prod
must in order to comply with the provisio
of the application for execution as Order
the application for execution to be accomp
tion as to encumbrances in the form of a
fore, obviously impossible to accept the vi
be produced up to the date of the suit as
of the Code.

There is nothing in the rules which requ
brance certificate along with the execution
tion is settled some days after the applica
party to file it before the date fixed for
subordinate courts are, therefore, requeste
sale proclamation with due regard to the
produce the encumbrance certificate, the
and other circumstances. The Hon'ble th
is no prohibition against an encumbrance
the date of the decree as soon as it is pass
being obtained between the date of the decr
for execution.

The subordinate courts are, therefore,
observance of the instructions issued above
date of the sale proclamation.

196. *Matters to be determined*
determine the lots, if any, in which t
manner of advertising the sale; and t
and shall fix the date and place of sal
the judgment-debtor or other party
property is to be sold and hearing his
proclamation of sale, as in Forms No

197. *Appointment of person to s*
made to appear that a more advantag
or for other sufficient reason appoint
officer of the court or a pleader, to se
as his remuneration a sum certain, or
proceeds. Such remuneration shall
travelling expenses, but not the expen

NOTE.—*Sale by officers of court till Coll*

Until the Government vests Collect
particularly, with the power of selling reve
decrees, the courts are to effect such sales

* Subs. by *H.C. Dis.* 1
For forms—Vide Appx. III-A

198. *Proclamation of sale.*—The proclamation of sale, when settled by the judge, shall be signed by him, and an order for sale shall then be made; and the further hearing of the suit or matter shall be adjourned to a day not more than thirty-one days from the day fixed by the court for the sale.

199. (1) *Leave to bid.*—An application for leave to bid at the sale shall be supported by an affidavit setting forth any facts showing that an advantageous sale cannot otherwise be had; and an undertaking shall be given by or on behalf of the applicant, that, in the event of his being declared the purchaser of the property, or of any lot or lots, he will give credit, or will enter up satisfaction of the decree or order under which the sale is made, for the purchase money. Provided that if there are several decree-holders entitled to rateable distribution the purchase money shall be paid into court.

(2) *Upset price.*—In cases in which the court may consider that the applicant should not be allowed to bid for less than a sum to be fixed, it shall be competent to the court to give leave to bid at the sale, only on condition that the applicant's bid shall not be less than the amount so fixed by the court, which amount shall, as far as practicable, be determined with reference to the probable market value of the property, or of the lot or lots into which the property is divided for sale.

200. *Conduct of sale.*—(1) The person appointed to sell the property shall conduct the sale in the manner prescribed by the Code for the sale of attached property, and shall, out of the deposit or sale moneys, so soon as the same are received by him, purchase court-fee stamps to the amount of the poundage, if any, payable on the sale and shall bring the same into court forthwith, together with the balance of the deposit or sale moneys. If the applicant purchased the property with the leave of the court, and is allowed to set-off the purchase money against any sum due to him, he shall pay the amount chargeable for poundage * to the person appointed to sell the property so soon as he is declared to be the purchaser. The amount deducted or paid on account of poundage shall form part of the costs and expenses of the sale.

(2) Upon the completion of the sale, the person appointed to sell the property shall file in court his report of the sale as in Form No. 71.

NOTE.—*Members of Process Service Establishment not to attend sale except on duty—*

No member of the Process Service Establishment of a district shall attend any sale held under the orders of a civil court in that district unless

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* For rules as to the calculation of poundage, vide Ch. I-B of Part II *infra*.

For forms—Vide Appx. III-A of Part II, Vol. II.

he has some duty to perform in connection with the sale; nor shall he purchase or bid for any property directly or indirectly at a sale held under orders of a civil court of that district; nor shall the officer conducting such a sale accept any bid by or on behalf of any member of the Process Service Establishment of the district. (*H.C. Dis.* 970 *of* 1907.)

201. *Application to set aside sale.*—In the case of any application under Order XXI, rules 89, 90 or 91 of the Code, to set aside a sale, the applicant shall, if the application is under Order XXI, rule 89 or 90, give to the purchaser and the parties to the suit or matter, *or*, if the application is under Order XXI, rule 91, give to the parties to the suit or matter, not less than five days' notice in writing of the application, setting forth his objections to the sale or the confirmation thereof. If no such notice or insufficient notice is given, the court may adjourn the hearing, and order the person in default to pay to the other parties their costs of the adjournment, or may dispose of the application forthwith. If no application to set aside the sale is made, or if such application is made and disallowed, the court shall make an order confirming the sale. An application under Order XXI, rule 89 of the Code, may be as in Form No. 72.

202. *Costs.*—At the adjourned hearing, the court may make an order directing the payment to the applicant of the costs and expenses of the sale and to the person appointed to sell the property of his commission, if any, and providing for the application of the balance of the sale-proceeds. If, under Order XXI, rule 81 of the Code, a vesting order is required, the order shall also direct that the property sold shall vest in the purchaser.

203. *Payment of poundage, etc., when sale set aside.*—(1) If the sale is set aside under Order XXI, rule 89 of the Code, the court may make an order for payment by the judgment-debtor of the poundage and other costs and interest, if any, not covered by the proclamation of sale.

(2) If the sale is set aside under Order XXI, rule 90 of the Code, the court shall determine whether any and what party is responsible therefor, and may order such party to pay the costs and expenses of the sale, and may make an order that any other party entitled to have the property sold may have the conduct of the sale and may make an order for the resale of the property.

(3) If the sale is set aside under Order XXI, rule 91 of the Code, the court may make an order for payment by the execution-creditor of the poundage and other costs of the sale.

NOTE.—The amount deducted as poundage from the deposit made by the purchaser must be refunded to him when the sale is set aside under O. XXI, r. 89 of the Code. (*H.C. Pro.* 433 *of* 1895.)

204. *Certificate of sale.*—A certificate of sale of immovable property shall specify, as part of the description of the property,

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For forms—Vide Appx. III-A of Part II, Vol. II.

the survey number, if any, and the registration district or sub-district in which the same is situate.

NOTE.—*Copies of certificates to Registering Officers*—

1. Section 89 (2) of the Indian Registration Act (XVI of 1908) provides that every court granting a certificate under Order XXI, rule 94 of the Code of Civil Procedure, shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

The law, therefore, now provides, through the direct action of the civil court and of the registering officer, for the registration of a copy of the certificate of sale.

It is no longer necessary to register the certificate itself. Such certificates do not operate as a conveyance of the property to which they relate. (*H.C. Cir.* 66 *of* 1882.)

2. It has been brought to the notice of the High Court that civil courts frequently allow great delay to occur before sending copies of sale certificates to registering officers, as required by section 89 (2) of the Indian Registration Act (XVI of 1908). The attention of all District Judges, Subordinate Judges and District Munsifs is called to High Court Circular No. 66, dated 18th January 1882, and they are directed to see that copies of sale certificates are transmitted to the registering officers with promptitude. (*H.C. Dis.* 674 *of* 1904.)

3. All such copies should not be printed but should be written on Lancashire Ledger paper. (*H.C. Dis.* 1492 *of* 1924.)

4. Where a court sale is finally set aside, the court setting it aside shall send a copy of the order to the officer in whose office the sale certificate has been filed to enable him to note on the copy of the instrument in his books the fact of such setting aside. (*H.C.P. Dis.* 868 *of* 1938.)

205. *Default by applicant.*—If at any time it is made to appear to the court that the applicant has failed to comply with any order of the court, or any of the provisions of the Code or these rules, or is not proceeding with due diligence, the court may make such order as to the application for sale, or the suit or matter, and the costs thereof, as it thinks fit.

VIII. Acceptance of Guarantee Societies as Sureties.

206. * (1) Notwithstanding anything in the foregoing rules, in all cases in which a court requires a party to a proceeding to execute a bond with one or more sureties, a guarantee society duly approved by the High Court may be accepted as surety upon its joining in a bond with the person ordered to give security.

NOTE.—In cases where specific forms of surety bonds are not prescribed, courts are at liberty to adopt Forms Nos. 8 and 5 in Appendix III, E and F respectively of Part II, Vol. II, with such variations as will suit the circumstances of the case. (*H.C. Dis.* 68 *of* 1927.)

(2) The High Court may, from time to time, after such inquiry as it deems sufficient and subject to such conditions as it may see fit to impose, by a notification in the gazette, declare the names of the guarantee societies together with the names of their duly authorized agents, if any, qualified to join in a bond within meaning of the above sub-rule. The High Court may also for

* This rule was inserted by *H.C. Dis.* 68 *of* 1927.

sufficient cause remove from the approved list the name of any such guarantee society or of any agent of any such guarantee society.

NOTE—

(1) *Societies recognized.*—With reference to clause (2) of rule 206 of the Civil Rules of Practice and Circular Orders, the High Court hereby notifies that the undermentioned Guarantee Societies together with their authorized agents noted against them, have been declared to be qualified within the meaning of clause (1) of rule 206 of the Civil Rules of Practice, to join in a bond with a person ordered to give security:—

Name of the society.	Name of its duly authorized agent.
The National Guarantee and Suretyship Association, Ltd., Edinburgh.	Messrs. Beardsell & Co., Madras.
The Ocean Accident and Guarantee Corporation, Ltd.	Messrs. Parry & Co.

(2) *Procedure relating to execution and acceptance of bonds.*—The following procedure will be observed in the execution and acceptance of such bonds. In all cases, the petitioner himself must nominate the Guarantee Society which will stand surety for him and the bond should be executed by the petitioner and the accredited agent, if any, of the Guarantee Society before the officer concerned.

If the society has no such agent in the place where the bond would normally be executed, the petitioner should file a petition in court with a prayer for an order that the necessary bond be executed by that Society before an officer of the High Court. The mufassal court will then issue the bond for signature of the person to be guaranteed and afterwards transmit the bond to the High Court for the purpose of having it executed by the Guarantee Society. (*H.C. Dis.* 68 *and* 1057 *of* 1927.)

IX. Notice to Surety.

207. * In any enquiry for the determination of the liability which has been guaranteed by a surety the court shall give notice of the enquiry to the surety by registered post. But the cost of his appearance shall be borne by the surety himself unless the court otherwise directs.

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* Rule 207 was added by *H.C. P. Dis.* 208 *of* 1940.

PART II

RULES MADE UNDER SPECIAL ENACTMENTS.

CHAPTER I.

Rules under the Court Fees Act, VII of 1870, and the Suits Valuation Act, 1887.

A.—Court Fees and Court Fee Stamps.

I.—Computation of Fees payable.

(1) *In a suit to recover lands in which there are wells, the* valuation for the purposes of the suit should be based on the value of the lands only and the wells should not be separately valued. (*H.C. Pro.* 1369 *of* 1879.)

(2) *If an appeal is preferred by a plaintiff, the stamp fee will* ordinarily be calculated on the claim or portions of the claim disallowed by the lower court. If an appeal is preferred by a defendant, the stamp fee will ordinarily be calculated on the amount adjudged by the lower court, provided that the parties are at liberty to relinquish a portion of their claim on expressing their intention of so doing in the memorandum of appeal.

(3) In exercise of the powers conferred by section 35 of the Court Fees Act VII of 1870, and in supersession of the orders contained in clause (6) under heading A of the Notification in the Department of Finance and Commerce, No. 4650, dated 10th September 1889, the Governor-General in Council is pleased to direct that the fee chargeable on appeals from orders under clause (*c*) of section 244 of the Code of Civil Procedure of 1882 (now section 47 of the Code of 1908) shall be limited to the amount chargeable under Article II of the second schedule to the Court Fees Act, 1870. (*G.I. No.* 4344, *S.R., d.* 6-10-1893.)

(4) *Valuation in certain classes of suits under the Malabar law.*— Whereas the High Court is of opinion that the subject-matter of certain suits comprised in the classes of suits mentioned in clauses (*b*) and (*c*) of paragraph IV of section 7 of the Court Fees Act, 1870, viz., suits for the removal of a karnavan or ejaman or for the enforcement of a right as karnavan, ejaman or member of a tarwad governed by the Marumakkattayam or Aliyasantana system of law or of a Nambudari illom, does not admit of being satisfactorily valued, and whereas by an order in Council, dated the 24th day of January 1903, and numbered 86, Judicial, His Excellency the Governor of Fort St. George in Council has sanctioned the following rules for determining the value of the subject-matter of such

suits, the High Court, under and by virtue of the authority conferred upon it by section 9 of the Suits Valuation Act, 1887, and all other powers thereunto enabling, hereby directs and orders that for purposes of the Court Fees Act, 1870, and the Suits Valuation Act, 1887, the value of the subject-matter of all such suits and appeals in such suits, instituted or presented on or after the 1st day of March 1903, shall be determined according to the following rules :—

(i) The subject-matter of a suit for the removal of a karnavan or ejaman or for the enforcement of a person's right as karnavan or ejaman of a tarwad governed by the Marumakkattayam or Aliyasantana system of law or of a Nambudari illom, shall, for purposes of the Court Fees Act, 1870, and the Suits Valuation Act, 1887, be valued at one-third of the amount at which the same would be valued under the provisions of the Court Fees Act, 1870, if the suit were one brought by a stranger for the recovery of the whole property—movable and immovable—possessed by the tarwad or illom to which the suit relates.

(ii) The subject-matter of a suit for the enforcement of a person's right as member of a tarwad governed by the Marumakkattayam or Aliyasantana system of law or of a Nambudari illom, shall, for purposes of the Court Fees Act, 1870, and the Suits Valuation Act, 1887, be valued at the amount at which, if the whole of the tarwad or illom property were by the consent of all equally divided among all the members (including the plaintiff) of the tarwad or illom, the plaintiff's share would be valued, with reference to the valuation of the suit under the Court Fees Act, 1870, if the suit were one brought by a stranger for the recovery of the whole property—movable and immovable—possessed by the tarwad or illom.

(iii) In all such suits, the plaintiff or appellant shall state in the plaint or memorandum of appeal, as the case may be, the amount at which he values the entire property of the tarwad or illom and such valuation, unless the court has reason to believe the valuation is not made *bona fide*, shall be accepted by the court.

[*Notfn.*, *d.* 20-2-1903, *at p.* 368, *Pt. II*, F.S.G.G., *d.* 3-3-1903. *H.C. Dis.* 202 *of* 1903.]

II.—Rules for the Stamps to be used.

(*a*) *Adhesive stamps and impressed stamps when to be used respectively.*—In exercise of the powers conferred by sections 26 and 35 of the Court Fees Act, 1870, as amended by Act XXXVIII of 1920, and the Madras Court Fees (Amendment) Act, 1922, and all other powers enabling them in this behalf and in supersession of the notification of the Government of India No. 361, dated 18th April 1883, published at page 307 of the *Fort St. George Gazette*,

Part I, dated 8th May 1883, the Local Government are pleased to issue the following directions :—

(i) When in any case the fee chargeable under the said Act is less than Rs. 25, such fee shall be denoted by adhesive stamp only. Such adhesive stamps shall either be the adhesive stamps of the size and pattern introduced in 1883 bearing the words " Court Fee," and containing three lines in the middle with the King's head and value printed on the left side, or adhesive stamps of any shape, size or pattern bearing the words " Court Fees " which may hereafter be issued for the use in supersession of, or in addition to, the adhesive stamps now in use.

(ii) When in any case the fee chargeable under the said Act amounts to or exceeds Rs. 25, such fee shall be denoted by impressed stamps bearing the words " Court Fees," adhesive stamps being only employed to make up fractions of less than Rs. 25.

(iii) If in any case the amount of the fee chargeable under the said Act involves a fraction of an anna, such fraction shall be remitted.

(iv) This notification shall come into force on the 1st March 1924, from which date adhesive labels of the value of Rs. 10, 15 and 20 will be introduced.

[*Notfn. at pp.* 236–7, *Pt. I*, F.S.G.G., *d.* 4–3–1924. *G.O. Mis.* 297, *Rev.*, *d.* 25–2–1924.]

(*b*) *Single stamps to be used as far as possible.*—In exercise of the powers conferred by section 27 of the Court Fees Act, 1870, and in modification of the notification published at page 847 of the *Fort St. George Gazette*, dated the 30th April 1872, and of all other notifications on the subject, the Right Honourable the Governor in Council is pleased to issue the following rules :—

1. When in the case of fees amounting to less than Rs. 25, the amount can be denoted by a single adhesive stamp, such fees shall be denoted by a single adhesive stamp of the required value. But if the amount cannot be denoted by a single adhesive stamp, or if a single adhesive stamp of the required value is not available, an adhesive stamp of the next lower value available shall be used and the deficiency shall be made up by the use of one or more additional adhesive stamps of the next lower values, which may be required to make up the exact amount of the fee.

2. When in the case of fees amounting to or exceeding Rs. 25, the amount can be denoted by single impressed stamp, the fees shall be denoted by a single impressed stamp of the required value. But if the amount cannot be denoted by a single impressed stamp, or if a single impressed stamp of the required value is not available, an impressed stamp of the next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional impressed stamps of the next lower values available which may be required to make up

the exact amount of the fee in combination with adhesive stamps to make up fractions of less than Rs. 25.

3. Any adhesive stamps which may be used under rule 2 shall be affixed to the impressed stamp of the highest value employed in denoting the fee.

4. When two or more impressed stamps are used to make up the amount of the fee chargeable under the Court Fees Act, a portion of the subject-matter shall be written on each impressed stamp so used, and the writing on each stamp shall be attested by the signature of the person or persons executing the document.

NOTE.—The following executive instructions have been issued by the Local Government:—When two or more impressed stamps are used to make up the amount of the fee chargeable under the Court Fees Act, a portion of the subject-matter shall ordinarily be written on each stamped sheet. Where this is impracticable or seriously inconvenient, the document shall be written on one or more sheets bearing impressed stamps of the highest value, and the remaining stamps shall be punched and cancelled by the court or its chief ministerial officer and attached to the grant, a certificate being recorded by the court or its chief ministerial officer on the face of the first sheet of the document to the effect that the full court-fee (viz., Rs. .....) has been paid in stamps. The writing on each stamped sheet shall be attested by the signature of the person or persons executing the documents. (*G.O.* 17, *Rev.*, *d.* 5-1-1906.)

5. When one or more impressed stamps used to denote a fee are found insufficient to admit of the entire document being written on the side of the paper which bears the stamp, so much plain paper may be joined thereto, as may be necessary for the complete writing of the document, and the writing on the impressed stamps and on the plain paper shall be attested by the signature of the person or persons executing the document.

6. In the blank space left in the adhesive stamps, the vendor shall insert the name of the purchaser, the date of sale and his own ordinary signature.

(*G.O.* 635, *Rev.*, *d.* 19-5-1883, *and H.C. Pro.* 2226 *of* 1883 *as amended by G.O. Mis.* 297, *Rev.*, *d.* 25-2-1924.)

CIRCULAR ORDERS.

I. CANCELLATION OF STAMPS.

(1) *Check of stamps on papers received by chief ministerial officer and their punching under his immediate supervision—*

All applications, petitions, etc., intended for presentation to the lower court shall be presented to the court itself or to its chief ministerial officer, whose duty it will be to examine and punch the stamps, and who will be held responsible for the receipt of any stamps which have previously been used.

The Governor in Council resolves to direct all District Judges to make it a rule, for strict observance in the courts within their jurisdiction, that the sarishtadar in the superior courts, and head clerk in the District Munsifs' Courts, shall personally attend to, and be personally responsible for the strict fulfilment of, the duty of receiving documents to be filed, examining the correctness of the stamps attached thereto, and immediately cancelling such stamps, as required by section 30 of the Court Fees Act. There will be no objection to the ministerial officers named employing trustworthy subordinates to do the mere manual work of cancelling the stamps; but it will be on the distinct understanding that the sarishtadars or the

head clerks, as the case may be, will be personally responsible for the due execution of the duty and for any defalcation or fraud that may occur in connexion with it. The Government expect District and Subordinate Judges and District Munsifs so to inspect and test the work of their officers from time to time as to ensure attention to the duty, and to limit opportunities for fraud. (*G.O.* 1944, *d.* 16-8-1877.)

(2) *Cancellation of adhesive court-fee labels to prevent re-user thereof*—

The Governor-General in Council has recently had under consideration the best method of cancelling adhesive court-fee labels so that they may not be fraudulently used again, and have issued the following instructions:—

(*a*) *Second punching thereof by the record-keeper.*—Under Act VII of 1870, section 30, court-fee labels are cancelled by punching out the figure-head, but this does not perhaps afford sufficient protection and, pending further consideration of the subject, the Governor-General in Council directs that the record-keeper of every court shall when a case is decided and the record consigned to his custody, punch a second hole in each label distinct from the first and note the date of his doing so at the same time. The second punching should not remove so much of the stamp as to render it impossible or difficult to ascertain its value or nature.
(*G.I. Resolution*, 1763, *F.*, *d.* 24-7-1873. *G.O.* 1095, *d.* 5-8-1873.)

The above directions apply only to adhesive labels used under the Court Fees Act. Impressed stamps used for denoting court-fees need not be cancelled or punched otherwise than as required by section 30 of the Court Fees Act. (*G.O.* 2509, *d.* 20-9-1883.)

The Governor-General in Council observes that, under the provisions of the Court Fees Act, the cancellation of stamps must be effected by the court or office receiving the document to which a stamp has been affixed.

(*b*) *Labels affixed to certified copies, certificates, etc., should be cancelled before issue.*—His Excellency in Council is not satisfied that the rules at present in force provide adequate security for the stamp revenue in the case of labels affixed to certified copies of papers which are imperfectly obliterated in several cases by the court issuing these documents.

In supersession, therefore, of existing orders on the subject, the Governor-General in Council is pleased to direct that the court or office issuing copies, certificates, or other similar documents liable to stamp duty, shall, before issue, cancel the labels affixed to them by punching out a portion of the label in such a manner as to remove neither the figure-head, nor that part of the label upon which its value is expressed. As an additional precaution the signature of the officer attesting the document with the date, should be written across the label and upon the paper on either side of it as is frequently done by persons signing stamped receipts.
(*G.I. Resolution* 3373, *F.*, *d.* 24-9-1875. *G.O.* 2171, *d.* 7-10-1875.)

(*c*) *Second punching thereof by the court on receiving them and third punching on being consigned to the record.*—The Resolutions of the Government of India, embodied in Government Orders, No. 1095, dated 5th August 1873, and No. 2171, dated 7th October 1875 [clauses (*a*) and (*b*) supra] provide that the courts issuing the certified copy or certificate should, before issue, cancel the labels affixed thereto by punching out a portion of them but not the figure-head or that part upon which their value is expressed, the attesting officer also writing his name and date across them, and it is the court in which such certified copy or certificate is produced, that should require the receiving officer at once to punch out the figure-head as directed by section 30 of the Court Fees Act before the document is filed or acted on. When the copy or certificate is, with the record of the case in which it is filed, transferred to the custody of the record-keeper, he should punch a third hole in each label distinct from the previous two holes and at the same time, note the date of his doing so. He need not necessarily write across the stamp, though it will be well to do so, if there is still room. (*H.C. Cir.* 894-*A of* 1884.)

(3) *Record-keeper to examine papers as soon as they are consigned to his custody and on each occasion on which they are received back after being taken for reference—*

On receiving stamped documents into the record-room, the record-keeper shall examine the stamps, report if they are incorrect, note any erasures or suspicious appearances they may present, and be held responsible for their safe custody thereafter. If a record or any document forming part of a record is taken from the record-room for any purpose, it shall be his duty to denote to whom and for what purpose, it has been delivered and on its return, to examine it and ascertain if it be in the same condition in which it was issued from his office, and, if it be not in the same condition, to bring the circumstances to notice. (*H.C. Cir.* 2131 *of* 1881.)

(4) *Stamps affixed to documents to be punched before any action is taken—*

Finance No. 76.—Standing Orders Nos. * 86 and 88 in Section V of the Stamp Manual will be amended as shown in the Annexure to this Order. The Board of Revenue is requested to incorporate the provisions of Chapter VII, Section V of the Stamp Manual as now amended in the place of note (3) to paragraph 6 of its Standing Order No. 172.

His Excellency the Governor in Council desires to draw the attention of officers in all departments to the provisions of these Standing Orders. It should specially be noted that, as laid down in Standing Order No. 88, it is the duty of every officer before whom a document bearing an adhesive stamp label is produced, to see that it has been properly punched and cancelled before any action is taken on it. The rule laying down that every clerk who submits for orders a document bearing an adhesive stamp shall be responsible for seeing that it has been duly punched, should be strictly enforced. There is reason to believe that serious loss of revenue is caused by the improper use a second time of adhesive stamps which have not been duly cancelled on first presentation. (*G.O.* 2109, *Rev., d.* 22–6–1910.)

Standing Order No. 86 (*now* 83).—" Every officer presiding over a court or office and receiving a document liable to stamp duty under the Court Fees Act and stamped with adhesive stamps should, after satisfying himself that the document is properly stamped, see that a date stamp is applied to it in such a manner as to cover or touch some part of the stamps, but not in such a way as to obliterate the entries thereon or to render the detection of forgeries more difficult. The stamp should then be cancelled by punching out the figure-head. The punch used for this purpose should be large enough completely to remove the figure-head.

(5) *Documents insufficiently stamped to be returned without being punched—*

If the document is insufficiently stamped the date stamp should not be applied to the stamps on it, nor should the stamps be cancelled by punching out the figure-head. The document should be returned to the parties concerned for re-submission properly stamped.

[Stamps affixed to documents in excess of legal requirements should be punched. No refund or renewal can be granted where the amount of the excess value is less than one rupee. In cases where the value of excess stamps is not less than one rupee, the party concerned will be allowed refund of their value after deducting one anna in the rupee or fraction of a rupee. He should be given a certificate (Form LXXXVI, † Appendix II to the Stamp Manual) to the effect that he is entitled to receive back their value less discount within ninety days at a specified treasury, an advice (Form LXXXVII) † being at the same time sent to the treasury officer. Stamps themselves should, on no account, be removed from the documents and returned to the parties. In making payments, the treasury officer should, as far as possible, follow the instructions in Standing Order No. 101 (now 99)] (*G.O.* 270, *Separate Revenue, d.* 6–4–1916.)

In order to prevent fraud on the part of ministerial servants in a court or office who might connive at old punched adhesive stamps being re-introduced, the record-keeper of every court or office shall, as soon as the

* Now S.O. Nos. 83 and 85 in Chapter VII of the Stamp Manual, 4th Edn. (1933).

† Now Form No. L—Vide Form No. 8, Appx. III-B of Part II, Vol. II.

record is made over to his custody, punch a second hole in each adhesive label with a wad-cutter punch of diamond shape before putting the document into the record-room. This second punching should not remove so much of the stamp as to render it difficult to ascertain its value or nature. Impressed stamps used for denoting court-fees need not be cancelled or punched otherwise than as required by section 30 of the Court Fees Act."

Standing Order No. 88 (*now* 85).—"It is the duty of every officer to whom a document liable to stamp duty under the Court Fees Act is submitted for orders to see that any adhesive stamps thereon have been properly punched. The section head or other responsible ministerial officer submitting papers for orders shall see that all adhesive stamps therein contained have been punched and defaced as directed in Standing Order No. 86 (now 83), and any section head or other ministerial officer submitting a document bearing an unpunched adhesive stamp shall be required to pay the value of the stamp.

Officers receiving documents liable to stamp duty under the Court Fees Act should also look at the date of sale recorded on adhesive stamps and, if they find that the date of sale as recorded on the stamp is suspiciously remote, they should enquire into the history of the stamp."

(6) *Stamps in excess of legal requirements—Punching of—Refund of the excess value—*

In supersession of Circular Dis. No. 1921 of 1914, dated the 17th November 1914, the High Court directs, with reference to G.O. No. 270, Separate Revenue, dated the 6th April 1916, that all stamps affixed to documents received in courts, including those in excess of legal requirements, should invariably be punched. The party who has affixed stamps in excess will be allowed a refund of their value, less one anna in the rupee except in cases in which the amount of the excess value is less than a rupee. Stamps affixed in excess should on no account be removed from the documents and returned to the party; but the presiding officer of the court will give him a certificate in Form No. LXXX,* Appendix II to the Madras Stamp Manual, to the effect that he is entitled to receive back their value less discount within ninety days at a specified treasury and at the same time send an advice in Form No. LXXXVII * to the treasury officer. The certificate will become null and void after the expiry of the ninety days and refund will not be admissible thereafter.

The presiding officer of the court will note under his initials the date and number of the certificate on the stamps affixed in excess, so as to prevent fraud. (*H.C. Dis.* 1320 *of* 1916.)

(7) *Checks against fraud—*

The attention of all judicial officers is invited to the rules intended to serve as checks against stamp fraud, published at pages 328–330 of the Madras Stamp Manual, 4th Edn. The High Court considers that in addition to the strict observance of those rules, it is necessary that adhesive stamps should not be allowed to be affixed on papers in a way so as to overlap each other. Unless this precaution is observed, it is possible to introduce old punched adhesive stamps by affixing them on papers in such a way as to cancel the second diamond punch hole made in them by the record-keeper and the rule requiring the record-keeper to make such diamond punch hole in the adhesive stamps, would be rendered ineffective as a protection against fraud. (*H.C.P. Dis.* 280 *of* 1936.)

II. Reporting cases of infringement of the Rules for the Sale of Stamps.

All officers presiding over civil courts are requested to bring to the notice of the Revenue Divisional Officers cases which may come to their notice of infringement of rule 15 † of S.O. No. 75 at page 291 of the Stamp Manual (Edition 1902) prohibiting a licensed vendor from attempting to supply a stamp higher in value than the highest he is authorized to

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* Now Form No. L—Vide Form No. 8, Appx. III-B of Part II, Vol. II.

† Now rule 11 of the rules published at page 260 of the Stamp Manual, 4th Edn., read with Standing Order No. 76 published at page 320.

sell by the sale of a number of impressed sheets of lower value. They are not expected to hold any inquiry as to whether the rule has been actually infringed or not, but merely to give information of the cases to the Revenue Department with particulars such as the serial numbers of the stamps, their value, date of their sale, and name of vendor and purchaser appearing on the stamps themselves. (*H.C. Dis.* 1096 *of* 1916.)

III.—Levy of stamp duty under Article 24, Schedule I of the Stamp Act on Certified copies granted by Courts.

It has come to the notice of the High Court that the practice prevailing in regard to the levy of stamp duty on certified copies granted by courts is not uniform. The High Court directs that the instructions given below be observed so as to secure uniformity of practice.

2. Copies coming under Articles 6, 7 and 9 of Schedule I to the Court Fees Act are not liable to stamp duty under Article 24 of the Stamp Act, as they do not cease to be chargeable under the law relating to the court-fees, within the meaning of Article 24 of Schedule I of the Stamp Act by the mere fact that court-fees thereon have been remitted by the Government by Notification No. 358, dated 10th September 1921. They would however be liable to court-fee if filed in court subsequently.

3. The High Court considers that Article 9 of Schedule I of the Court Fees Act does not apply to all documents generally. The words " or the like " suggest the application of the *ejusdem generis* rule of construction and must be taken to cover only documents akin to those mentioned previously, viz., account, statement and report. The characteristic feature of these three classes of documents that distinguishes them from other documents seems to be, that when presented in or before a court or office, they become, (whether they are private documents filed by parties or proceedings of quasi-public officers) part of the record of the court or office unlike documents such as deeds or letters or account books which though exhibited in court or filed in an office, are ultimately returned to the party. By way of illustration the following documents may be mentioned as coming under this category—accounts, statements, etc., filed by parties in suits for partition, partnership, administration, etc., in which after the preliminary decree, a party is called upon to file statements of accounts, or statements surcharging or falsifying accounts or inventories of properties, etc., filed by the opposite party. " Statement " would include even affidavits, as in every affidavit the deponent makes a statement. A commissioner's report and a village officer's report may also be covered by the Article. Statements by private parties before an Inam Commissioner or a Revenue Officer would be governed by the Article, as also statements and accounts filed by a landholder under section 80 of the Madras Local Boards Act.

4. It will therefore follow that certified copies of all documents other than those coming under Article 9 of Schedule I of the Court Fees Act are chargeable with stamp duty under Article 24 of Schedule I of the Stamp Act (Article 20 of Schedule I-A of the Madras Act), i.e., they should be granted by courts only on production of the requisite non-judicial stamp paper together with the copy stamp papers required under the copyist rules. No court-fee stamp need be affixed to such certified copies when they are filed in any proceeding before a court.

5. Where certified copies of documents other than those enumerated in Article 9 have been granted without non-judicial stamp-paper having been furnished and have been already admitted in evidence and marked as exhibits, their validity cannot be questioned (vide section 36 of the Stamp Act). But with regard to such certified copies which have been filed in courts but not exhibited, the parties should be directed to take them back and get them re-certified by the proper officer after furnishing the requisite non-judicial stamp paper. Certified copies of documents other than those coming under Article 9 of Schedule I of the Court Fees Act shall not be received hereafter by any officer of court without verifying whether proper stamp duty has been paid thereon.

(*H.C. P. Dis.* 636 *of* 1936.)

B.—Process Fees and Poundage.

I.—Process Fees.

1. The following schedule of fees chargeable for serving and executing processes issued by the High Court of Madras in its appellate jurisdiction and by all civil and revenue courts established within the High Court's appellate jurisdiction, having been framed by the High Court under section 20 of the Court Fees Act, 1870, and confirmed by the Government of Madras and sanctioned by the Governor-General of India in Council, will come into force from the 1st day of July 1884.*

SCHEDULE OF PROCESS FEES.

Nature of process.	Amount leviable in	
	Any court of small causes, District Munsif's Court or revenue court.	District Court or Sub-Judge's Court where the process is not issued in a small cause case.
I. For each summons or notice—	RS. A. P.	RS. A. P.
(*a*) to a single defendant, respondent or witness	0 8 0	1 0 0
(*b*) to every additional defendant, respondent or witness, residing in the same village, if the processes be applied for at the same time	0 4 0	0 8 0
NOTE.—In cases in which there are several minor defendants or respondents represented by a single guardian, there shall be a single-service upon such guardian and only one fee shall be chargeable therefor. (*G.O. Ms.* 2106, *H.*, *d.* 3-6-1937.)		
II. For every warrant—		
(*a*) of arrest in respect of every person to be arrested		
(*b*) of attachment in respect of every such warrant	1 0 0	2 0 0
(*c*) of sale in respect of every such warrant		
(*d*) of delivery of possession in respect of every such warrant		
With an additional fee for the services of every officer entrusted with the warrant for each day after the third day, beginning with the day on which the warrant was issued—		
(*e*) if such officer is an amin	0 6 0	0 8 0
(*f*) if such officer is a peon	0 4 0	0 6 0
(*g*) if such officer is a Revenue Inspector .. [*G.O.* 3340, *L.* (*G.*), *d.* 26-10-1926.]	0 8 0	..
III. For every process in execution of a Village Court's decree	0 8 0	..
NOTE.—If the process is not executed no further fee for re-issue shall be levied. [*G.O.* 1008, *L.* (*G.*), *d.* 25-3-1926.]		

* Judl. Notfn. No. 209, d. 16-6-1884, at page 382, Part I, *F.S.G.G.*, d. 24-6-1884.

SCHEDULE OF PROCESS FEES—*cont.*

Nature of process.	Amount leviable in	
	Any court of small causes, District Munsif's Court or revenue court.	District Court or Sub-Judge's Court where the process is not issued in a small cause case.
	RS. A. P.	RS. A. P.
IV. For proclamation, injunction or order and every process not otherwise provided for .. An additional fee being leviable after the third day as above.	1 0 0	2 0 0
V. In respect of sales, a fee by way of poundage on the purchase money calculated at one anna in the rupee on the first 350 rupees, half an anna in the rupee on any additional sum up to Rs. 1,000, and quarter anna in the rupee on any additional sum above Rs. 1,000.		

NOTE.—(1) Any party may deposit the cost of proceeding by railway or any public conveyance where such is available, and in such case the process server shall be bound to proceed by such railway or public conveyance and the cost so deposited shall be part of the costs of the cause: * Provided that, when processes have to be executed in the Wynaad taluk, the party shall deposit the actual cost of bus fare from the court to the place of execution and back and such cost shall be part of the costs of the cause.

(2) For processes applied for and ordered to be executed as emergent, the fee will be the ordinary fee and half as much again.

(3) If the poundage chargeable on the purchase money should involve fraction of an anna, half an anna or more shall be taken as an anna and fractions less than half an anna shall be omitted from the amount payable. (*H.C. Dis.* 1110 *of* 1924.)

(4) Each process should be paid for according to the time which it really occupies. The party must not be charged for time occupied in serving processes other than his own, but he must pay for all the days which his own process or processes would have occupied, if it or they had alone been entrusted to the server. When one applicant puts in several processes to be executed at the same time in the same locality, the charge for any additional days occupied on account of such processes may be distributed over them. (*H.C. Cir.* 2607 *of* 1884.)

(5) The High Court considers that there is nothing objectionable in levying the additional fee in advance when it is calculated that the journey to and fro and the work to be done will take more than three days in all and that for this purpose, a journey of 15 miles a day may fairly be taken as a rough basis of calculation, not necessarily to be adhered to in all circumstances. In cases, however, in which a process which would ordinarily have been executed within the three days allowed by the rules, has actually taken, contrary to expectation, more than three days to execute, no additional fee need be collected subsequently for the excess number of days. The original levy should be regarded as final, as such cases are not frequent and there would be difficulty in collecting the excess. (*H.C. Dis.* 649 *of* 1917.)

2. *Addendum to the schedule of process fees.*—The following *addendum* to the schedule of fees made by the High Court and chargeable under the rules framed in accordance with the provisions

* The proviso was added by G.O. 2208, L. (G.), d. 4-6-1932. (*P. Dis.* 572 *of* 1932.)

of section 20 of the Court Fees Act, VII of 1870, which has been confirmed by His Excellency the Governor in Council and sanctioned by the Government of India is published * :—

(1) In every case in which application is made to a court for the issue of process beyond the jurisdiction of the court, there shall be levied the fee that would be leviable for the issue of such process in the court to which the application is made.

(2) The fees levied under this rule must be paid in court-fee labels of the proper amount to be affixed to the application; such labels shall be punched by the officer appointed to receive the application, who will endorse a note on the process that the proper fee for the issue thereof has been levied.

(3) When process is forwarded by any court in British India or in the State of Mysore or [in the State of Cochin][1], [Banganapalle, Sandur, Pudukkottai or Travancore][2] or [in the territories of H.E.H. the Nizam][3] to a court subordinate to the High Court for execution, such subordinate court shall accept the certificate endorsed on the process as sufficient proof that the proper fee for the issue thereof has been paid and shall deliver such process to the proper officer for service and shall retransmit the process to the court by which such process was transmitted to it, with a return in Form No. 10, Appendix B, Schedule I, Civil Procedure Code, and with the endorsement of the process-server, showing, if service has been effected, in what manner it has been effected; and if service has not been effected, the reason why it has not been effected; and such endorsement shall be verified by oath or affirmation of the process-server.

NOTE.—*Ferry charges.*—The levy of ferry charges in connexion with the service of processes on persons living in places which can only be reached by boat, is unauthorized and undesirable especially when the process-server is allowed to collect the charges direct from the parties as is reported to be the case in the Kistna district. As, however, cases in which boat charges are levied cannot be numerous, it is not considered necessary to draw up a complete schedule of rates for private ferries in each district and to authorize the collection of fees by rule. The fees in such cases may be borne by Government and debited to contingencies. [*G.O.* 1224, *H.* (*J.*), *d.* 13-6-1917. (*H.C. Dis.* 1146 *of* 1917.)]

II.—Calculation of Poundage.

(1) *Poundage to be charged on each lot—*

The High Court is of opinion that poundage should be calculated on sale-proceeds of each lot separately. (*H.C. Pro.* 661 *of* 1903.)

(2) *Poundage on bids by decree-holders—*

Rule 200 of Chapter IX, Part I *supra* provides that "if the applicant purchases the property with the leave of the court, and is allowed to set off the purchase money against any sum due to him, he shall pay the amount chargeable as poundage to the person appointed to sell the property, so soon as he is declared to be the purchaser." This rule ought to be followed also

* Judl. Notfn. 398, d. 1-8-1885, p. 628, Part I, *F.S.G.G.*, d. 25-9-1885.
[1] G.O. 1462, J., d. 17-9-1901.
[2] G.Os. 1374, J., d. 10-8-1889, and 1725-A, J., d. 8-10-1889.
[3] G.O. 1142, J., d. 11-7-1890.

in cases, where the purchase money *exceeds* the amount mentioned in the warrant, credit being of course given for the poundage fee afterwards when the purchase money is adjusted. (*H.C. Dis.* 943 *of* 1909.)

III.—Refund of Poundage and Process Fees.

1. When more than the amount required for the service of process is deposited, or when issue of process becomes unnecessary after deposit, the courts are authorized to refund to the depositor the amount of the surplus fees in money and to charge the same to the contingent fund.
(*H.C. Cir.* 1229 *of* 1873.)

2. It has come to the notice of the High Court that refunds of poundage and process service fees are sometimes treated as judicial refunds, under 19-A, Law and Justice. Such refunds should be treated as refunds of Stamp Revenue and debited to "1. Refunds—Revenue Refunds—Stamps—Surplus Process Fees."

The High Court prescribes the form appended to this circular (vide Form No. 7, Appx. III-B, Part II of Vol. II) for adoption in all districts in refunding *poundage and process fees.* [A refund shall, in the first instance, be made from the permanent advance with the head ministerial officer and shall be recouped by means of contingent bills, headed "Refund of Process and Poundage Fees," drawn on the treasury at the end of the month.] The refund vouchers in the form now prescribed should be attached to the contingent bills, even when they are for sums of Rs. 10 and less, and the vouchers should, on no account, be cancelled or destroyed as in the case of sub-vouchers for ordinary contingencies. The officer sanctioning a refund should, at the time of signing the refund order, exercise the necessary check by comparing the voucher with the entries in the registers maintained in the court.

When a refund has to be made after a process has been transmitted for service from one court to another, the refund order should be forwarded to the judge of the court in which the process-fees have been deposited with a request that the amount of the refund may be paid from his permanent advance instead of the order itself being made directly payable from the treasury. (*H.C. Dis.* 696 *of* 1901, *as amended by H.C. Dis.* 782 *of* 1917.)

3. Applications for refund of process-fees shall be made before the expiry of six months from the date on which the process-fees were paid into court; on applications made thereafter a penalty of one anna in the rupee or a fraction of a rupee shall be levied when making refund.
[*G.O.* 3298, *L.* (*G.*), *d.* 6-8-1932. (*H.C. P. Dis.* 39 *of* 1935.)]

C.—Rules relating to service of Processes.

The following rules,* under section 20 of the Court Fees Act, VII of 1870, for the service and execution of processes issued by the civil courts outside the Presidency Town in the Madras Presidency, have received the sanction of the Governor-General in Council :—

I. *Central Nazarats.*—There shall be one general establishment of amins and peons for the execution and service of processes issued by all the civil courts at the following stations and at such other places as the High Court may hereafter direct :—Vellore, Cuddalore, Chingleput, Chittoor, Coimbatore, Cuddapah, Cocanada, Rajahmundry, Ellore, Guntur, Bapatla, Mangalore, Bezwada, Masulipatam, Dindigul, Madura, Tellicherry, Calicut, Ottapalam, Palghat, Nellore, Sivaganga, Salem, Mayavaram, Negapatam, Kumbakonam, Tanjore, Tinnevelly, Tuticorin, Trichinopoly and Vizagapatam.

[Judl. Notifn. 42, d. 29-1-1884, pp. 111 to 114 of Part I, *F.S.G.G.*, d. 19-1-1884.]

Such establishment shall be under the immediate direction of a Central Nazir and the control of the District Judge; or of the Sub-Judge in the event of a Central Nazarat being established at any station where there is no District Judge.

II. *Deputy Nazir at outlying stations.*—At all other stations the process establishment shall be under the immediate direction of a Deputy Nazir who shall be under the control of the District Munsif having jurisdiction at such station:

* Provided that where the Deputy Nazarat serves two or more permanent courts, the senior Judge of the superior court shall exercise control, and the Nazarat shall be part of the establishment of that court.

III. (1) *Pay of establishment.*—(*a*) There shall be one class of Central Nazirs and their pay shall be Rs. 80 per mensem for the first year after appointment rising by annual increments of Rs. 4 to Rs. 120 per mensem.

(*b*) An Assistant Nazir may be appointed by the District Judge with the previous approval of the High Court, in case the state of business renders such appointment advisable.

The pay of an Assistant Nazir shall be Rs. 35 per mensem for two years after his appointment, rising by annual increments of Rs. $1\frac{1}{2}$ to Rs. 50 and subsequently by annual increments of Re. 1 to Rs. 60.

(*c*) There shall be one class of Deputy Nazirs and their pay for the first year after appointment shall be Rs. 60, rising by annual increments of Rs. 4 to Rs. 80 per mensem.

(*d*) There shall be one class of Amins and their pay for the first year after appointment shall be Rs. 22, rising by annual increments of Re. 1 to Rs. 35 per mensem.

(*e*) There shall be two classes of peons and their pay shall be—

First class, Rs. 15 per mensem.

Second class, Rs. 14 per mensem.

Not more than one-third of the peons shall receive Rs. 15 per mensem and the rest Rs. 14 per mensem.

All these charges shall be debited against the "Process Service Fund." [*G.O.* 30, *L.* (*G.*), *d.* 4-1-1923.]

† NOTE.—Every Nazir, amin or peon who was in the service of the Government before the 15th August 1931, in a substantive, officiating or temporary capacity, shall be entitled to the existing scale of pay mentioned in this rule in respect of any post which he holds or may hold, if he had held such post in a substantive, officiating or temporary capacity or had been a probationer therefor at any time before the 4th October 1933, irrespective of any break in his tenure of such post.

† (2) *New scale of pay.*—Every Nazir or amin who was *not* in the service of the Government, before the 15th August 1931, whether in a substantive, officiating or temporary capacity but who

* The proviso was added by *H.C. P. Dis.* 92 *of* 1933.
† Added by *H.C. P. Dis.* 666 *of* 1934.

has before the 4th October 1933 held any post on the existing scale of pay mentioned in rule III (1), shall be entitled only to the following new scale of pay in respect of such post :—

(*a*) Central Nazir—Rs. 70—5/2—85—7½/2—100.
(*b*) Assistant Nazir—Rs. 30—3/2—45—2/2—55.
(*c*) Deputy Nazir—Rs. 55—5/2—70.
(*d*) Amin—Rs. 21—2/2—31—1/2—33.

Provided that all service rendered by any such officer in such post before the 4th October 1933 shall count for increments in the new scale of pay.

Provided further that unless the Provincial Government otherwise direct in any class of cases, a personal pay shall be granted to such officer equivalent to the difference between (*a*) the pay last drawn by him in the existing scale of pay and (*b*) the pay to which he would be entitled in the new scale under this rule and any special pay, presidency allowance or Madras house allowance granted in lieu of any portion of the pay in the existing scale. Such personal pay shall be absorbed in future increments in the manner specified in Fundamental Rule 37.

IV. *Security.*—Each Central Nazir must furnish security in a sum of Rs. 1,000 and each Deputy Nazir in a sum of Rs. 500.

[*G.O. Ms.* 760, *L.* (*G.*), *d.* 9-3-1926.]

V. *Officers to whom processes should be transmitted for service.*—The proper officer to whom processes shall be transmitted for service under Order V, rule 9 of the Code shall be :—

(*a*) *The Central Nazir in respect of all processes issued by* any court located or having jurisdiction at a station where there is a Central Nazir, for service within the jurisdiction of a munsif located at such a station.

(*b*) *The Deputy Nazir*, at stations where there is no Central Nazir, and in respect of processes issued by any superior court for service within the jurisdiction of an outlying Munsif.

VI. *Presentation of application for issue of processes and procedure thereafter.*—(1) All applications for the issue of processes except those for the issue of emergent processes whether money is deposited with them or not, and except those (accompanied with processes prepared or not)* presented along with plaint, memorandum of appeal, cross objection or application to the chief ministerial officer, shall be presented to the Central or Deputy Nazir, who shall enter them in a register in the form prescribed. Where money is deposited it shall be paid to the Central or Deputy Nazir who shall grant a receipt to the party, out of his receipt book, in the form prescribed (vide Civil Register No. 51). He shall maintain as many receipt books and as many registers, as there are courts whose processes are served by him.

* NOTE.—Now see R. 49-A, Ch. II, Part I, which requires parties to file process forms duly filled up.

For Civil Registers—Vide Appx. II of Part II, Vol. II.

(2) The applications shall next be entered in a register in the form prescribed (vide Civil Register No. 53-A) and forwarded to the clerk in charge of the records of the suit or proceeding to which the process applications relate who shall return them with the copies of plaints, etc., if any, to be delivered to the defendants and such records as may be necessary for the correct preparation of the processes. The process-writer shall then prepare the processes in the order of receipt of applications and return the records when no longer required to the record clerk and obtain his acknowledgment.

(3) Where the High Court from time to time directs that the preparation of processes issuing from any specified court shall be under the supervision of the chief ministerial officer of the court instead of under the Central or Deputy Nazir, the Central or Deputy Nazir shall, after entering in his register applications relating to the issue of such processes, transmit them daily at 3 p.m. or such hour as the District Judge may fix, to the chief ministerial officer of the court concerned with Register C (vide Civil Register No. 53-A).

The chief ministerial officer will prepare the processes daily and return them with documents or copies of documents, if any, which have also to be served along with the processes, at 1 p.m. or such hour as the District Judge may fix, to the Central or Deputy Nazir for service.

(4) *Emergent processes.*—Applications for the issue of emergent processes shall be made direct to the court concerned, and the court ordering the issue of such processes may direct one of its own officers to receive the process memorandums direct from the party or his pleader. The processes shall then be prepared urgently under the supervision of the chief ministerial officer of that court, and the process memorandums with the processes shall then be transmitted urgently to the Central or Deputy Nazir for entry in his B Register (vide Civil Register No. 53) and emergent execution of the processes.

* (5) Application for issue of processes (accompanied with processes prepared or not) presented along with the plaint, memorandum of appeal, cross objection or application shall, after the plaint, memorandum of appeal, cross objection or application has been admitted, be transmitted to the Central or Deputy Nazir who will enter them in B Register (Civil Register No. 53).

NOTE.—(*a*) *Verification of the balance in Nazir's B Register by the Judge*—

Since the Process Registers A and AA are no longer maintained by the chief ministerial officer of the court, and the Nazir, or Deputy Nazir, has been made solely responsible for the receipt of money connected with the issue of processes, the High Court directs that, in future, the daily balance shown in the new Process B Register (Civil Register No. 53) shall be verified by the presiding Judge of the court to which the Nazarat is attached at least once a month.

(*H.C. R.O.C. No.* 990 *of* 1919, *d.* 11-2-1921.)

* Inserted by *H.C. P. Dis.* 751 *of* 1928.

(*b*) *Instructions for the guidance of Central and Deputy Nazirs*—

The Process Service Rules having been amended so as to make the Central or Deputy Nazir solely responsible for the transactions connected with the receipt, preparation, service and return of the processes issued by civil courts, the High Court hereby issues the following instructions for their guidance:—

1. All papers presented to the Central or Deputy Nazir under the revised rules shall immediately on receipt be impressed with a date stamp which may be of a design different from that of the date stamps used by the chief ministerial officer. Date stamps may be obtained on indent from the Superintendent, Government Press.

2. Process writers shall prepare processes and work under the supervision of the Central or Deputy Nazir except in Courts in which the High Court has under clause 3 of rule VI directed that the preparation of the processes shall be under the supervision of the chief ministerial officer.

3. * Every warrant of arrest under Order XXI, rule 24 (2) of the Code of Civil Procedure should be signed by the Judge or such officer as the court may appoint in this behalf. The officer to whom this power may be delegated should ordinarily be the chief ministerial officer of the court, and not the Nazir or Deputy Nazir; and the delegation should be made in writing and kept in court. All other processes may continue to be signed by the Nazir or Deputy Nazir, as the court thinks fit, on proper authorization.

4. The presiding officer of the court shall send money orders relating to the service of processes received by him to the Central or Deputy Nazir, instead of to the chief ministerial officer. The Central or Deputy Nazir shall make a note of the particulars relating to the money orders in his register.

5. A notice showing the unexpended witness batta available for refund and directing parties and pleaders concerned to apply for refund on such two days in each week and at such hours as the court may in its discretion fix with due regard to the convenience of all parties, shall be exhibited on the notice board of the court daily. In cases where the party or his pleader has failed to obtain a refund of the unexpended witness batta within the time prescribed in rule 170 (vide Chapter IX, Part I, *supra*) and where the same has had to be remitted to the Treasury, a penalty of one anna per half rupee or fraction thereof shall be imposed upon the party in the event of his applying for refund at a later date.

(*H.C. Dis.* 2240 *of* 1924.)

(*c*) *Lists of courts in which the preparation of processes should be under the chief ministerial officer*—

1. Subordinate Judge's Court, Coimbatore.
2. District Munsif's Court, Coimbatore.
3. Subordinate Judge's Court, Ellore.
4. District Munsif's Court, Ellore.
5. Subordinate Judge's Court, Guntur.
6. Temporary Subordinate Judge's Court, Tenali.
7. District Munsif's Court, Guntur.
8. District Munsif's Court, Bapatla.
9. Subordinate Judge's Court, Masulipatam.
10. District Munsif's Court, Masulipatam.
11. District Munsif's Court, Bezwada.
12. Subordinate Judge's Court, Nellore.
13. District Munsif's Court, Nellore.
14. District Munsif's Court, Sivaganga.
15. District Munsif's Court, Salem.
16. District Munsif's Court, Sankaridrug at Salem.

(Last revised by *H.C. P. Dis.* 896 *of* 1939.)

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* Subs. by *H.C. P. Dis.* 141 *of* 1934.

* VII. *Intimation of receipts and disbursements in the Nazarat to the chief ministerial officer.*—As soon as possible after 3 p.m. or such hour as the District Judge may fix, the Central or Deputy Nazir shall send to the chief ministerial officer the receipt books and a statement of the totals of stamps and all amounts received and of money expended during the day, in order that the necessary entries may be made in the cash book, ledger and register of documents and court fees.

* VIII. *Lists of processes for service in other Nazarats.*—One hour before the post time for each outlying Munsif's station, the Central or Deputy Nazir of each court shall prepare lists from his registers of all processes to be served or executed within the jurisdiction of outlying Munsifs, and such lists shall forthwith be sent by post on His Majesty's Service to Deputy Nazirs together with all such processes.

IX. *Procedure on receipt of processes for service.*—On receiving any batch of processes, the Central or Deputy Nazir, as the case may be, shall give them general numbers and enter them in a register which will be kept by himself or under his superintendence in the form B annexed hereto (vide Civil Register No. 53).

X. *Roster C.*—He shall thereupon arrange for the distribution of the processes, and, after the necessary entries have been made in the Roster C (vide Civil Register No. 54), shall deliver them to the several process-servers. As far as possible all processes, other than warrants of arrest, for persons residing in the same neighbourhood, shall be served by one process-server and not by several, whether issued by the same or by different courts.

* XI. *List of processes executed.*—Every day at such hours as the District Judge may fix, having regard (when necessary) to the hours at which the post closes, each Central or Deputy Nazir shall prepare a list for each court of the processes to be returned to it, giving them their original court numbers and shall transmit them with the list to the Central or Deputy Nazir who issued the processes, and the latter shall thereon sign and return the list.

* XII. *Delay in return of processes to be reported.*—It shall be the duty of the Central or Deputy Nazir to have the processes returned struck off in his register and to bring to the notice of the presiding Judge any unusual delay. Where such Judge is not the District Judge, he shall report such delay to the District Judge in the absence of satisfactory explanation.

XIII. *Nazir's B Register.*—At the close of each day, every Central and Deputy Nazir shall enter in the Register B the number of processes distributed during the day and the number of peons remaining unemployed after the distribution.

XIV.†

* (Rules VII, VIII, XI and XII were subs. by notfn., d. 4-10-1918.)
† Repealed by G.O. 522, Judl., d. 24-3-1902.

* XV. *Procedure in case of arrest or seizure of movable property.*—When any person has been arrested, or movable property seized, by a process-server of an outlying court under a warrant issued by a superior court, the process-server shall forthwith bring such person or property to the station of such court and deliver him or it to the Central or Deputy Nazir, as the case may be, provided that this rule shall not apply to property not required to be brought to the court-house.

Such Central or Deputy Nazir shall immediately give the process-server a receipt and send him back to his own court, and shall produce such person or property before the court which issued the process.

When money shall have been paid upon any such process, it shall be received by the outlying Munsif and duly transmitted (by money order at the expense of the party to whom the money is payable) together with the process, to the court concerned.

NOTE.—(1) To prevent any possibility of misappropriation of moneys by amins and peons between the interval when money is received from a judgment-debtor and the time when such money can be paid into court, the High Court directs that each amin or peon receiving money or any valuable security from a judgment-debtor or purchaser in a court-sale or otherwise shall grant a receipt for the money or valuable security received to the judgment-debtor or purchaser.

It will be the duty of the amin or peon receiving any money in execution of a decree to bring the same with the least possible delay to the court. The Process Service Registers will afford a means of checking any delay or remissness on the part of the process-service establishment in bringing such sums to court, and any such delays should be noticed, and if necessary, punished, as the occasion may demand, by the presiding Judge of each court. (*H.C. Cir.* 1444 *of* 1879.)

(2) It should be distinctly understood both by process-servers and vakils that payment by them of money to a head clerk will not relieve them of responsibility. Nothing short of payment into Treasury under a chalan or an acquittance signed by the presiding Judge himself can be recognised as an absolute discharge. (*H.C. Cir.* 3174 *of* 1884.)

†XVI. *Remittance of witness batta.*—The total amount of the batta of witnesses, etc., on all the processes issuing to a given court on any day for service shall be remitted by money order by the court issuing the processes to the court to which the processes are sent for service at the same time as the processes are despatched to the latter court. Any unspent balance in the hands of the court serving the process shall be returned to the court issuing the processes by money order at intervals of a week (but it may be remitted along with witness batta if such is being remitted at an earlier date), and the presiding Judge, or in the case of a District Court or a Sub-Court, the Sarishtadar, shall check and verify from week to week the issue of such money orders. The money order commission in the above cases shall be charged in the contingent bill of the courts.

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* This rule was amended by omitting the proviso in clause 3. Vide Notfn., d. 16-12-1916, p. 2294 of Pt. II, *F.S.G.G.*, d. 19-12-1916.

† As last amended by G.O. Ms. 2717, L. (G.), d. 24-9-1934, *H.C.P. Dis.* 761 *of* 1934.

* XVII. *Statement of money orders issued to other courts.*—On or before the 6th of each month, the court issuing money orders under the preceding rule shall send to each court to which money orders have been issued in the preceding month a statement † showing the number and particulars of the money orders so issued; and it shall be the duty of the presiding officer of the latter court to see that the amounts involved have been received and accounted for.

XVIII. *Emergent processes.*—The presiding Judge of any court may, for any sufficient reason, at any hour of the day, transmit a process for emergent execution within the jurisdiction of the headquarter Munsif, and it shall be the duty of the Central or Deputy Nazir (as the case may be) on receiving such process signed by the Judge, to make immediate arrangements accordingly.

In a case of very special urgency, the presiding Judge may deliver any such process to one of the process-servers in attendance on his court for immediate service or execution.

XIX. *Execution thereof not to be delayed.*—The Deputy Nazirs of outlying courts shall, on no account, delay any process which may be signed by a presiding Judge as emergent. All other processes it shall be lawful for them to keep back for any period, not exceeding three days, which may be necessary to admit of a sufficient number accumulating for a particular neighbourhood.

XX. *Deputation of special process-server from headquarters.*—The presiding Judge of any superior court may direct, on the application of the party applying for any particular process which would ordinarily be sent for service to an outlying court, that it be served or executed by a special process-server from headquarters, provided that the pay of such process-server at the rate of 8 annas a day for a peon or one rupee a day for an amin, for the time he is likely to be employed on such duty be paid in advance; and the Judge may, for any sufficient reason, direct that such extra charge be costs of the suit or proceeding.'

XXI. *Second peon to be ordinarily deputed to guard judgment-debtors.*—When the court considers it advisable that a second peon should be deputed to assist the peon having the custody of a judgment-debtor, the pay of both at 8 annas a day for each up to the time fixed for the adjourned hearing should be paid in advance.

Payments under this and the preceding rule shall be made in court-fee stamps.

XXII. (1) ‡ *Average number of processes to be executed by each amin and peon.*—The number of amins and peons to be

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* As amended by G.O. 2915, Judl., d. 8-12-1916.

† Vide list of periodical returns in Appx. I, Part II of Vol. II.

‡ As amended by G.O. Ms. 995, L. (G.), d. 27-3-1934. (*H.C.P. Dis.* 286 *of* 1934.)

employed for each district from time to time shall be determined by the High Court, due regard being had to the number of processes to be executed and the areas to be served by the several Nazarats and to any other special circumstances affecting the number of processes which one officer may fairly be expected to serve in a given time. The number of processes to be executed each year by each amin and peon engaged in execution work shall be regulated in accordance with the following average figures :—

District.	Average per amin.	Average per peon.
Anantapur	350	425
Arcot, North	300	400
Do. South	300	450
Bellary	350	500
Chingleput	400	550
Chittoor	300	450
Coimbatore	400	550
Cuddapah	300	350
Godavari, East	350	400
Do. West	250	400
Guntur	350	400
Kanara, South	400	500
Kistna	250	400
Kurnool	300	400
Madura	350	400
Malabar, North	300	450
Do. South	300	450
Nellore	350	400
Ramnad	250	350
Salem	400	500
Tanjore, East	250	400
Do. West	250	400
Tinnevelly	300	450
Trichinopoly	250	450
Vizagapatam	350	550

(2) *Deputation of process staff for process writing and guard duty.*—The number of amins and peons to be employed under each Nazir and Deputy Nazir, not exceeding the number determined as above for each district, shall, in like manner, from time to time, be determined by the District Judge subject to the control of the High Court. In addition to the number of amins and peons required for execution work there shall be employed for each court a sufficient number of amins to write its processes and three peons to guard and keep order in the court.

The peons engaged on guard duty shall be told off in rotation for 10 days at a time from the whole number of peons and shall also be available for the service of emergent processes under rule XVIII.

(3) *Computation of processes.*—In calculating the number of processes, if more than one of the same description have been issued on behalf of the same party at the same time in the same suit or proceeding and executed in the same town or village, the first only shall be reckoned as a full process, and each subsequent set of three or part thereof shall count as but one process, whether executed by one or more amins or peons. Three processes will be counted for each emergent process and one for each day that an amin or peon is in charge of a judgment-debtor or engaged on any special duty.

NOTE.—(*a*) *Warrants of attachment of immovable property and proclamations* are not processes of one description within the meaning of rule XXII, and must therefore be counted separately, each warrant of attachment as one process, and each proclamation as one process, subject of course to the other provisions of the rules regarding duplicate processes executed in the same town or village. (*H.C. Dis.* 22 *of* 1909.)

(*b*) *An extra process* is to be counted in all cases *an additional fee is actually levied* after the third day under items II (*a*), (*b*), (*c*) and (*d*) and IV in the schedule (of process fees) or in case arising under rule XXII of the Process Service Rules. Care must be taken that this concession is not abused and made a means of unduly swelling the number of processes and thus increasing the establishments. Nazirs and Deputy Nazirs will be held responsible in regard to this. (*H.C. Dis.* 510 *of* 1909.)

(*c*) *Emergent processes—how to be computed.*—The High Court considers that the proper method of calculation to adopt, where urgent processes are taken, is to reckon the first process alone as three under the rule quoted. Such a reckoning substantially allows for the urgency and does not unduly swell the number of processes for service.

Extra processes counted in accordance with the instructions issued in High Court Dis. No. 510 of 1909, should be reckoned as ordinary processes, though the original process is urgent. (*H.C. Dis.* 520 *of* 1916.)

XXIII. (1) *Monthly report of processes executed.*—Every Central or Deputy Nazir shall, at the end of each month, report to the District Judge the number of processes, calculated as above, which may have been executed by their subordinates within the month; and such report shall show the number declared by each Court to be emergent.

NOTE.—(*a*) *Statement of distribution of processes to be submitted to District Judge.*—In order to ensure that the processes are fairly distributed among process-servers and that a fair average of work is attained by each process-server, the High Court directs that every Subordinate Judge and District Munsif having control over a Nazarat shall submit to the District Judge not later than the 5th of every month a statement in the prescribed form.* (*H.C. Dis.* 134 *of* 1927.)

(*b*) *Monthly return to be submitted to the High Court.*—District Judges will forward to the High Court a monthly return † showing the number of processes executed by amins and by peons, for each court in the district and the same number classified according as the processes are of a nature usually entrusted to amins only or such as peons are allowed to execute. The former class will comprise all processes for attachment or sale, or delivery of possession of property, movable or immovable and certain warrants of arrest. The latter will include all summonses, notices, written orders and ordinary warrants of arrest and the simpler forms of injunction and proclamation. (*H.C. Cir.* 1855 *of* 1890.)

This return will show *not* the processes actually executed but the number arrived at in the manner laid down in rule XXII above, excluding only those on which no action has been taken by the peon or amin, owing to

* Form No. 4 in Appx. III-M, Part II of Vol. II.
† Form No. 2 in Appx. III-M, Part II of Vol. II.

the petition having been compromised or withdrawn or for any other reason, after the process has been issued. (*H.C. Cir.* 345 *of* 1899.)

* (2) *Strength of Nazarat to be reduced whenever the average number of processes falls short of the prescribed average.*—The District Judge shall reduce the number of peons in the Central Nazarat, or any outlying court, whenever the average number of processes issued for each man (exclusive of those allowed under rule XXII to be in attendance in the courts) falls short of the prescribed average by more than ten *per centum*.

CIRCULAR ORDERS.

(A) INSTRUCTIONS FOR THE GUIDANCE OF COURTS IN REGARD TO THE EXECUTION OF WARRANTS OF COMMITTAL—

(i) *Number of process-servers to be deputed to escort judgment-debtors.*—The number of process-servers to be deputed to escort judgment-debtors to civil jails is a matter for the discretion of the court concerned which will guide itself by the necessities of each case.

(ii) *Fee to be levied for issue of a warrant of committal.*—The fee for a warrant of committal shall be that prescribed in item IV of the Schedule of Process Fees, irrespective of the number of process-servers employed; additional fees shall be levied after the third day under item II (*e*) or (*f*) of the Schedule.

(iii) *Mode of calculating such warrants for purposes of Rule XXII.*—A warrant of committal shall count as one process, subject to rule XXII of the Process Service Rules, irrespective of the number of process-servers employed.

(iv) *No fee for issue of orders of release.*—No process fee shall be levied for the issue of orders of release of a judgment-debtor from jail.

(v) *Judgment-creditor to pay the fee for the escort of judgment-debtors to and from jails.*—The judgment-creditor, at whose instance the debtor is taken to or brought from the jail, shall pay the travelling expenses and batta of the escort and of the debtor. (*H.C. Dis.* 789 *of* 1918.)

(B) TRAVELLING ALLOWANCE OF PROCESS-SERVERS—

Under rule 12 of the Madras Travelling Allowance Rules, process-servers are clearly entitled to batta outside their jurisdiction and in cases where the civil jails to which the judgment-debtors are committed are situated outside the jurisdiction of the courts to which the process-servers are attached, the process-servers are eligible for batta and it should be paid to them by the courts out of the moneys collected from the creditors. In those cases where the civil jail is situated within the jurisdiction of the courts committing the prisoners, it may also be necessary or desirable that journeys should be performed by rail or other conveyance and then the process-servers' fare should be collected and paid to them but they would not be entitled to subsistence allowance. The court has to fix in each case the charges leviable from the creditors. (*H.C. Dis.* 1043 *of* 1925.)

(C) EXECUTION OF PROCESSES—NON-COMPLIANCE OF BY PROCESS-SERVERS AT DECREE-HOLDER'S REQUEST—IRREGULAR—

It has come to the notice of the High Court that in some courts, warrants for arrest or for attachment of property are returned by the officers entrusted with their execution, without effecting the arrest or attachment or receiving the amount mentioned in the warrants, but with an endorsement on the warrant by the decree-holder to the effect that execution may be stopped for the time being. The High Court directs that this practice being quite irregular must cease. Order XXI, rule 38, C.P.C., is quite clear on the point. The process-server must carry out the court's order and either produce the money or the debtor in court. After the issue of a warrant, it is out of the power of a decree-holder to interfere further. (*H.C.P. Dis.* 576 *of* 1932.)

* As amended by G.O. Ms. 995, Law (G.), d., 27-3-1934. (*H.C. P. Dis.* 286 *of* 1934.)

(D) SUPERVISION OF THE WORK OF THE PROCESS ESTABLISHMENT—

In order to ensure adequate supervision of the work of the process establishments in the mufassal, the High Court issues the following instructions:—

Diaries.

1. Every amin and process-server shall maintain a diary in form No. 75 in Appendix II of Part II, Volume II. It shall be written up day by day and show where the amin or peon has been on each day, what work he has done and what processes he has served or failed to serve.

The diary will be initialled by the nazir whenever he issues processes and whenever the amin or peon returns to headquarters. The peon or amin shall endeavour to get the entries in the diary attested by a village officer or a substantial ryot of the village in which processes are served, whether personally or by affixture, or refused.

Officers in charge of courts having nazarats should inspect these diaries from time to time. District Judges will at their inspection of subordinate courts satisfy themselves that the diaries are being regularly maintained.

Observation List.

2. The nazir of every court shall prepare and submit for the orders of the presiding officer not later than the 15th of each month two statements in the forms * A and B set out below.

3. *Statement A* shall show the names only of those peons and amins not already on the Observation List who have shown less than 50 per cent of success on the total figure of arrest warrants for the preceding six months *or* on the total figures of other processes for the preceding two months. The names of those in Statement A shall in the absence of extenuating circumstances be placed on the Observation List. The presiding officer may, however, at his discretion substitute a warning for addition to the Observation List, where the deficiency in one branch of work is less than 10 per cent and is compensated by a similar excess in the other branch of work. The District Judge may also at his discretion ignore past bad work which has already resulted in addition to the Observation List after a man has earned his removal from the list by subsequent good work.

4. *Statement B* shall contain the names and figures for the last two preceding months, both under arrest warrants and under other processes, of all those who are on the Observation List. The presiding officer may order the removal from this list of all those whose figures of successful execution for the last preceding two months *both* under arrest warrants *and* under other processes are over 60 per cent. He may at his discretion order removal, condoning a deficiency of less than 10 per cent below the prescribed proportion for removal in one branch of work, if the figures for the other branch of work show a corresponding excess over the minimum, e.g., a peon who has got on the figures of the last two months 55 per cent of success under arrest warrants and 65 per cent under other processes, may, at the discretion of the presiding officer, be removed from the list.

When submitting Statements A and B, the Nazir will append to each a brief note indicating which of the peons or amins are to be added to or removed from the Observation List, and, in the case of Statement B, pointing out those who have been on the Observation List for such periods as to make substantive punishment desirable.

NOTE—

(1) For the purpose of these statements, actual figures of processes will be given, not the fictitious figures prescribed under rule XXII (3) of the Process Rules.

(2) The minima of 50 and 60 per cent prescribed for the statements A and B respectively may be varied at the discretion of District

* Not standardized.

Judges if they are found, with reference to local conditions, to be too low or too high. Any such variations should be reported to the High Court for information.

(3) For the purpose of the Observation List figures, arrest warrants may be deemed to have been executed (1) when the debtor is produced before court, (2) when the debtor is not produced but part or full satisfaction is reported by the decree-holder or he reports that the warrant need not be executed before the expiry of the time allowed for the return of the warrant and the court recalls the warrant. Cases of escape from the custody of a peon or amin should be treated as cases of failure.

(4) When the person to be served or arrested is reported to be non-resident or dead, the process should be excluded in calculating percentages.

(5) Service of other processes on adult members of the family or by affixture, whether after refusal or otherwise, should be treated as failures for the purpose of calculating these percentages.

(6) Sale warrants may be deemed to have been executed when the sale is stopped or adjourned under the Court's orders or when the sale is held in public court and fails for want of bidders (but not when it is held away from the court and fails for want of bidders).

(7) Attachment and delivery warrants may be deemed to have been executed when on the motion of the decree-holder the court recalls the warrants and orders that they need not be executed.

(8) When no arrest warrants are available, work under this head should be treated as satisfactory for the purpose of removal from the Observation List.

5. *The Observation List* shall be maintained in ledger form and will contain *only* the names of those who have been ordered to be placed on it as a result of the scrutiny of Statement A. So long as an individual remains on the Observation List, his figures of successful service will be entered against him in that list month by month. When his name is removed, no further entry need be made against him except a note of the date of removal. If he is once more added to the list, entries for the period of his second stay on the list will be made in continuation of those relating to his previous period of observation, so as to form a continuous record of unsatisfactory periods of service.

6. No man should be allowed to remain on the Observation List for long periods without receiving, first, a special warning, and if this is ineffective, substantive punishment. Before imposing substantive punishment, a charge of continuously unsatisfactory work should be framed, the figures on which the charge is based should be properly proved and the procedure prescribed in the Statutory Rules should be carefully followed.

Ordinarily no increments or other rewards should be sanctioned in favour of a man who is on the Observation List, but they may be sanctioned with retrospective effect as soon as he earns his removal.

As the successful working of the above system depends entirely on the correctness of the figures and the personal interest of the presiding officers, the latter should check the accuracy of the figures from time to time and they should also be checked at the annual inspection of courts. Copies of the orders passed by Subordinate Judges and District Munsifs each month on Statements A and B should be submitted to the District Judge for perusal on or before the 20th of each month.

(*H.C.P. Dis.* 293 *of* 1936 *as amended by* 234 *of* 1937, 25 *of* 1938 *and* 719 *of* 1938.)

CHAPTER II.

Rules under the Provincial Insolvency Act V of 1920.

THE MADRAS PROVINCIAL INSOLVENCY RULES, 1922.*

By virtue of the provisions of section 79 of the Provincial Insolvency Act, 1920, and of all other powers thereunto enabling, and with the previous sanction of His Excellency the Governor in Council, the High Court of Judicature at Madras has made the following rules for carrying into effect the provisions of the said Act :—

I. *Title and application.*—These rules may be called "The Madras Provincial Insolvency Rules, 1922," and shall apply to all proceedings under the Provincial Insolvency Act, 1920, in any court subordinate to the High Court of Judicature at Madras. They shall come into force on the first day of May 1922 and shall apply to all proceedings thereafter instituted and, as far as may be, to all proceedings then pending.

II. *Forms.*—The forms mentioned in these rules are the forms in the Appendix hereto † and shall be used with such variations as circumstances may require.

III. *Definitions.*—(1) In these rules, unless there is anything repugnant in the subject or context—

"The Act" means the Provincial Insolvency Act, 1920;

"The court" includes a receiver when exercising the powers of the court in accordance with section 80 of the Act;

"Receiver" means a receiver appointed by the court under section 56 (1) of the Act;

"Interim Receiver" means a receiver appointed by the court under section 20 of the Act;

"Proved debt" means the claim of a creditor so far as it has been admitted by the court.

(2) Save as otherwise provided all words and expressions used in these rules shall have the same meaning as those assigned to them in the Act.

IV. *Cause-title and number.*—(1) Every petition, application, affidavit or order in any proceeding under the Act or under these rules shall be headed by a cause-title in Form No. 1.

(2) ‡ Except in cases which are to be administered summarily the court may, at the time of admitting a petition for adjudication, require the petitioner to deposit a sum of Rs. 15 to meet the initial expenses of administration.

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* [Published in the *F.S.G.G.*, *d.* 25-4-1922.]

† (Vide Appx. III-C of Part II, Vol. II.)

‡ Inserted by *H.C.P. Dis.* 667 *of* 1940.

(3) When an insolvency petition is admitted, the chief ministerial officer of the court shall assign a distinctive serial number to the petition and all subsequent proceedings on the petition shall bear that number.

V. *Creditor to furnish copies of his petition.*—(1) When an insolvency petition presented by a creditor is admitted, the creditor shall within seven days thereafter furnish a copy of the petition for service on the debtor or, if there are more debtors than one, as many copies as there are debtors and the chief ministerial officer of the court shall sign the copy or copies if on examination he finds them to be correct.

(2) The copy shall be served together with the notice of the order fixing the date for hearing the petition on the debtor or upon the person upon whom the court orders notice to be served.

VI. * *Particulars to be furnished by debtor.*—Within a week after the date on which the debtor is adjudged an insolvent on the application of a creditor, or within ten days of the admission of a petition by a debtor, or within such further time as the court may order in either case, the debtor shall file an affidavit giving full, correct and true particulars of the survey or resurvey numbers of the properties, the boundaries thereof, the names of the persons in possession of the properties, the terms of the lease, if the properties have been leased out and the rent due and the encumbrances, if any, with detailed description of the date and amount of each encumbrance. If the property is only a portion of the survey field, its boundaries shall be described. With regard to book debts, particulars as to the amounts due, the rate of interest and the time at which the debt is likely to get time-barred shall be given. As regards outstandings due to the debtor, the document by which the outstanding is evidenced, the date and amount of the debt, the address of the debtor, the rate of interest payable thereon as also the date of any payments made for interest or principal which will save limitation as well as the date on which the claim or the debt is likely to become barred by limitation shall be given. The debtor shall also state the solvency or otherwise of his debtors and the then market value of the properties to the extent of his knowledge.

Along with the affidavit, the debtor shall produce all the title-deeds of his properties, account books and documents evidencing his outstandings. If he is not in possession of the title-deeds, he shall give detailed information as regards the dates of the documents, the nature of the title-deeds, the executants of the documents—whether registered or not—and the names of the persons in whose custody they are.

VII. *Death of debtor before hearing of petition.*—If a debtor against whom an insolvency petition has been admitted dies before the hearing of the petition, the court may order that notice of the order fixing the date for hearing the petition shall be served on

* Subs. by *H.C.P. Dis.* 667 *of* 1940.

representative or on such other person as the court may in the manner provided for the service of summons.

Proof of debts.—(1) Unless otherwise ordered all claims proved by affidavit in Form No. 3 in the manner provided by section 49 of the Act, provided that before admitting an affidavit the court may call for further evidence.

The affidavit may be made by the creditor or by some authorized by him, provided that if the deponent is not a creditor, the affidavit shall state the deponent's authority and full knowledge.

As soon as may be after proof of any debt is tendered it shall by order in writing admit the creditor's claim in whole or in part or reject it, provided that when a claim is rejected in whole or in part the order shall state briefly the reasons for rejection.

A copy of every order rejecting a claim, or admitting a claim partly, shall be sent by the court by registered post to the person making the claim within seven days from the date of the order.

(*a*) *Schedule of creditors.*—As soon as the schedule of creditors has been framed a copy thereof shall, if a Receiver or Interim Receiver has been appointed, be supplied to him, and all entries and alterations made therein shall be communicated to the Receiver or Interim Receiver.

(*b*) * *Public examination of debtor.*—At the time of passing the order of adjudication, the court shall fix a date directing the debtor to appear before the Official Receiver; on such date and adjourned dates the Official Receiver shall hold a public examination of the debtor as to his conduct, dealings and property and the causes of his insolvency. Notice of the examination shall be sent to all creditors who have tendered proof of their debts. Notice to creditors shall be sent by post registered for acknowledgment or shall be served personally or in such manner as the Official Receiver may think fit. The debtor shall be examined on oath and it shall be his duty to answer all questions which the Official Receiver or the creditors or their pleaders may put to him. The notes of the examination shall be taken down in writing by the Official Receiver in English and shall be read over or translated to the debtor and his signature obtained. Such notes may be used thereafter in evidence against him and shall be open to inspection by any creditor who has tendered proof of his debt at all reasonable times.

If the debtor fails to appear on such date or on adjourned date the Official Receiver shall be at liberty to apply to court for such directions as may be necessary for the due progress of the proceedings.

Consideration of compositions and schemes of arrangement.—Where a debtor submits a proposal under section 38 (1) of the Act,

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For forms—Vide Appx. III-C of Part II, Vol. II.

* Inserted by *H.C.P. Dis.* 667 *of* 1940.

the court shall fix a date for the consideration of
notice thereof together with a copy of the terms
shall be sent to every creditor who has proved.

(2) At the meeting for the consideration of
debtor shall be entitled to address the court in pers
in support of the proposal and every creditor who
be entitled in person or by pleader to question th
address the court.

XI. *Appointment of and security from Receiv*
Receiver.—(1) Every appointment of a Receiv
Receiver shall be by order [1] in writing signed by th
of this order sealed with the seal of the court shall
debtor and forwarded to the person appointed.

(2) Every Receiver or Interim Receiver other
Receiver shall be required to give such security as
fit.

(3) The court shall not require an Official R
security.

(4) In cases where the Official Receiver is emp
orders of adjudication, he shall send a copy of ev
adjudication made by him to the court in which
are pending, and may apply that he may be appc
for the property of the insolvent.

(5) The court may thereupon appoint [3] the C
to be receiver for the property of the insolvent and
fit to do so, it shall not be necessary to give
application to any person:

Provided that any party to the proceedings
the court, upon notice to the Official Receiver and
that the appointment of the Official Receiver may
that a special receiver may be appointed in his pla

XII. *Removal or discharge of Receiver or Interi*

(1) The court may remove or discharge any
Interim Receiver other than an Official Receiv
Receiver or Interim Receiver so removed or dis
unless the court otherwise orders, deliver up any
debtor in his hands and any books, accounts or oth
relating to the debtor's property which are in his
under his control to such person as the court may

(2) If an order of adjudication is annulled, th
any) shall, unless the court otherwise orders, de
assets of the debtor in his hands and any books, acc
documents relating to the debtor's property which are
sion or under his control to the debtor or to such ot
the court may direct.

[1] Vide Form No. 13 in List I of Appx. III-C of Part II of
[2] Vide Form No. 14 in List I of Appx. III-C of Part II of
[3] Vide Form No. 15 in List I of Appx. III-C of Part II of

XIII. *Receiver or Interim Receiver, an officer of the court.*—Every Receiver or Interim Receiver shall be deemed for the purpose of the Act and of these rules to be an officer of the court.

XIV. *Application by Receiver or Interim Receiver.*—(1) Every application to the court made by a Receiver or an Interim Receiver shall be in writing.

(2) The court may order that notice of any application by the Receiver or Interim Receiver and of the date fixed for the hearing of the application shall be sent by registered post to all creditors who have proved.

XV. *Remuneration of Receivers.*—(1) The remuneration of Receivers or Interim Receivers other than Official Receivers shall be in such proportion to the amount of the dividends distributed as the court may direct, provided that it does not exceed five *per centum* of the amount of the dividends.

(2) If a Receiver other than the Official Receiver has been appointed in an insolvency in which the court makes an order approving a proposal under section 38 (7) of the Act, the remuneration to be paid to the Receiver shall be fixed by the court, and the order approving the proposal shall make provision for the payment of the remuneration and shall be subject to the payment thereof.

XVI.—Receiver's report.—(1) Unless the court otherwise directs, the Receiver or Interim Receiver shall as soon as may be after his appointment, and in any case before the hearing of the debtor's application for discharge, draw up a report upon the cause of the debtor's insolvency, the conduct of the debtor so far as it may have contributed to his insolvency and also his conduct during the insolvency proceedings in all matters connected with such proceedings, and in particular such report shall state (*a*) whether the value of the debtor's assets is less than half his unsecured liabilities and, if so, whether that fact is due to circumstances for which the debtor cannot justly be held responsible, (*b*) whether the debtor has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his insolvency, (*c*) whether the debtor has continued to trade after knowing himself to be insolvent, (*d*) whether the debtor has contracted any debt provable under the Act without having at the time of contracting it any reasonable or probable ground of expectation that he would be able to pay it, (*e*) whether the debtor has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities, (*f*) whether the debtor has brought on, or contributed to, his insolvency by rash and hazardous speculations or by unjustifiable extravagance in living or by gambling or by culpable neglect of his business affairs, (*g*) whether the debtor has within three months preceding the date of the presentation of the petition when unable

to pay his debts as they became due given an undue preference to any of his creditors, (*h*) whether the debtor has on any previous occasion been adjudged an insolvent or made a composition or arrangement with his creditors and (*i*) whether the debtor has concealed or removed his property or any part of it or has been guilty of any other fraud or fraudulent breach of trust.

(2) If the debtor submits a proposal under section 38 (1) of the Act, the Receiver shall state in his report whether in his opinion the proposal is reasonable and is likely to benefit the general body of the creditors and shall state the reasons for his opinion.

XVII. *Debtor to furnish accounts.*—Unless the court otherwise directs, the debtor shall furnish the Receiver or Interim Receiver or, if a Receiver or Interim Receiver has not been appointed, the court, with a trading account, and an account showing all moneys and securities paid, disposed of or encumbered, or recovered by or from the debtor or on his account and his income and the source thereof for such period as the Receiver or Interim Receiver or, if a Receiver or Interim Receiver has not been appointed, the court may direct, provided that the Receiver or Interim Receiver shall not without the previous sanction of the court direct the debtor to furnish accounts for more than two years before the date of the presentation of the insolvency petition.

XVIII. *Receiver's accounts.*—(1) The Receiver or Interim Receiver shall keep a cash book and such books and other papers as are necessary to give a correct view of his administration of the estate, and shall submit his accounts at such times and in such forms as the court may direct. Such accounts shall be audited by such person or persons as the court may direct. The costs of the audit shall be fixed by the court and shall be paid out of the estate.

(2) The accounts of Official Receivers shall be audited annually by the Accountant-General.*

(3) The cost of such audit, calculated at 12 annas per Rs. 100 on the amount realized since the last audit of the estate concerned, shall be paid by the Official Receiver from such amount and, in case a distribution thereof to creditors is ordered in any year before the audit has taken place, shall be reserved for such payment from the amount otherwise available for distribution.

XIX. *Distribution of dividend.*—(1) No dividend shall be distributed by a Receiver without the previous sanction of the court.

(2) Notice in Form No. 8 or Form No. 9, as may be appropriate, that the distribution of a dividend has been sanctioned shall be sent by the Receiver or, if there is no Receiver, by the

* Now done by the Examiner, Local Fund Accounts.
For forms—Vide Appx. III-C of Part II, Vol. II.

court to every creditor, who has proved a debt, by registered post within one month from the date of the order sanctioning the distribution.

(3) The amount of any dividend due to a creditor may at his request be transmitted to him by postal money-order at his risk and expense and, if the amount does not exceed Rs. 25, shall be so transmitted, unless he appears to claim it in person or by duly authorized agent before the Receiver or, if there is no Receiver, before the court within three months from the date of the order sanctioning the distribution of the dividend.

(4) An order shall not be made under section 65 of the Act without giving the Receiver opportunity to show cause why the order should not be made.

XX. *Application for discharge.*—(1) An application for discharge shall not be heard until after the schedule of creditors has been framed.

(2) Every creditor who has proved shall be entitled in person or by pleader to appear at the hearing and oppose the discharge: provided that he has served upon the insolvent and upon the Receiver (if any) not less than seven days before the date fixed for the hearing a notice stating the grounds of his opposition to the discharge.

(3) A creditor who has not served the prescribed notices shall not, unless the court otherwise directs, be permitted to oppose the discharge of the debtor; and a creditor who has served the prescribed notices shall not be permitted, unless the court otherwise directs, to oppose the discharge on any ground not specified in the notice.

(4) At the hearing of the application the court may hear any evidence which may be tendered by a creditor who has served the prescribed notices, or by the Receiver, and also any evidence which may be tendered on behalf of the debtor and shall examine the debtor, if necessary, for the purpose of explaining any evidence tendered and may hear the Receiver, the debtor, in person or by pleader, and any creditor, in person or by pleader, who has served the prescribed notice.

XXI. *Notices.*—(1) The notices * to be given under sections 19 (2), 30, 37 (2), 38 (1) and 41 (1) of the Act shall be published in the *Fort St. George Gazette* in English, in the District Gazette in English and in the language of the court and in such other manner, if any, as the court may direct, and copies of the notices in English and in the language of the court shall be affixed to the notice board of the court.

(2) The notices to be given under sections 19 (2), 38 (1) and 41 (1) of the Act shall be published and affixed in the manner provided in paragraph (1) of this rule not less than fourteen days before the date fixed for the hearing of the application, the consideration of the proposal, or the hearing of the application for discharge as the case may be.

* Vide Forms Nos. 1 to 5 in List II of Appx. III-C of Part II, Vol. II.

(3) Notice of the date fixed for the hearing of an insolvency petition under section 19 (1) of the Act shall be sent by the court by registered post, if the petition is by the debtor, to all creditors mentioned in the petition and if the petition is by a creditor, to the debtor, not less than fourteen days before the said date.

(4) The notice to be given under section 33 (3) of the Act shall be served only on the debtor and on the creditors who have proved their debts and may, if the court so directs, be served on any or all such creditors by registered post.

(5) Notice of the date fixed for the consideration of a proposal under section 38 (1) of the Act shall be sent by the court by registered post to all creditors who have tendered proof of their debts not less than fourteen days before the said date.

(6) Notice of the date fixed for the hearing of an application for discharge under section 41 (1) of the Act shall be despatched by the court by registered post to all persons whose names have been entered in the schedule of creditors not less than fourteen days before the said date.

NOTE.—With a view to secure uniformity of practice the High Court directs that notices under section 41 (1) should go to all creditors (not only to scheduled creditors). (*H.C. P. Dis.* 552 *of* 1937.)

(7) The notice to be given under section 64 of the Act shall be sent by the Receiver by registered post to all persons whose claims to be creditors have been notified but not proved not less than one calendar month before the limit of time fixed for proving claims.

(8) It shall not be necessary to give notice of the date to which the hearing of a petition or of an application for discharge or the consideration of a proposal is adjourned.

(9) The notice of an order of adjudication to be published under section 30 of the Act shall contain a statement that creditors should prove their claims as soon as possible and that a claim may be proved by delivering or sending by registered post to the court or Official Receiver, as the case may be, an affidavit in Form No. (3).

XXII. *Costs.*—(1) All proceedings under the Act down to and including the making of an order of adjudication shall be at the cost of the party prosecuting them; but when an order of adjudication has been made, the costs of the petitioning creditor including the costs of the publication of all Gazette notices required by the Act or rules which, by the Act or rules, the petitioning creditor is required to pay, shall be taxed and be payable out of the estate.

(2) Before making an order in an insolvency petition presented by a debtor, the court may require the debtor to deposit in court a sum sufficient to cover the costs of sending the prescribed notices of the hearing of petition and the costs of the publication of all Gazette notices required by the Act or rules which, by the Act or rules, the debtor is required to pay.

For forms—Vide Appx. III-C of Part II, Vol. II.

(3) *The cost of the publication in the Gazette of—*

(*a*) An order fixing the date for the hearing of an insolvency petition under section 19 (2) shall, when the petition is by the creditor, be paid by the creditor, and, when the petition is by the debtor, be paid out of the sum deposited in court by the debtor under rule XXII (2).

(*b*) Notice of a proposal for a composition under section 38 (1) and notice of an application for discharge under section 41 (1) shall be paid by the debtor.

* (4) (i) *The actual cost of printing in the Gazette of—*

(*a*) notice of adjudication under section 30, and

(*b*) notice of an order annulling an adjudication under section 37 (2)

shall be collected from the person who petitions in insolvency.

(ii) The actual cost of printing *plus* 25 per cent shall be collected from the insolvent's estate in respect of notices under section 64 to creditors whose claims have been notified but not proved.

(5) No cost incurred by a debtor of, or incidental to, an application to approve a composition or scheme shall be allowed out of the estate if the court refuses to approve the composition or scheme.

(6) If the assets available are not sufficient in any case for taking proceedings necessary for the administration of the estate, the Receiver or Interim Receiver or Official Receiver, as the case may be, may call upon the creditors or any of them to advance the necessary funds, or to indemnify him against the cost of such proceedings. Any assets realized by such proceedings shall be applied, in the first place, towards the repayment of such advances, with interest thereon at 6 per cent per annum.

XXIII. *Summary administration.*—If the court makes an order under section 74 of the Act that the debtor's estate be administered in a summary manner—

(*a*) the petition and all subsequent proceedings shall be endorsed " Summary Case ",

(*b*) the Receiver or Interim Receiver shall not carry on the business of the debtor under clause (*c*) of section 59 of the Act, nor institute any suit under clause (*d*) of the said section, nor accept as the consideration for the sale of any property of the debtor a sum of money payable at a future time under clause (*f*), nor mortgage nor pledge any part of the property of the debtor under clause (*g*).

XXIV. *Inspection of proceedings.*—All insolvency proceedings may be inspected at such times and subject to such restrictions as the court may prescribe by the Receiver or Interim Receiver, the

* This was subs. by G.O. Ms. 2855, L. (G.), d. 15-9-1925. (*H.C. Dis.* 2280 of 1925.)

debtor, any creditor who has proved or any legal representative on their behalf.

XXV. *Maintenance of Registers.*—All courts shall maintain registers of (1) insolvency petitions received and (2) insolvency petitions disposed of, in Forms Nos. 4 and 5 in the Appendix to these rules.

They shall also submit to the High Court on the 15th day after the close of each quarter * a return of all proceedings in insolvency in Form No. 7. [Special particulars should be given therein of the arrears of petitions filed under sections 4, 53 and 54 of the Act.]†

XXVI. *Maintenance of registers.*—All Official Receivers shall maintain registers of (1) insolvency petitions received, (2) a dividend register, (3) a register of assets, (4) a document register (inventory), (5) a diary register, (6) a hearing book, (7) a register of leases, (8) a register of initial charges met from contingencies, (9) a register of instruments impounded, (10) a ledger, (11) a register of sale-deeds and (12) a register of advances made to pleaders, in Forms Nos. 4, 10, 11, 12, 16, 17, 18, 19, 20, 21, 22 and 23 appended to these rules. They shall also submit to the High Court on the 15th day after the close of each quarter * a return of all proceedings in insolvency in Form No. 7.

XXVII. *Expenditure on journeys undertaken for purposes of administration.*—Expenditure incurred by an Official Receiver and his staff on journeys undertaken for the purpose of administration will be recoverable by the Official Receiver from the assets of the estate or estates concerned in accordance with the rules made by the High Court from time to time on that behalf.

XXVIII. *Proceedings by or against a firm.*—(1) When any petition, notice or other document is signed by a firm of creditors or debtors in the firm's name, the partner signing for the firm shall add also his own signature in the following manner: " B and Co., by A.B. partner in the said firm."

(2) Any petition or notice of which personal service is necessary shall be deemed to be duly served on all members of the firm, if it is served at the place of business of the firm in India upon any one of the partners or upon any person having at the time of service the control or management of the partnership business there.

(3) When a firm of debtors file an insolvency petition, the same shall contain the names in full of the individual partners, and unless it is signed by all of them, it shall be accompanied by the affidavit of the partner signing it that all the partners concur in the filing of the same.

(4) When a creditor files an insolvency petition against a firm, the same shall state the names of the individual partners so far as the same are known to the petitioner, and the debtors shall

* Now submitted in three periods for a year.
For forms—Vide List I in Appendix III-C of Part II, Vol. II.
† Added by *H.C.P. Dis.* 667 *of* 1940.

together with their schedule of affairs file an affidavit setting out the names in full of the individual partners.

(5) An order of adjudication shall be made against the partners individually.

(6) The debtors shall submit a schedule of their partnership affairs and each debtor shall submit a schedule of his separate affairs.

XXIX. * *Committee of Inspection.*—(1) In any case in which the court authorizes the creditors to appoint a Committee of Inspection pursuant to section 67-A of the Act, the creditors (who have proved their debts) may at a meeting duly convened for the purpose by resolution appoint from among the creditors, or the holders of general proxies or general powers of attorney from such creditors a Committee of Inspection for the purpose of superintending the administration of the insolvent's property by the Official Receiver. The Committee of Inspection shall consist of not more than five, nor less than three persons.

(2) Meetings of the Committee of Inspection shall be held monthly at such time and place as they shall appoint and shall ordinarily be held in the chambers of the Official Receiver. The Official Receiver or any member of the Committee may also call a meeting of the Committee as and when he thinks necessary. The Official Receiver shall be present at all meetings.

(3) The Committee of Inspection may act by a majority of their members present at a meeting, but shall not act unless a majority of the Committee is present at the meeting.

(4) Any member of the Committee may resign his office by notice in writing signed by him and delivered to the Official Receiver.

(5) If a member of the Committee becomes insolvent or compounds or arranges with his creditors, or is absent from five consecutive meetings of the Committee his office shall thereupon become vacant.

(6) Any member of the Committee may be removed by an ordinary resolution at any meeting of creditors of which seven days' notice has been given stating the object of the meeting.

(7) On a vacancy occurring in the office of a member of the Committee, the Official Receiver shall forthwith summon a meeting of creditors for the purpose of filling the vacancy and the meeting may by resolution appoint another creditor or other person eligible as above to fill the vacancy.

(8) The continuing members of the Committee, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their body, and where the number of members of the Inspection Committee is for the time being less than five, the creditors may increase that number so that it does not exceed five.

(9) When a Committee of Inspection has been appointed under section 67-A of the Act, the Official Receiver shall, in the

* Inserted by *H.C.P. Dis.* 667 *of* 1940.

administration of the property of the insolvent and in the distribution thereof amongst his creditors, have regard to any directions that may be given by resolution of the creditors at any general meeting, or by the Committee of Inspection, and any directions so given by the creditors at any general meeting shall in case of conflict be deemed to override any directions given by the Committee of Inspection.

(10) When a Committee of Inspection has been appointed under section 67-A of the Act, the Official Receiver shall obtain the consent of the Committee before applying to the court for leave to do any of the things for which such leave is required by section 59 of the Act.

(11) In all cases in which a Committee of Inspection has been appointed, leases and sales of property by the Official Receiver shall, unless the court otherwise directs, be submitted for the approval of the Committee before confirmation. Should the Committee decline to approve the proposal of the Official Receiver the matter shall be submitted to the court which shall finally decide it.

(12) No defect or irregularity in the appointment of a member of a Committee of Inspection shall vitiate any act done by him in good faith.

(13) The Official Receiver shall submit the record book and cash book together with any other requisite books and vouchers, to the Committee of Inspection (if any) when required, and not less than once every three months.

(14) The Committee of Inspection shall suggest to the Official Receiver means for realizing the assets. If any suggestions so made are found unworkable, it shall be open to the Official Receiver to refer them to the court and the order of the court shall be final.

(15) The Committee of Inspection shall, not less than once every three months, audit the accounts and certify therein under their hands the day on which the said accounts were audited. The certificate shall be in Form No. 24 * with such variations as circumstances may require.

(16) Neither the Official Receiver nor any member of the Committee of Inspection of an estate shall, while acting as Official Receiver or member of such Committee, except by leave of the court, either directly or indirectly, by himself or any partner, clerk, agent or servant, become purchaser of any part of the estate. Any such purchase made contrary to the provisions of this rule, may be set aside by the court either on its own motion or on the application of any person interested.

(17) No member of a Committee of Inspection of an estate shall, except under and with the sanction of the court, directly or indirectly, by himself or any employer, partner, clerk, agent or servant, be entitled to derive any profit from any transaction

* Vide List I in Appendix III-C of Part II, Vol. II.

arising out of the insolvency or to receive out of the estate any payment for services rendered by him in connection with the administration of the estate, or for any goods supplied by him to the Official Receiver for or on account of the estate. If it appears to the court that any profit or payment has been made contrary to the provisions of this rule, the court may disallow such payment or recover such profit as the case may be on the audit of the Official Receiver's account.

(18) When the sanction of the court under the last preceding rule to a payment to a member of the Committee of Inspection for service rendered by him in connection with the administration of the estate is obtained, the order of the court shall specify the nature of the services, and sanction shall only be given where the service performed is of a special nature. No payment shall under any circumstances be allowed to a member of a Committee for services rendered by him in the discharge of the duties attaching to his office as a member of such Committee.

(19) Where the Official Receiver carries on the business of the debtor, he shall keep a distinct account of the trading and shall incorporate in the cash book the total weekly amount of the receipts and payments on such trading account.

(20) The trading account shall, from time to time and not less than once in every month, be verified by affidavit, and the Official Receiver shall thereupon submit such account to the Committee of Inspection (if any) or such member thereof as may be appointed by the Committee for that purpose, who shall examine and certify the same.

(21) Unless otherwise directed or resolved by the Committee of Inspection or ordered by the court, the Official Receiver shall not engage an auctioneer to sell the insolvent's property.

CIRCULAR ORDERS.

I.—Jurisdiction of Subordinate Judges and District Munsifs.

(*a*) *Petitions by creditors*—

In exercise of the powers conferred by the proviso to sub-section (1) of section 3 of the Provincial Insolvency Act, 1920 (V of 1920), the Local Government are pleased to invest all courts of Subordinate Judges in the Presidency with jurisdiction under the said Act, in respect of all cases of petitions *presented by creditors.*

[*G.O.* 1731, *L.* (*G.*), *d.* 5-6-1924. *H.C. Dis.* 1254 *of* 1924.]

(*b*) *Petitions by debtors*—

In exercise of the powers conferred on them by the proviso to sub-section (1) of section 3 of the Provincial Insolvency Act, 1920 (V of 1920), and in supersession of Judicial Department Notification No. 627, dated the 23rd November 1908, published at page 980 of Part I of the *Fort St. George Gazette*, dated the 24th November 1908, the Local Government are pleased to invest the undermentioned courts, in respect of cases of petitions *presented by debtors*, with jurisdiction under the said Act as specified against each class of courts:—

(1) All courts of Subordinate Judges, in cases where the debts exceed Rs. 3,000.

(2) All courts of District Munsifs, where the debts do not exceed Rs. 3,000.

[*G.O.* 2119, *L.* (*G.*), *d.* 23-7-1924. *H.C. Dis.* 1584 *of* 1924.]

II.—RULES FOR THE GUIDANCE OF COURTS IN THE EXERCISE OF INSOLVENCY JURISDICTION.

(*a*) *Interim Receivers*—

(1) The attention of all courts is drawn to the provisions of the Provincial Insolvency Act, V of 1920, especially those which make it incumbent on the court to appoint an Interim Receiver when admitting the petition of a debtor (section 20) and to specify in the order of adjudication the period within which the debtor should apply for discharge (section 27). In districts where an Official Receiver has been appointed, he will generally be the Interim Receiver. District Judges will note in their notes of inspection of subordinate courts how far these provisions of law are being complied with by the courts. They will also issue to the subordinate courts and to the Official Receiver, if any, in their districts, such instructions as they may consider necessary in the matter.

(*H.C. Dis.* 2515 *of* 1920.)

(2) The order appointing the Interim Receiver should include a direction to him to take immediate possession of the assets, so far as he is able, and also confer on him such powers enumerated generally or specifically in Order XL of the Code of Civil Procedure, 1908, as the court may think fit, and it should ordinarily confer powers under rule 1 (*b*) and (*c*). It will be the Interim Receiver's duty to reduce such assets as he can to possession. The Interim Receiver must obtain information as to available assets from the petitioner, the debtor or the creditors, as he may be able.

(*H.C. Dis.* 2045 *of* 1921.)

(*b*) *Recommendations of the Civil Justice Committee regarding applications for discharge of insolvents*—

(1) The High Court hereby directs the attention of all presiding officers of courts to the following recommendations of the Civil Justice Committee relating to the Provincial Insolvency Act.

"A chief feature of the 1920 Act was a provision that the time should be limited by the court in every case within which the insolvent must apply for his discharge. The intention of the Legislature was to ensure that the conduct of the insolvent should in all cases be brought under the scrutiny of the court. The penalty for not applying for discharge is that the insolvent is liable to have his adjudication annulled, with the result that he would not get back any property distributed among his creditors, but on the other hand would necessarily be liable to imprisonment and any other form of execution for debt at the instance of judgment-creditors.

* * * * *

It cannot be too strongly emphasised that unless an insolvency is in due form annulled, the insolvent should in every case be proceeded against unless he applies for his discharge within the time limited. It may be that receivers postpone or agree to the postponement of the date for application for discharge, because the discharge when granted terminates the time during which any property accruing to the insolvent enures for the benefit of his creditors. In such cases, however, the proper course, as a rule, is not to postpone the application for discharge, but to make application, the court being able to suspend the discharge for such period as is proper. We think that the importance of insisting on the provisions of section 43 of the Act of 1920 might in all provinces be emphasized by circular orders of the High Courts, as any failure in this respect will do much to render nugatory the administration of insolvency."

(2) The High Court agrees with the Committee that there is frequently much delay on the part of the insolvent in applying for discharge and that it is desirable that applications for discharge should be expedited and brought up for scrutiny by the court much earlier. (*H.C. Dis.* 404 *of* 1926.)

(*c*) *Publication charges and their waiver*—

(1) The Government have had under consideration for some time past the question of the continuance of the concession of free publication in the Fort St. George and District Gazettes of certain notices referred to in paragraphs 160, and 166 of the Printing Manual and are now pleased to issue the following orders:—

In respect of notices published by courts under sections 30 and 37 (2) of the Provincial Insolvency Act, 1920 (V of 1920), the actual cost of printing will be charged; in respect of notices published under section 64 of the

Act, the actual cost of printing plus 25 per cent will be charged. These orders will have effect from 1st September 1924.

(*G.O.* 593, *Finance*, *d.* 15-8-1924.)

(2) The Government consider that in cases in which the cost of publishing notices of adjudication and of annulment of adjudication under sections 30 and 37, respectively, of the Provincial Insolvency Act, 1920, cannot be met from the insolvent's estate, recovery of the cost of publication may be waived.

[*G.O.* 53, *L.* (*G.*), *d.* 8-1-1926. *H.C. Dis.* 312 *of* 1926.]

(3) District Judges may sanction waiver of recovery of such charges in insolvency cases on their files as well as those on the files of their subordinate courts—vide *G.O. Ms.* 2130, *L.* (*G.*), *d.* 21-6-1928.

(*H.C.P. Dis.* 464 *of* 1928.)

(4) The delegation sanctioned above is not intended to cover cases involving a *refund* of the charges actually paid. Doubtful cases should be referred to Government for orders. (*H.C. Dis.* 2132 *of* 1926.)

III.—Official Receivers.

(A) *Official Receivers and their establishments*—

(1) *Service and qualifications.*—Official Receivers shall in future be permanent servants of the Government recruited from the legal profession. The Official Receivers will be constituted as a separate class in the Madras Judicial Subordinate Service as a non-vacation category. Recruitment to the posts will ordinarily be made on a district basis, the rule being departed from in exceptional cases, subject to the condition that the practitioner should have a standing at the bar in that district for a minimum period of three years. The age of recruitment will be 35 years and the practitioners should have not less than five years' standing at the bar. A person selected as Official Receiver in a district will be on probation for a total period of two years on duty and the probationer should pass the Account Test for Subordinate Officers within that period. Official Receivers will not ordinarily be transferred from one district to another.

In regard to the method of selection and appointment of Official Receivers, the Madras Public Service Commission will select the candidates. The Commission will invite applications as and when vacancies arise. Applications for the posts of Official Receivers should be sent through the District Judges concerned who will forward them to the Commission with their recommendations. The Commission will interview suitable candidates and prepare a list of three names for each district and forward the lists to the Government. The final selection from the list, and the appointment, will be made by the Government under section 57 of the Provincial Insolvency Act. Temporary appointments for periods not exceeding three months on each occasion will be made by the Government direct on the recommendations of the District Judges. The communal rule will not apply to the posts. Such temporary appointments shall not confer on the persons appointed any right to future appointment.

(2) *Number of Official Receivers, pay and establishment.*—There will be 24 Official Receivers in the Province, one for each judicial district, excepting that the North and South Malabar districts will have only one Official Receiver. There will be two grades of officers, the Official Receivers of Coimbatore, Cuddapah, East Godavari, Guntur, Madura, North and South Malabar (one district), Ramnad, West Tanjore and Tinnevelly districts being in the first grade of Rs. 150—15/2—300 and the Official Receivers of the remaining fifteen districts being in the second grade of Rs. 150—10/2—250.

The clerical staff for each Official Receiver will be as shown below:—

(*a*) Two permanent lower division clerks in each of the districts of Coimbatore, Cuddapah, East Godavari, West Godavari, Guntur, Madura, Kurnool, Malabar, Nellore, Ramnad, Tinnevelly and Trichinopoly;

(*b*) one permanent lower division clerk and one temporary lower division clerk for a period of one year in each of the districts of Anantapur, South Arcot, Bellary, South Kanara, Kistna, Salem, East Tanjore and West Tanjore; and

(*c*) one permanent lower division clerk in each of the districts of North Arcot, Chingleput, Chittoor and Vizagapatam.

Each Official Receiver will be allowed one peon.

(3) *Promotion as District Munsifs.*—His Excellency the Governor of Madras does not consider it necessary to reserve any percentage of the vacancies of posts of District Munsif for appointment from among Official Receivers, but these officers will be allowed, provided they are otherwise qualified, to apply for posts of District Munsif when the Madras Public Service Commission invites applications for the posts.

(4) *Liability of Official Receivers.*—The rules applicable to Government servants in legal proceedings taken against them will apply to Official Receivers. (*G.O.* 5270, *H.*, *d.* 3-10-1939.)

(B) *Registers and accounts*—

(1) All money order acknowledgments, whether for amounts remitted to courts or for amounts relating to dividends, should bear distinct numbers corresponding to the entries in the cash book, and be kept together in a separate file for facility of reference and check.

(2) New ledgers need not be written out every year. The same ledger may be continued from year to year, sufficient space being allowed for each case and an index should be added. At the end of the year the balance of each estate should be struck and verified with the balance shown in the cash book. Pages of the ledgers and cash book should be machine-numbered.

(3) Counterfoil receipt books—machine-numbered—should be maintained to facilitate the grant of receipts to parties, when cash is received. A simple stock account of receipt books should be maintained.
(*H.C. Cir. R.O.C.* 4938 *of* 1916, *d.* 7-9-1917. *P. Dis.* 260 *of* 1920.)

(4) The Examiner of Local Fund Accounts has brought to the notice of Government that in almost all the districts large fluctuating differences exist between the cash book and ledgers maintained by Official Receivers and that it has not been found possible to allocate the difference to any particular year or to hold any particular Official Receiver responsible for the difference. In order to make the Official Receivers realize their responsibilty for correct accounting of moneys in their charge, the Government direct that if after the accounts of a year are audited, the cash book balance is found to be less than the total of the ledger balances, the Official Receiver who held office in that year should be required to make up the difference immediately. If, after recovery has been made, it is found that a particular item has been wrongly accounted for or has not been charged to an estate as it should have been, it will be permissible for the Official Receiver to prepare a refund voucher for the claim with a full statement of the case. Payment will be made only after pre-audit by the Local Fund Audit Department.
[*G.O. Ms.* 2151, *H.*, *d.* 23-4-1938. *H.C.P. Dis.* 298 *of* 1938.]

N.B.—For rules regarding the registers and accounts to be maintained by Official Receiver—vide Rule XXVI, supra and section II, Chapter III of Volume II.)

(C) *Seal*—

The seal to be used by Official Receivers shall be of the same size and pattern as that used by Sub-Judges and District Munsifs, but with inscription as follows in English and vernacular—" The Official Receiver—district."
(*H.C. Dis.* 1389 *of* 1914.)

(D) *Powers of Official Receivers*—

(1) *Under the Provincial Insolvency Act.*—The Official Receiver appointed under section 19 of the Act (section 57 of Act V of 1920) shall have and exercise the following powers, subject to the directions of the court concerned, namely:—

(1) to frame schedules and to admit or reject proofs of creditors;
(2) to make interim orders in cases of urgency; and
(3) to hear and determine unopposed or *ex parte* applications other than applications under sections 7, 8, 9, 13, 18, 36, 37, 40, 43 and 44 of the Act.* (*H.C. Dis.* 417 *of* 1910 *and* 1961 *of* 1918.)

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* Now sections 14, 15, 16, 21, 56, 53, 54, 66, 69 and 41, respectively, of Act V of 1920.

(2) *Under the Indian Companies Act.*—The Official Receivers will be ex-officio Official Liquidators under the Companies Act. They will charge a commission of 5 per cent on the moneys collected. This commission will be credited to the Government under the head "XXI. Administration of Justice." (*G.O.* 5270, *H.*, *d.* 3-10-1939.)

(E) *Instructions for the guidance of Official Receivers*—

The following instructions are issued for the guidance of Official Receivers in the exercise of their powers under section 20, Provincial Insolvency Act, III of 1907 (now section 59 of Act V of 1920). They in no way affect or extend the powers delegated to Official Receivers under section 52 (now section 80) of the Act.

(1) The Receiver should endeavour to recover book debts by legal proceedings. Sale of book debts is prohibited except under the orders of the judge which should be given only on his being satisfied that legal proceedings will be too costly or otherwise inadvisable.

(2) The Receiver should thoroughly investigate each case, and form his own opinion on matters which come to his knowledge, and should not wait to be moved by the creditors. If a creditor desires proceedings to be taken which the Receiver regards as doubtful, the latter should report the matter to the court, which, if it thinks fit, can direct the required action to be taken upon the creditor indemnifying the Receiver against costs.

(3) When the Receiver is of opinion that a transfer of property or payment by an insolvent may be voidable or fraudulent, he should report the matter to the court and obtain directions from the judge as to the steps to be taken.

(4) No arrangement should be come to or compromise effected by the Receiver without the sanction of the court, upon sufficient evidence, under section 20 (*h*) [now section 59 (*h*)] of the Act.

(5) Every application to the court for directions by a Receiver or Interim Receiver shall be made upon a report in writing of the facts; if the court considers that notice should issue to any person, it shall direct him to apply by petition in the usual manner.

(6) Receivers are officers of the court and are bound to take the orders of the court in all cases of doubt or difficulty.
(*H.C. P. Dis.* 1194 *of* 1916.)

(7) It has come to the notice of the High Court that orders of courts are being insisted upon for "closing" the administration of insolvents' estates when no further action has to be taken by the Official Receiver. There is no judicial order of closure contemplated by the Provincial Insolvency Act. It is a matter of administrative convenience to class all cases as "closed" when nothing further remains to be done and orders of court shall not ordinarily be required for this purpose. Where however an asset considered as irrecoverable is outstanding at the time final orders are passed by the court dismissing the petition or granting an unconditional order of discharge or annulling the adjudication, sanction of court shall be necessary to treat it as unrealizable before the administration is brought to a close. (*H.C. P. Dis.* 462 *of* 1939.)

(8) *Taking possession.*—Unless the court for special reasons orders otherwise, Official Receivers should, instead of deputing their clerks for the purpose, themselves take possession of the properties of insolvents in order to acquaint themselves with all particulars relating thereto, and should make every effort to speed up the administration. Presiding officers of Insolvency courts should exercise close supervision over the administration of estates pertaining to cases in their courts.
(*G.O. Ms.* 1230, *H.*, *d.* 7-3-1938.)

(F) *Sales*—

(1) As a rule property should be sold by public auction; sales in any other manner should only be made with the sanction of the court.
(*H.C. Dis.* 1194 *of* 1916.)

(2) Official Receivers should under no circumstances bid at sales of the properties of insolvents nor should they acquire, either directly or indirectly, any interest in the purchase of such properties.
(*H.C. Cir. R.O.C.* 4938 *of* 1916, *d.* 7-9-1917. *P. Dis.* 260 *of* 1920.)

(3) Save in the case of property which is subject to speedy and natural decay or of such a kind that the expense of keeping it in custody is likely to exceed its value, no sale shall be held by Official Receivers until after the expiration of at least thirty days in the case of immovable property, and of at least fifteen days in the case of movable property, calculated from the date of the proclamation of sale. (*H.C. P. Dis.* 560 *of* 1936.)

(4) In auction sales a right to adjourn an auction should always be reserved in the conditions of sale if there are not sufficient bidders or if the highest bid is not adequate. If there are not sufficient bidders, the High Court directs that, except when creditors with substantial interests are present and agree that the amount of the bid is adequate,

(*a*) the first auction should always be adjourned to secure more bidders and

(*b*) a second auction should also be adjourned, if the amount of the bid is less than half the upset price. (*H.C. Dis.* 93 *of* 1927.)

(5) When a sale is adjourned for more than a month there ought to be a fresh proclamation. If not a fresh proclamation, at least there ought to be fresh notices to the creditors. There ought to be something to convince one that the amount realized in the sale did not suffer a diminution for want of publicity of the adjourned date.
(*H.C. Dis.* 135 *of* 1927 *and P. Dis.* 90 *of* 1939.)

(6) The High Court would impress on all courts the necessity of examining carefully sales of mortgaged property subject to encumbrances held by Official Receivers.

It is an abuse of the powers vested in the Official Receivers to sell mortgaged property subject to encumbrances for a nominal sum to the mortgagees themselves, when the market price of the property is far greater than the sum secured thereon. (*H.C. P. Dis.* 710 *of* 1932.)

(7) Official Receivers are informed that they should only utilize the services of their peons as criers in all sales held by them. No extra expenditure should be incurred in this respect except in heavy cases where the sales are held outside the headquarters. (*H.C. P. Dis.* 128 *of* 1939.)

(8) The High Court does not consider that the Insolvency Act contemplates a sale of anything but the equity of redemption by the Official Receiver unless the mortgagee relinquishes his security under section 47 (2) of the Act. (V of 1920.) (*H.C. P. Dis.* 271 *of* 1920.)

(G) *Funds*—

A commission of 5 per cent will be levied on the gross realizations and will be credited to the Government under "XXI. Administration of Justice." An audit fee of 12 annas per cent calculated on the gross realizations will be credited to the Government under "XLVI. Miscellaneous—C. Fees for Government audit." (*G.O.* 5270, *H.*, *d.* 3-10-1939.)

(See amendment in P.Dis 647/41 dt 14-10-41 & P.Dis 92/43 dt 20-4-43 & Govt Lr. No. 2136/F/44-1 dt 23-7-44)

(H) *Procedure for utilization of Official Receiver's services by Official Assignee*—

I. In cases, in which an Official Assignee attached to any of the High Courts in India requires the assistance of an Official Receiver under section 77 of Act V of 1920, the Official Assignee shall address a request, specifying the assistance required, to the District Judge, to whom the Official Receiver is subordinate. The District Judge shall communicate the request to the Official Receiver with the least possible delay; and the Official Receiver shall be bound to comply with it promptly so far as it is practicable for him to do so. Subsequent correspondence shall ordinarily be between the Official Assignee and Official Receiver direct.

II. The Official Receiver will be bound to comply with a request only in so far as he can do so as the Official Assignee's agent and will not be bound to do so in cases, in which the Official Assignee could himself act only under an order or with the warrant of the Court, as for example, under section 58 (2) or 59, Act III of 1909, unless such express order or warrant of the High Court authorizing the Official Receiver has been previously obtained.

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Government of Madras.
Home Department.
Circular Memorandum No.21361 F/44-1, dated 28th July 1944.

Official Receivers - audit fee - Basis for calculation - G.O.No. 5270, Home dated 3rd October 1939.

It has been brought to the notice of Government that a difference of opinion exists as to the interpretation of the expression 'gross realizations', occurring in paragraph 1 (i) of G.O.No.5270, Home dated 3rd October 1939 for purposes of levy of audit fees. The Government wish to make it clear that what was meant by the expression 'gross realisations' was, the amount left after deducting administrative expenses from the gross amount actually collected and that the basis of the commission and audit fee should be the amount realised less the actual expenses of realization.

Sd. C.T.Mudaliyar,
Joint Secretary to Government.

10-1-9

District Court, Nellore.
Dated 3rd August, 1944.

Forwarded to the Official Receiver, Nellore for information and guidance.

Sd. W.M.Georgeson,
District Judge.

/ By Order /

Sarishtadar

III. The Official Assignee will reimburse the Official Receiver all out-of-pocket expenditure (including postage) incurred by the latter, whatever the result of the proceedings, such expenditure being submitted on a bill duly sanctioned by the District Judge.

IV. The Official Assignee shall also pay the Official Receiver a fee calculated on the following scale subject to a minimum of Rs. 5 in every case in which assistance of any kind is given, or if the Official Receiver on the request of an Official Assignee realizes any funds by sale or lease of any property:—

4 per cent on the first Rs. 1,000,
2 per cent on the next Rs. 49,000 and
1 per cent on the residue.

V. In other cases, a reasonable fee shall be fixed by the Official Assignee and Official Receiver in correspondence. The Official Receiver shall be entitled to submit any case, in which dispute arises or in which he considers that exceptional circumstances justify a special fee calculated otherwise than in accordance with rule IV through the District Judge for the orders of the High Court.

VI. In the case of Garnishee orders transmitted by the High Court to the District Court for execution under section 136 of the Presidency Towns Insolvency Act, the Official Receiver shall himself take such proceedings for recovery of the amount as may be necessary and shall be remunerated as provided in rules III and IV.

VII. Amounts received by Official Receivers under rules III to VI will be credited to the Government under "XXI. Administration of Justice."
[*G.O. Ms.* 955, *L.* (*G.*), *d.* 7-4-1922 *and* 1899, *H.*, *d.* 17-5-1937. *H.C. P. Dis.* 498 *of* 1937.]

(I) *Travelling allowance*—

(1) The travelling allowance of Official Receivers will be regulated according to the Madras Travelling Allowance Rules and the expenditure will be debited to the particular estate or estates for which the journey is undertaken. The Official Receiver should not undertake a journey unless the assets to the credit of the estate or estates are sufficient for the purpose. If a journey is undertaken to deal with matters in respect of more than one estate the cost should be distributed over the estates concerned in accordance with the business done for each.

(2) Journeys may be taken by Official Receivers on their own responsibility without obtaining the sanction of the courts concerned in advance. It will be sufficient if the courts concerned approve of the distribution of costs when the bills are submitted. In case of any difference of opinion between two or more subordinate courts the District Judge will decide how the distribution is to be made. (*H.C. Dis.* 1897 *of* 1920.)

(3) Under rule XXVII of the Madras Provincial Insolvency Rules, the payment of travelling allowance to the clerk as well as the Official Receiver is admissible. Travelling allowance can also be paid to the peon of the Official Receiver when the peon accompanies the Official Receiver on his tour, provided there is necessity for the peon to follow the Official Receiver. The necessity for the journey on the part of the Official Receiver or any member of his staff must be decided with reference to the circumstances of each case. (*H.C. P. Dis.* 537 *of* 1932.)

(J) *Audit*—

(1) The High Court deprecates the practice of District Judges forwarding the notes of audit of the Official Receivers' accounts with a simple covering letter. Insolvency jurisdiction in the district is in the charge of the District Judge and it is his duty to see that defects in it are removed at once or explained. He is expected to bear this in mind and is requested to make his own remarks on the defects pointed out by the auditor. (*H.C. Dis.* 65 *of* 1927.)

(2) Money paid as the result of a composition agreement is not money realized by the Official Receiver.

The Official Receiver is not liable to set apart the audit fee in a case of this kind. (*H.C. Dis.* 223 *of* 1927.)

(3) Official Receivers should obtain certificate of postings where sale proclamations and sale notices are sent by post to village officers and creditors respectively in order to check the items of postal charges debited.

Office copies of sale proclamations sent to village munsifs and sale notices sent to creditors and insolvents subsequent to the issue of first notice or proclamation should also be maintained for purposes of checking.
(*H.C. P. Dis.* 234 *of* 1935.)

(4) In cases where copies of the decree or order of court are taken from the records by the Official Receiver for purposes of execution, a memorandum of the award contained in the decree or order duly attested by the Official Receiver should be placed in the concerned record of the insolvency cases before the decree or order is sent out for execution proceedings being taken, in order to enable the Audit Department to examine at the time of audit, the correctness of the realizations of claims due or of payments made under a decree or order. (*H.C. P. Dis.* 787 *of* 1936.)

(5) District Judges are requested to see that audit fees are calculated and credited to Government by the Official Receivers in all cases in which balances from which fees can be paid are still available to the credit of the estate. (*H.C. P. Dis.* 341 *of* 1938.)

(6) A statement of assets and liabilities of the insolvents' estates administered by the Official Receivers should be prepared for each official year and made ready before 1st June and furnished to audit. (For form of the statement and instructions issued thereunder—vide H.C. P. Dis. 53 of 1939 at pages 87–88 of Volume II.)

(K) *Assistance of village officers*—

The Government have consulted the Board of Revenue and direct that Official Receivers may obtain the assistance of village officers in respect of the following items of work:—

(1) publishing in the village sales of insolvents' properties;
(2) estimating the value of the assets of the insolvent in the village; and
(3) giving definite particulars about insolvents' properties in the village. (*G.O.* 4188, *H.*, *d.* 30–8–1938.)

Amendment by Court Suo-moto
High Courts R.O. C.5860/35

CHAPTER III.

Rules relating to Partition Suits under the Code and under the Partition Act, 1893.

PARTITION SUITS.

1. *Parties.*—In every suit for partition of property, all persons entitled to share therein, or to maintenance, shall be joined as parties, and if it is alleged that any co-owner has alienated any portion of the joint property or his interest therein, in circumstances rendering the alienation not binding on the co-owners, the alienee shall be made a party to the suit and the plaint shall set out the particulars of the alleged alienation.

2. *Plaint.*—The plaint * shall state the relationship, if any, of the parties, and the shares to which they are respectively entitled, and the allowances or residences, if any, which it is proposed to allot to them respectively; and unless a general account is prayed for, the particular items of joint property of which division is sought, the encumbrances, charges and outgoings, if any, to which the same are subject, and the net value of each item; and shall also state whether any debts or liabilities of the co-owners, payable out of the joint property, are outstanding or unsatisfied.

3. *Order for accounts.*—If, at the first hearing, it appears to the court that only the amount of the property to be divided, or of the debts or liabilities of the parties, is in dispute, it may at once pass an order directing the taking of the necessary accounts.

4. *Matters to be determined at hearing.*—At the hearing of the suit, the court shall determine who are the persons interested in the joint property and their respective shares and interests therein; whether there are any outstanding debts and liabilities, which should be satisfied out of the joint property; and if any allegation has been made in this behalf, whether any person has alienated any portion of the property in circumstances rendering the alienation not binding on the co-owners or is liable to account for any particular property in his possession, or in any other manner. No such question as aforesaid shall be referred to or dealt with by a commissioner appointed to take an account or divide any property, and if any such question arises before him, he shall reserve the same for the determination of the court.

5. *Account of outstanding liabilities.*—If it appears to the court that there are outstanding debts or liabilities which ought to be satisfied out of the joint property, and that the same cannot then be ascertained, the court shall direct an account to be taken thereof, and may, in its discretion, direct notice to be given to all persons

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* Vide Form No. 1 of Appx. III-D of Part II, Vol. II.

having claims against the property, or the co-owners, by advertisement in the newspapers or otherwise, to bring their claims into court before a fixed day.

6. *Interim decree.*—If it is necessary to take an account, the court shall pass an interim decree, specifying the several accounts, which shall be taken in manner prescribed by rules 100 to 110 of Chapter V, Part I, *supra* and the further hearing of the suit shall be adjourned.

7. *Discharge of outstanding liabilities.*—If any debts or liabilities, other than encumbrances, charges, or outgoings, on or out of immovable property, are outstanding, the same shall, unless the court otherwise directs, be ascertained and as far as practicable discharged or provided for before any order or decree is made for the division or distribution of the joint property.

8. *Outstandings due.*—If there are any outstandings due to the co-owners, unless the same is accepted by any party in satisfaction or part satisfaction of his share, they shall, unless the court otherwise directs, be collected and brought into court, by means of the appointment of a Receiver, or otherwise before any order or decree is made for the division or distribution of the joint property.

9. (1) *Order for sale.*—If, under the Partition Act, 1893, or otherwise, the sale of any property is ordered, an order for sale shall be made, and the subsequent proceedings shall be conducted in manner prescribed by rules 193 to 205 of Chapter IX, Part I, *supra* as far as the same are applicable. Provided that rule 199 shall not apply to the said sale, and the court may grant leave to any party, to bid for and purchase the property, or any part thereof, on such terms as the court thinks fit.

(2) *Sale free from encumbrances.*—If any party applies that the sale may be made free from encumbrances, he shall, together with the certificate of encumbrances in rule 194 mentioned, bring into court the written consent of the encumbrancers, verified by affidavit; or, if the court is competent to exercise the jurisdiction conferred by section 57 of the Transfer of Property Act, 1882, he may apply that the sale may be made under the said section. If notice of the application is ordered, the applicant shall within two days, or such other period as may be fixed by the court, bring into court two copies of a notice to each encumbrancer, and any other person who by the said certificate appears to be interested in the property, in Form No. 8, together with the prescribed fees for service thereof; and the provisions of the Code and these rules with respect to summons to a defendant and service thereof shall apply to the said notice.

10. *Taking account by Commission.*—If a Commissioner is appointed to take an account, or to divide any property, the court

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For forms—Vide Appx. III-D of Part II, Vol. II.

shall determine the amounts to be deposited in court on account of his remuneration and the expenses of the commission, and shall fix a date for the return of the commission, and adjourn the further hearing of the suit to a fixed day; and the commission shall not be issued until the said sums are deposited accordingly.

11. *Final hearing.*—At the final hearing of the suit, the court shall determine of what the joint property consists, and the manner in which the same is to be divided, and the amount of the allowance, and the residences, to be allotted to any person entitled to maintenance, marriage or residence, and the manner in which the same are to be paid and secured.

12. *Final decree.*—(1) The final decree shall in all cases specify the several portions of the joint property assigned to the several parties as their respective shares.

* (2) The decree in partition suits shall be engrossed on non-judicial stamp paper as provided by Article 45, Schedule I of Act II of 1899 as amended by Article 38 of Schedule I of Madras Act VI of 1922.

* (3) On the failure of the party in whose favour the order is made to produce the necessary non-judicial stamp paper within the time fixed or granted by the court, the court shall have the decree drawn up on unstamped paper and deal with it as an instrument within the operation of Chapter IV of the Indian Stamp Act II of 1899 and send the unstamped decree to the Collector for realization of the stamp duty under section 48 of the Stamp Act and return of the decree, duly stamped, to the court passing the decree with a certificate, by endorsement thereon that the proper stamp duty has been collected.

13. *Forms* †.—The plaint and the decree in a partition suit may be as in Form No. 1 and as in Forms Nos. 2 to 7 respectively so far as the same are applicable. A deed of indemnity may be as in Form No. 9.

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* Sub-rules (2) and (3) of rule 12 were added by *H.C. P. Dis.* 237 *of* 1928.

† Vide Appx. III-D of Part II, Vol. II.

CHAPTER IV.

Rules under the Guardians and Wards Act, 1890.

1. *Proceedings under Guardians and Wards Act.*—All proceedings under the Guardians and Wards Act, 1890, in this chapter called " the said Act," shall be entitled in the matter of the minor, as in Form No. 1.

Appointment of Guardian.

2. (1) *Application for appointment of guardian.*—An application by any person, other than the Collector, for the appointment of a guardian, or for a declaration that a person is the guardian of a minor, shall be by original petition in Form No. 1. An interlocutory order for the protection of the person and property of a minor may be as in Form No. 6.

(2) *Particulars.*—In addition to the particulars required by section 10 of the said Act, the application shall state whether the minor is entitled to any property absolutely or subject to the rights or interests of any other person, and whether any property is subject to any and what encumbrance; and shall specify all persons of the same degree of relationship as, or of nearer degree than, the proposed guardian and where a female is proposed as guardian, the nearest male relation of the minor.

3. *Statement as to unfitness of father.*—Where the father of the minor is living, and is not proposed as guardian, the application shall also state any facts relied on showing that he is unfit to act as guardian of the minor, or that he consents to the application.

4. *When property proposed to be dealt with.*—Where it is proposed to deal with any property of the minor in manner mentioned in section 29 of the said Act, the grounds of the application, and the relief prayed for, shall be stated shortly in the original petition, and it shall not be necessary to present a separate petition or application.

5. *Declaration of willingness to act.*—The declaration of the willingness of the proposed guardian to act shall be in Form No. 2, and may be annexed to or exhibited with the petition, and, if contained in a separate document, shall be headed with the cause-title of the petition.

6. *Notice of application.*—Notice of the application shall be in Form No. 3, and shall be served on the persons mentioned in rule 2 *supra*. The petitioner shall, within seven days from the

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For forms—Vide Appx. III-E of Part II, Vol. II.

admission of the petition, bring into court the stamped application for service of the notice. The court may also direct the petitioner to publish the notice in such newspaper or newspapers as it thinks fit, and shall direct such publication in any case in which the petitioner is the Collector, or is not a relation of the minor. An order appointing a guardian or declaring a person to be a guardian of the person may be as in Forms Nos. 4 and 5.

7. *Security by guardian.*—Unless the court, for reasons to be recorded in writing, otherwise orders, a person appointed, or declared to be, guardian of the property of the minor, shall give security in the bond of himself and two or more sureties, for twice the amount or value of the movable property, and for the amount of the annual rents, profits, or other income of the movable and immovable property, to be received or accounted for by the guardian; and shall furnish the statement of the property and debts mentioned in sub-section (*b*) of section 34 of the said Act, and shall pass his accounts once in every year.

8. *Determination of amount of security.*—When security is to be given, the court shall determine the actual amount thereof and may examine the proposed sureties as to their property and liabilities and for this purpose may direct notice to issue to the proposed sureties, and adjourn the further hearing of the application to a fixed day, as in Form No. 7.

9. *Security bond.*—The proposed guardian and his sureties when approved by the court, shall execute a security bond, in Form No. 8, before the judge or an officer authorized to take affidavits. The bond shall be filed in court, not less than three days before the adjourned hearing, and, if approved by the judge, shall be signed by him in the margin. At the adjourned hearing, the judge shall determine the amount to be allowed for the maintenance and education of the minor, and the amount, if any, to be allowed to the guardian under rule 22 *infra* and may also give any special directions as to the powers to be exercised by the guardian, and shall pass an order in Form No. 9 or 10, and adjourn the application to a fixed day for the guardian to bring in the statement and account therein mentioned.

10. *Undertaking when guardian appointed without security.*—If the court thinks fit to appoint a guardian without giving security, the proposed guardian shall file in court an undertaking in Form No. 11 duly stamped and thereupon the court shall pass an order in Form No. 12.

11. *Amount to be paid for maintenance, etc.*—If any person is entitled to maintenance or an allowance for marriage out of the property or to reside in any house of the minor, the court may fix the amount to be paid to such person for maintenance, or in

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For forms—Vide Appx. III-E of Part II, Vol. II.

respect of marriage or residence, or give such directions with respect thereto as it thinks fit.

INTERLOCUTORY APPLICATIONS.

12. *Subsequent applications to be interlocutory.*—(1) Every application under the Act, subsequent to the determination of the original petition under which a guardian of the minor was appointed or declared, by the court, shall be, by interlocutory application, headed as in Form No. 13.

(2) Unless the court, for reasons to be recorded in writing, otherwise orders, or unless the written consent of the parties is filed in court, notice of the application shall be given to every party to the original petition, and to such other persons interested in the person or property of the minor as the court directs. The notice shall state the substance of the order prayed for as in Form No. 14.

Rules 29 to 33 inclusive of Chapter I, Part I *supra*, shall apply to the said applications.

APPLICATION TO DEAL WITH IMMOVABLE PROPERTY OF A MINOR.

13. *Application to deal with immovable property.*—An application for leave to deal with any immovable property of a minor by way of sale, mortgage, lease, or otherwise shall state concisely the substance of the order prayed for, as in Form No. 13, and shall be supported by the affidavit of some disinterested and independent person, stating what in his opinion is the value of the property proposed to be dealt with, and the best manner of disposing thereof, in the interests of the minor, and also by the affidavit of some person acquainted with the circumstances of the minor, showing the necessity or advantage of the said disposition.

14. *Sale of property.*—If leave to sell is granted, the sale shall, unless the court for reasons to be recorded in writing otherwise orders, be made by public auction with the sanction of the court, and an order shall be made in Form No. 15; and the sale shall then be conducted in manner prescribed by rules 193 to 205 of Chapter IX, Part I *supra*, so far as the same are applicable. The proclamation of sale and the order approving the proclamation of sale may be as in Forms Nos. 16 and 17, respectively.

15. *Payment into court of proceeds of sale.*—If a particular sale or other disposition of any property is authorized, and unless the court for reasons to be recorded in writing otherwise orders, the proceeds thereof shall be paid into court, and the instrument of transfer shall be brought into court, for the approval of the judge, as in Form No. 18.

16. *Order as to application of proceeds.*—If the instrument of transfer is approved by the court, an order shall be passed directing in what manner the proceeds thereof are to be applied and

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For forms—Vide Appx. III-E of Part II, Vol. II.

how the costs of the application to the court are to be paid, as in Form No. 19.

DISCHARGE OR REMOVAL OF A GUARDIAN.

17. *Discharge or removal of a guardian.*—An application for the discharge or removal of a guardian shall be made by interlocutory application, as in Form No. 20, and, except where the minor has attained his full age, shall also pray for the appointment of a guardian in place of the guardian to be discharged or removed. An interim order of discharge or removal may be as in Form No. 21.

18. *Guardian not to be discharged till accounts passed.*—Unless the court, for reasons to be recorded in writing, otherwise orders, a guardian shall not be discharged from his liabilities until he has filed and passed his accounts, and has paid into court any balance shown in his accounts as due from him, and, except where the minor has attained his full age, notice of the application shall be given to all parties to the original petition and to all persons interested in the property of the minor. An order on taking accounts and the final order of discharge may be as in Forms Nos. 22 and 23, respectively.

INSPECTION OF ACCOUNTS.

19. *Inspection of accounts.*—All persons to whom notice of the original petition for the appointment or declaration of a guardian was issued, may, at any time during the minority of the minor, on obtaining an order of the court for this purpose, inspect and take note of the said statement and accounts; and any person interested in the person or property of the minor may, at any time, apply to the court by interlocutory application, supported by an affidavit showing the nature of his interest, and the purpose for which the same is required, for leave to inspect and take notes of the said statement and accounts.

PAYMENT INTO COURT AND INVESTMENT.

20. *Payment into Court by guardian.*—Unless the court, for reasons to be recorded in writing, otherwise orders, and excepting any moneys or securities directed by the court to be paid or retained by a guardian for specific purpose, all moneys and securities for money belonging to his ward received by, or in the possession or control of a guardian shall, after deducting any costs, charges and expenses of the guardian properly incurred, be paid into court to the credit of the original petition under which the guardian was appointed or declared.

21. *Investment.*—Unless the court so orders, moneys belonging to wards shall not be invested in securities other than those specified in the Appendix to this chapter.

For forms—Vide Appx. III-E of Part II, Vol. II.

ALLOWANCES TO GUARDIANS.

22. *Allowances to guardians.*—An allowance may be granted to a guardian in respect of any special work or service to be performed by him other than work or service in the custody or care of the person or the general control and management of the property of the minor, and shall not exceed in amount the remuneration usually paid for the said work or service; and, except as aforesaid, or for special reasons to be recorded in writing, no remuneration shall be allowed to a guardian.

COSTS.

23. *Costs.*—The costs of any application with respect to the person or property of a minor may, if the application is for his benefit, be ordered to be paid out of the income of his property, or, if that is insufficient, out of capital moneys, or moneys realized by a sale or mortgage of any property of the minor authorized by the court for this purpose.

APPENDIX.

SECURITIES IN WHICH TRUSTS MONEYS, MONEYS TO PROVIDE FOR LEGACIES, AND MONEYS BELONGING TO WARDS, MAY BE INVESTED [*vide* SECTION 20 (*f*) OF THE TRUSTS ACT, 1882.]

(*a*) Promissory notes, debentures, stock or other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;

(*b*) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India;

(*c*) stock or debentures of, or shares in Railway or other Companies the interest whereon is guaranteed by the Secretary of State for India in Council;

(*d*) debentures or other securities for money issued by, or on behalf of, any municipal or local body, under the authority of any act of a legislature established in British India;

(*e*) first mortgage of immovable property situate in British India provided that the property is not a leasehold for a term of years, and that the value of the property exceeds by one-third, or, if consisting of buildings, exceed, by one-half, the mortgage money;

(*f*) deposit not exceeding three thousand rupees in a Government Savings Bank.

CIRCULAR ORDERS.

I. JURISDICTION OF SUBORDINATE JUDGES—

Under sub-section (1) of section 4-A of the Guardians and Wards Act, 1890, as amended by Act IV of 1926, the High Court hereby empowers all Subordinate Judges in the Presidency of Fort St. George to dispose of any

proceedings under the Guardians and Wards Act, 1890, which may be transferred to them under section 4-A of the said Act by the respective District courts to which they are subordinate. (*H.C. Dis.* 41 *of* 1927.)

II. (*a*) ENFORCEMENT BY COURTS OF THE DUTIES OF GUARDIANS AND PERIODICAL AUDIT OF THEIR ACCOUNTS—

The High Court has had under consideration the question of the improvement of the present arrangements for the management of minors' properties and the properties of lunatics. In the opinion of the Hon'ble the Judges the real remedy lies in the strict enforcement by courts of the duties of guardians and the periodical audit and examination of their accounts. (*H.C. Dis.* 2011 *of* 1925.)

Where necessary, a certified auditor * may be appointed at the cost of the estate to audit the accounts. (*H.C. Dis.* 854 *of* 1929.)

(*b*) REGISTER PRESCRIBED—

To facilitate the scrutiny of the accounts submitted by guardians, the High Court prescribes the following register (*vide* C.R. No. 14-A, Appendix II, Part II of Vol. II) for use in all District Courts, Subordinate Judges' Courts and the City Civil Court, Madras. All District Judges, Subordinate Judges and the City Civil Judge are requested to inspect the register at least once a month. (*H.C. Dis.* 2011 *of* 1925.)

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* The correct designation of an auditor enrolled on the Register of Accountants is "Registered Accountant."
(*G.O. Ms.* 853, *Dev., d.* 9-4-1937. *H.C. P. Dis.* 327 *of* 1937.)

CHAPTER V.

Rules under the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Succession Certificate Act, 1889 (now the Consolidated Indian Succession Act, 1925).

TESTAMENTARY AND INTESTATE MATTERS.

1. *Title of applications under the Indian Succession Act.*—All applications under the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Succession Certificate Act, 1889 (now the Indian Succession Act, 1925), shall be entitled in the matter of the will of the testator, or of the goods of the intestate, or of the debts of the deceased, as in Form No. 1.

Application for Probate or Letters of Administration.

2. *Application for probate or administration.*—(1) An application for probate or letters of administration shall be by original petition, in Form No. 2 or 3, and shall be accompanied by a notice to the Collector in Form No. 4, signed by the applicant or his pleader, and by the affidavit prescribed by the Court Fees Act, 1870, Section 19-H (1). The said notice shall be signed by the judge, and sent by him to the Collector.

(2) Unless the court, for reasons to be recorded in writing, otherwise orders, notice of an application for letters of administration in Form No. 4 shall be posted on the notice board of the court, and shall be served by the petitioner on all persons of the same degree of relationship as, or of nearer degree than, the petitioner, sending the same in a prepaid registered cover to their respective addresses and shall be published in one or more of the principal newspapers of the district in which the deceased was resident at the time of his death; and an affidavit proving the said service and publications shall be filed by the petitioner.

3. *Age of minor to be stated.*—A petition for the grant of letters of administration under section 215 of the Indian Succession Act, 1865, or section 31 or section 33 of the Probate and Administration Act, 1881 (now sections 244 and 246 of the Indian Succession Act, 1925), shall, if the petitioner is acquainted with the facts, state the age of the minor or shall be accompanied by the affidavit of a person who is so acquainted stating the age of minor.

4. *Probate or administration with will annexed.*—(1) If a will has been deposited with a Registrar of Assurances, an affidavit

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For forms—Vide Appx. III-F of Part II, Vol. II.

shall be filed stating the fact, and that the applicant intends to apply to the court for a grant of probate or letters of administration with the will annexed, and praying that an order may be issued to the Registrar to forward the will to the court; and thereupon the judge may direct an order to issue accordingly. Upon the production of the will, the petitioner and the attesting witness shall attend at the court-house with the petition, and the will shall be annexed or exhibited to the petition which shall then be signed and verified.

(2) If the petitioner or the said witness is unable to attend at the court-house, the said affidavit shall state the reason for such inability and thereupon the judge may direct the will to be annexed to the petition by the Registrar. The petition shall then be signed and verified, and forwarded to the court.

5. *Form of administration bond.*—An administration bond shall be in Form No. 5; and rules 8 and 9 of the rules under the Guardians and Wards Act shall apply to the preparation thereof and justification of the sureties thereto.

6. *Inventory and account.*—The order for grant of probate or letters of administration shall direct the grantee to file in court, within six months, and one year, respectively, the inventory and account prescribed by section 277 of the Indian Succession Act, 1865, and section 98 of the Probate and Administration Act, 1881 (now section 317 of the Indian Succession Act, 1925).

7. *Form of inventory.*—The said inventory shall be in Form No. 6 and shall be verified by the affidavit of the executor or administrator. It shall set out, under the several heads contained in the said form, a detailed description of the property, credits and effects, of the deceased; and, if the deceased did not possess property falling under a particular head it shall be so stated in each case.

8. *Form of account.*—The said account shall be in the form of a debtor and creditor account, all moneys and other property received by the executor or administrator being placed on the debit side, and all disbursements made by him being placed on the credit side; and a balance shall be struck. The account shall be headed with the cause-title of the matter, and shall be verified by the affidavit of the executor or administrator.

9. *Extension of time to file inventory or account.*—An application for further time to file an inventory or account shall be made by an interlocutory application entitled in the petition under which the grant of probate or letters of administration was made and shall be supported by affidavit stating the cause of the delay in filing the same.

For forms—Vide Appx. III-F of Part II, Vol. II.

Contentious Proceedings.

10. *Particulars in caveat.*—A caveat shall, in addition to the particulars prescribed by section 252 of the Indian Succession Act, 1865, and section 71 of the Probate and Administration Act, 1881 [now section 284 (4) and schedule V of the Indian Succession Act, 1925], state the address for service of the cavator.

11. *Notice of caveat.*—When a caveat against the grant of probate or letters of administration is filed, the court shall cause notice thereof to be given to the petitioner as in Form No. 7 and the petition shall thereupon be amended by inserting the name of the caveator as a respondent.

12. *Notice to caveator.*—Within five days after service of the said notice upon him, or such other period as the judge appoints, the petitioner shall bring into court a notice to the caveator, in Form No. 8, a copy of the petition, and the prescribed fees for service of the same, and the provisions of the Code, and these rules with respect to summons to a defendant, and service thereof, shall apply to the notice.

Application for Succession Certificate.

13. *Application for succession certificate.*—An application for a succession certificate shall be by original petition, in Form No. 9.

14. *Extension or amendment of certificate.*—An application for the extension or amendment of a certificate shall be by interlocutory application, entitled in the original petition under which the certificate was granted, and shall be in Form No. 11.

15. *Deposit in court.*—The deposit required by section 14 of the Succession Certificate Act, 1889 [now section 379 (1) of the Indian Succession Act, 1925] shall be made by payment of the amount into court in manner prescribed by rules 157 to 172 of Chapter IX, Part I, *supra*, and an application shall not be admitted by the court, except upon production of the receipt mentioned in rule 158.

16. *Procedure when application is granted.*—If the application is allowed, the court shall send to the local treasury officer a cheque for the amount of the fee payable, together with a memorandum headed with the cause-title of the application, stating the name of the applicant, and requesting the said officer to issue court-fee stamps for the said amount, endorsed in the name of the court. The certificate shall be endorsed on the stamp paper so furnished and, after cancellation of the stamps, shall be delivered out to the grantee.

NOTE.—With reference to the High Court's Circular No. 2322, dated 23rd August 1894, which directs (1) that, whenever an application is made for probate or letters of administration under the Indian Succession Act, X of

For forms—Vide Appx. III-F of Part II, Vol. II.

1865, or the Probate and Administration Act, V of 1881, the District Judge (or District Delegate) shall, before he passes orders on the application, require the applicant to deposit a sum of money equal to the amount of the court-fee leviable on the estimated amount of the assets, as specified in the application and (2) that if the application be refused, the amount deposited shall be refunded to the applicant, the High Court has now ruled that an application is not to be deemed to have been "*refused*" until it has been finally refused; that is until the appeal time has expired, or, until the appeal, if there is one against the order of refusal, has been dismissed. The circular of 1894 was repealed by the Civil Rules of Practice. But the direction to postpone the refund till the expiry of the appeal time or until the appeal, if there is one, shall have been dismissed, would still continue to be in force. (*H.C. Dis.* 864 *of* 1910.)

17. *Payment out of excess.*—If the amount paid into court exceeds the fee payable, the excess shall be paid out of court to the applicant, in manner prescribed by rules 157 to 172 of Chapter IX, Part I, *supra.*

18. *Notice.*—Unless the court, for reasons to be recorded in writing, otherwise orders, notice of the application, in Form No. 10, shall be published and served in manner prescribed by rule 2 (2) *supra.*

19. *Bond and sureties.*—(1) Where the court orders a bond to be given, a bond shall be given to the judge with one or more sureties, in Form No. 12, and rules 8 and 9 of the rules under the Guardians and Wards Act shall apply to the preparation and execution thereof, and to the justification of the sureties.

(2) The account mentioned in the said form shall be in the form prescribed by rule 8 *supra*, and shall be verified by the affidavit of the grantee of the certificate.

CIRCULAR ORDERS.

I. EXECUTION AND ATTESTATION OF WILLS—

1. In this Presidency, the Indian Succession (Amendment) Act, 1926, affects the form in which wills can be made by Hindus, Buddhists, Sikhs and Jains, outside the original jurisdiction of the High Court of Madras.

2. According to the law as it stands, at present, any person could make a will outside the said original jurisdiction, except with reference to immovable properties situated within such original jurisdiction, in two ways:—

(1) by mere word of mouth;
(2) by a written instrument.

The instrument need not be executed in any particular form. For example, it need not be signed by the testator, i.e., the man who makes the will. Nobody need attest it, i.e., sign it as a witness. It may take the form of a petition to the village authorities or any entry in a village register. Even a mere draft of a will is enough.

3. The changes introduced by the present Act are as follows:—

(i) It is no longer possible for anyone who is not either a soldier employed in an expedition or engaged in actual warfare or a mariner at sea to execute a will *merely by word of mouth.* A written instrument is made absolutely necessary.

(ii) The testator should sign or affix his mark to the will or it should be signed by some other person in his presence and by his direction. The signature or mark of the testator or the signature of the person signing

For forms—Vide Appx. III-F of Part II, Vol. II.

for him should be so placed that it should appear that it was intended thereby to give effect to the writing as a will.

(iii) At least two persons should attest the will as witnesses. Each of them should have seen the testator sign or affix his mark to the will or some other person sign the will in the presence and by the direction of the testator; or if they did not see either of these, each of them should have received from the testator a personal acknowledgment of his signature or mark or the signature of such other person. It is not enough if the person who signed for the testator and under his direction says that the testator asked him to sign and that he did so.

(iv) Each of the attesting witnesses should sign the will in the presence of the testator. But it is unnecessary that an attesting witness should be present at the time when another attesting witness signs it.

4. The Act comes into force on the 1st of January 1927. So any will made on or after that date should conform to these new provisions.

(*Press Communiqué, October* 16, 1926 *at p.* 2145, *Pt. I, F.S.G.G., d.* 26-10-1926.)

II. JURISDICTION OF SUBORDINATE JUDGES AND DISTRICT MUNSIFS—

(*a*) *Certain District Munsifs invested under section* 388 *of the Indian Succession Act.*—Under the provisions of sub-section (1) of section 26 of the Succession Certificate Act, 1889 (VII of 1889) (now section 388 of the Indian Succession Act, 1925), and in supersession of Law (General) Department Notification No. 371, dated 5th June 1924, published at page 649 of Part I of the *Fort St. George Gazette*, dated the 10th June 1924, the Local Government are pleased to invest all courts of District Munsifs in the Presidency except those situated at headquarters of districts with the functions of a District Court under the said Act within the local limits of their respective jurisdiction.

[*G.O.* 24, *L.* (*G.*), *d.* 7-1-1925. *H.C. Dis.* 312 *of* 1925.]

(*b*) *Subordinate Judges appointed as District Delegates under Indian Succession Act.*—Under the provisions of section 265 of the Indian Succession Act, 1925 (Act XXXIX of 1925), and in supersession of High Court's notification, dated 23rd July 1927, published at page 1138, Part II of the *Fort St. George Gazette*, dated 23rd August 1927, the High Court hereby appoints all Subordinate Judges ex officio as District Delegates under that Act within the local limits of their respective jurisdiction.

(*H.C. P. Dis.* 947 *of* 1939.)

(*c*) *Subordinate Judges authorized to take cognizance of proceedings under Indian Succession Act.*—Under the provisions of section 29 (1) of the Madras Civil Courts Act, 1873, as amended by the Madras Civil Courts (Amendment) Act, 1926 (Act XIV of 1926), and in supersession of High Court's notification, dated 23rd July 1927, published at page 1138, Part II of the *Fort St. George Gazette*, dated 23rd August 1927, the High Court hereby authorizes all Subordinate Judges to take cognizance of any proceedings under the Indian Succession Act, 1925 (Act XXXIX of 1925), which cannot be disposed of by District Delegates. (*H.C.P. Dis.* 947 *of* 1939.)

III. PRESERVATION AND INSPECTION OF WILLS—

In exercise of the powers conferred by section 259 of Act X of 1865 (the Indian Succession Act) and section 81 of Act V of 1881 (the Probate and Administration Act) (now section 294 of the Indian Succession Act, 1925), the Governor in Council has made and hereby notifies for general information the following regulations for the preservation and inspection of wills filed in the courts of District Judges or District Delegates.

(1) Every original will filed in the court of a District Judge for the purpose of an application for the grant of a probate or letters of administration with the will annexed shall, except as hereinafter provided, remain in the custody of the chief ministerial officer of the court in which it has been filed and shall be preserved by him in the manner hereinafter mentioned: Provided that it shall be lawful for a District Judge, upon a requisition from any court for the production of an original will in a case pending in such court, to forward the will in a sealed packet in the custody of a responsible officer to such court for production in the pending case. The

officer to whom an original will is so entrusted shall deliver the sealed packet containing the same to the presiding judge of such court, and the presiding judge shall thereupon take all needful precautions for the safe custody and preservation of the will until he has returned the same in a sealed packet to the officer to whom it was entrusted for production, who shall deliver the sealed packet to the District Judge in whose court the will was filed for the purposes of the application for the grant of probate or letters of administration. * [A District Judge may transmit a will to a court requiring its production, by registered post insured for not less than one thousand rupees, when its production through a responsible officer before that court will, in view of the distance to that court, entail an amount of delay or expense which the District Judge considers unreasonable.] No District Judge shall comply with any requisition for the production of a will except on receipt of a sum sufficient to cover all necessary expenses.

(2) When any original will is filed for the purpose of an application for the grant of probate or letters of administration, the chief ministerial officer of the court shall endorse upon it a serial number and a reference to the application and shall cause a copy of the will to be made, and after the copy has been examined by the chief ministerial officer and found by him to be a true copy, the said officer shall certify the copy to be a true copy, and shall place with the record the copy so certified and the will shall thereupon be placed in a sealed cover (to be sealed in the presence of the District Judge) and the sealed cover containing the will shall be locked up in a fire-proof box, which shall be kept in the sole charge of the chief ministerial officer. The key of the box shall also be in the sole charge of the chief ministerial officer who will be held responsible for the safe custody of the box and its contents.

(3) No original will, after being placed in the fire-proof box, shall be removed therefrom except under an order in writing of the District Judge made for the purpose or—

(*a*) complying with a requisition within the meaning of the proviso to rule 1;

(*b*) its being produced in court on the hearing of the application for the purpose of which it was filed, or on the hearing of an application for the revocation of a grant of probate or letters of administration with the will annexed, or on the hearing of a case in the District Judge's Court in which it is necessary to put such will in evidence;

(*c*) its being copied;

(*d*) an inspection of such will;

(*e*) its being transferred to the High Court to be kept in the Registry of the said High Court as hereinafter provided.

(4) A special annual register (to be maintained for each calendar year) of wills filed for the purposes of applications for the grant of probate or letters of administration with the will annexed shall be kept in English by each District Judge in duplicate in Form I to these rules (vide Registers in Appendix III-F, Part II of Volume II) and shall bear the heading "Register of wills filed in applications for the grant of probate or letters of administration with the will annexed."

(5) In the register mentioned in rule 4 shall be entered the particulars indicated by the headings of columns.

An alphabetical index in duplicate in Form II to these rules (vide Registers in Appendix III-F, Part II of Volume II) shall be prepared to the entries in the register and a copy of such index shall be attached to each register.

A copy of each entry in the register and alphabetical index as soon as it is made shall be transmitted to the High Court for the purposes of rule 14 *infra*.

(6) The District Judge shall, as soon as possible after the 31st December and not later than 31st January of every year, transfer to the High Court to be kept in safe custody in the Registry of the said court all original wills, of which probate or letters of administration with the will annexed have been granted by his court in the 5th preceding calendar year together with the duplicate of the register and index mentioned in rule 5. Such wills and registers shall be sent to the High Court by post registered.

* Added by G.O. Ms. 2827, H., d. 22-5-1939. *H.C.P. Dis.* 368 *of* 1939.

(7) The District Judge may, upon an application in writing, for inspection of the register and/or of any will mentioned in such register, make an order permitting the inspection of the same: Provided that no such order shall be made unless in such application are set forth the names, residences and occupations of the applicant and of the person or persons, if any, to be present on his behalf at the inspection, and the reasons for which an order of inspection is desired, and in the case of an application for the inspection of an original will unless the application be accompanied by a court-fee stamp of Rs. 2 under rule 11 (1) *infra*.

(8) The order for inspection shall state the date on which the inspection may be had. No inspection shall be allowed under these rules except between the hours of 11 a.m. and 3 p.m. or otherwise than in the presence of the District Judge or of the chief ministerial officer of his court as the District Judge shall direct. No person inspecting a will under these rules shall be permitted during the inspection to have in his possession or have access to a pen and ink, or to write anything whatsover, or to make any erasure or mark in the register or on the will, but a person so inspecting may be permitted to make notes in pencil on a separate paper.

(9) Every copy of an original will shall be made in the presence of the District Judge or chief ministerial officer of the court as the District Judge may direct.

(10) In these rules District Judge shall include District Delegate.

(11) The following fees shall be levied by the District Judge in court-fee stamps:—

(i) For the inspection of an original will, a court-fee stamp of Rs. 2.

(ii) For the inspection of a copy of a will made under rule 2, a court-fee stamp of Re. 1.

(iii) For copies, the same fee as for inspection of original wills in addition to copying charges at the usual rate obtaining in the courts concerned.

(12) The rules regulating the inspection and grant of copies of original wills and registers in District Courts shall apply to original wills and registers transferred to the High Court in accordance with rule 6. Such wills and registers, when transferred to the High Court, shall be in the custody of the First Assistant Registrar, Original Side, who shall perform the functions of the District Judge as specified in rules 7, 8, 9 and 11 regarding inspection and the grant of copies.

(13) Original wills and registers on being transferred to the High Court under rule 6 shall be placed in a fire-proof box, the key of which shall remain in the sole custody of the First Assistant Registrar, Original Side.

(14) The copies transmitted to the High Court under rule 5 shall be entered in a register as far as possible in alphabetical order and the register shall be open to inspection under the conditions applicable to inspection of registers under these rules. (*H.C. Dis.* 998 *of* 1905.)

N.B.—Wills are outside the scope of the Destruction of Records Act—vide C.O. II (2) of Chapter XI at page 330 *infra*.

CHAPTER VI.

Rules under the Administrator-General's Act, 1913.

* RULES FOR ADMINISTERING THE ESTATES OF DECEASED GAZETTED EUROPEAN OFFICERS OF GOVERNMENT.

PART I.—THE REPORTING OF DEATHS.

Annual return due by every European gazetted officer regarding his will.

I. It shall be incumbent on every European officer of Government holding a gazetted appointment to furnish an annual return to the Chief Secretary to Government on or before the 1st February every year giving the following particulars :—

(1) Full name of the officer.

(2) His official designation.

(3) Name and address of relative or friend to be communicated with in the event of his decease.

(4) Whether or not he has made a will.

(5) If he has made a will—
  (*a*) date of will;
  (*b*) name and address of executor, if any, appointed therein; and
  (*c*) in whose custody the will is.

(6) If he has not made a will—
  (*a*) name, age and address of his next-of-kin; and
  (*b*) relationship of next-of-kin to himself.

Report of the death of any such officer in the Presidency town.

II. On the death of any such officer occurring in the Presidency town, the Collector of Madras shall intimate such occurrence to the Chief Secretary to Government and the Administrator-General, Madras. The Chief Secretary shall then furnish the information given in the latest copy of the return prescribed above to the Administrator-General and shall also inform the relative or friend specified in the return.

Where there is reason to suppose that the deceased has left assets outside the local limits of the ordinary original civil jurisdiction of the High Court, the Collector of Madras shall intimate the occurrence of the death to the District Judge of the district in which such effects are believed to be and the District Judge shall then proceed in the manner hereinafter prescribed.

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* G.O. 1361, L. (G.), d. 10-9-1921. (*H.C. Dis.* 206 *of* 1922.)

Report of the death of any such officer in the mufassal.

III. On the death of any such officer occurring in a mufassal district, the District Magistrate (or if the deceased officer is himself the District Magistrate, the District Judge) shall inform the Chief Secretary to Government by telegram requesting transmission of the latest copy of the return prescribed in rule 1. The Chief Secretary will comply with this request telegraphing, if so desired, any particulars which may be urgently required; he will also communicate immediately with the relative or friend specified in the return.

PART II.—SUBSEQUENT PROCEDURE.

Cases relating to the Presidency town.

IV. As soon as the death is reported to him under rule II, the Administrator-General shall proceed to take action in respect of the estate of the deceased person in accordance with the provisions of sections 10 and 11 of the Administrator-General's Act, 1913.

Cases relating to the mufassal.

V. As soon as the death of a European gazetted officer of Government in a mufassal district is reported to the District Judge, the District Judge shall appoint the District Magistrate and one or two other persons as officers to take and keep possession of the assets of the deceased in accordance with the provisions of section 54 of the Administrator-General's Act (III of 1913). The officers so appointed shall constitute a committee of adjustment with the District Magistrate as president.

The committee shall proceed

(1) to make an inventory of and secure all the deceased's personal property in the district;

(2) to ascertain the amount of, and to recommend to the District Judge what property should be realized for the payments hereinafter mentioned and to recommend any charges for payment by the District Judge from the amounts so realized under the following heads, if such payments shall appear to the District Judge to be necessary :—

(*a*) last illness and funeral expenses,

(*b*) any sum due for house-rent of Government quarters,

(*c*) servants' wages not exceeding three months' pay to each servant,

(*d*) household expenses incurred within a month before death or after the last issue of pay to deceased whichever period may be shorter,

(*e*) immediate requirements of deceased's family,

(*f*) expenses incurred for securing the deceased's properties;

(3) to prepare a rough list of liabilities and assets in India, as far as known, and a statement of amounts received and paid by the committee; to communicate these and a copy of the inventory to the relative or friend specified in the return prescribed under executive rule I and to the executor named in deceased's will or to his next-of-kin as the case may be; and to request instructions from the executor or next-of-kin as to taking out probate of the will or letters of administration of the estate;

(4) if so instructed, to request the Administrator-General to administer the estate; and if so instructed, to reserve any small personal articles for transmission to the executor or next-of-kin; and to hand over charge to the District Judge of all the deceased's properties taken possession of by the committee and not already disposed of under the above provisions;

(5) to report the action taken to the Chief Secretary to Government and dissolve.

Constitution of the committee of adjustment to be reported.

VI. On the constitution of a committee of adjustment, the president shall forthwith report the fact and the personnel of the committee to the Administrator-General and the Chief Secretary to Government.

CIRCULAR ORDERS.

I. DISTRICT JUDGES BOUND TO MAKE A REPORT TO THE ADMINISTRATOR-GENERAL UNDER SECTION 54 OF THE ACT—

The High Court concurs in the view of the law expressed by the Government in G.O. No. 1578, Judicial, dated 26th June 1894. Section 64 of Act II of 1874 (now section 54 of Act III of 1913) imposes duties upon the District Judge and not upon the Collector and under the provisions of that section, the District Judge is bound, upon the death of persons of certain classes leaving assets within his jurisdiction, to make a report to the Administrator-General and to retain the property until letters of administration are obtained. As observed by this court in its Proceedings, No. 2947, dated 6th November 1893, the District Judge can only take action under section 64 in such cases as come to his knowledge upon information furnished by the revenue officials or by private parties, but, in whatever way information is obtained, the District Judge is under an obligation to take action. In fact the duties imposed upon the District Judge are rather executive in their nature than judicial, and the District Judge is not justified in insisting upon formal application being made on each occasion through the Government Pleader.

At the instance of this court, the Government have directed Collectors (*G.O. No.* 507, *Judicial, dated 28th February* 1894) to notify to District Judges, through the Government Pleader, the death of any person to whom section 64 applies and to do their utmost to assist District Judges in giving effect to the section, but this information may properly be furnished by the Collector by letter. In the same way, if the District Judge requires further information, for instance, regarding the particulars mentioned in clauses (*a*) and (*b*) of the first paragraph of section 64, he may apply for it to the Collector by letter, and it is expected that the Collector, after making enquiry, if necessary, through his revenue subordinates, will, to the best of his ability, readily supply the information by letter. By the cordial co-operation in this manner of officers of the Revenue and the Judicial Departments the duties imposed on the District Judges may be efficiently discharged and the evasion of probate duty prevented.

(*H.C. Cir.* 2375 *of* 1894.)

II. INSTITUTION OF TEMPORARY COMMITTEES OF ADJUSTMENT COMMENDED—

A succession of recent instances has impressed upon Government the desirability of introducing some system by which the affairs of gazetted European officers of Government dying in this country could be adjusted more satisfactorily than is at present possible. It is desired to institute a procedure which will be prompt, efficient, and at the same time elastic, adaptable and free from tedious and vexatious formality. The existing practice (which does not differentiate between Government servants and other Europeans) is based on a circular order of the High Court, No. 2263, dated 14th August 1894, and is governed by the provisions of section 54 of the Administrator-General's Act and the Government feel that the working of this method has, in the cases in question, been very far from satisfactory. They desire therefore to afford to their servants of European birth a simpler and more acceptable system and believe that such an end can best be attained on the lines of the regulations laid down in the Regimental Debts Act, 1893, for the institution of temporary committees of adjustment. This is a system which enables as much or as little to be done as the circumstances of each individual case may dictate; it leaves the actual management in the hands of a few suitable men on the spot; and it makes in every way for prompt and practical disposal. Such a system would not, of course, be appropriate to every instance of death, but it is intended to apply it only to European officers of Government holding gazetted appointments in whose case there is never likely to be any question of evasion of probate or other abuse.

The Government have no doubt that the occasional extra duties involved in this procedure will be ungrudgingly undertaken by the officers concerned; they would impress on all committees appointed under these rules that the object in view is the efficient administration of the estates in question with the maximum of expedition and the minimum of vexatious procedure. This has special application to the District Judge whose co-operation with the committee should be of the closest and most cordial character and whose interference with its activities should be limited to the minimum compatible with the fulfilment of existing legal enactments.

[*G.O.* 2541, *H.* (*J.*), *d.* 3-11-1919.]

III. DEPOSITS OF THE SALE-PROCEEDS OF ESTATES IN GOVERNMENT TREASURIES PERMITTED—

In continuation of G.O. No. 2541, Home (Judicial), dated the 3rd November 1919, the Government are pleased to authorize the deposit at Government treasuries of the sale-proceeds of the estates of deceased gazetted European officers of Government, under the head "Civil Courts' Deposits." The cost of remitting the sale-proceeds to the Administrator-General, Madras, should, however, be borne by the estates concerned.

[*G.O.* 1732, *H.* (*J.*), *d.* 16-7-1920.]

IV. IN MUFASSAL CASES, THE ADMINISTRATOR-GENERAL TO ACT ONLY UNDER INSTRUCTIONS—

In the case of a European gazetted officer of Government dying in a mufassal district, the Administrator-General shall take such proceedings as may be necessary to obtain from the High Court letters of administration of the estate of such person under section 9 of the Administrator-General's Act, 1913, only on being instructed by the District Judge or by the officers appointed by the District Judge under section 54 (2) of the said Act.

[*G.O.* 2198, *H.* (*J.*), *d.* 3-9-1920.]

CHAPTER VII.

Rules under the Indian Divorce Act, IV of 1869.

I.—Rules under Section 62.

By virtue of the authority conferred by section 62 of the Indian Divorce Act, IV of 1869, and all other powers hereunto enabling the High Court hereby makes the following rules in regard to proceedings under that Act.

1. *Transmission of records to the High Court in cases requiring confirmation.*—When a District Judge has pronounced a decree which, under section 17 or 20 of the Act, is subject to confirmation by the High Court, he shall forthwith transmit to the High Court the entire record of the case.

2. *Posting of such cases for hearing.*—Cases for confirmation by the High Court shall be posted for hearing as soon as practicable after the expiry of the period of six months prescribed by section 17 of the Act.

3. *Notice to parties.*—Unless the High Court otherwise directs, notice of the hearing shall be served upon the parties to the suit.

(*H.C. Dis.* 1414 *of* 1910.)

Note.—Corroborative evidence necessary in Divorce cases—

The attention of all District Judges is invited to the fact that in several cases under the Indian Divorce Act, the High Court has had to refuse to confirm a decree on the ground that there was no corroborative evidence. It is further pointed out that the fact that the other party does not appear is a reason for scrupulous adherence to the rule that in divorce, the court will not act on the uncorroborated testimony of the petitioner, husband or wife—vide copy of the judgment in Referred Case No. 8/22 on the file of the High Court, appended.

Judgment.—" This is a petition for divorce which comes before us under section 17 of Act IV of 1869, asking us to confirm the decree of the District Judge of————, to dissolve the marriage between the petitioner and the respondent. Under section 7 of that Act, subject to the other provisions of that Act, the High Court and the District Court shall in all suits and proceedings thereunder act and give relief on principles and rules which in the opinion of the said courts are as nearly as may be conformable to the principles and the rules on which the court of Divorce and Matrimonial Causes of England for the time being acts and gives relief. The evidence and the only evidence before the court in this case was that of the petitioner himself. He swears that he went to his house one day and on gaining admission into his house, he found his wife there with the co-respondent. He also swears that she left him that evening and has been living with the co-respondent and that a child has been born to her which is not his child. It is an absolutely fixed rule of practice in the Divorce Court in England that the evidence of the husband or the wife alone is never accepted without some corroboration either by a witness or at least by strong surrounding circumstances. The reason for that rule of practice is that divorce is a matter which lends itself very easily to collusion, for a petitioner may come and say ' My wife or my husband is unfaithful or my husband has been cruel ' and the other party desiring the divorce may take the simple course of not attending and letting the matter go by default, and so a divorce may be obtained. It is therefore the established practice that there must in these cases be corroboration for the court to act. In this case there was none, and therefore it is necessary that the case should be referred back to the District Judge so that he may hear such evidence as the petitioner may be advised to call before him in corroboration of his own evidence. It would seem in this case a simple matter to obtain corroboration of these facts, if they are facts. That his wife has left him and is living with somebody else is a matter which can easily be proved, and probably evidence can easily be given of the registration of the birth of the illegitimate child."

(*H.C. Dis.* 1923 *of* 1922.)

II.—Rules under section 17-A.

In exercise of the powers conferred by section 17-A of the Indian Divorce Act (IV of 1869), the Governor-General in Council is pleased to make the following rules

1. These rules may be called the Indian Divorce (Domiciled Parties) Intervention Proceeding Rules, 1928.

2. In these rules, unless there is anything repugnant in the subject or context—

"Act" means the Indian Divorce Act (IV of 1869);

"Officer" means an officer appointed * under section 17-A of the Act to exercise the like right of showing cause that a decree for the dissolution of marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor;

"Pleader" means any person entitled to appear and plead for another in court, and includes an advocate, a vakil, and an attorney of a High Court; and

"Proceedings" means a suit or proceeding under the Act.

3. (1) If any person during the progress of a proceeding or before the decree *nisi* is made absolute gives information to the officer on any matter material to the due decision of the case, the officer may take such steps as he considers necessary or expedient.

(2) If, in consequence of any such information or otherwise, the officer suspects that any parties to the petition are or have been in collusion for the purpose of obtaining a decree contrary to the justice of the case, he may, after obtaining the leave of the court, intervene and produce evidence to prove the alleged collusion.

4. (1) When the officer desires to show cause against making absolute a decree *nisi*, he shall enter an appearance in the proceeding in which such decree *nisi* has been pronounced and shall, within a time to be fixed by the court, file his plea setting forth the grounds upon which he desires to show cause as aforesaid, and a certified copy of his plea shall be served upon the petitioner or person in whose favour such decree has been pronounced or his pleader. On entering an appearance the officer shall be made a party to the proceedings and shall be entitled to appear in person or by pleader.

(2) Where such plea alleges the petitioner's adultery with any named person, a certified copy of the plea shall be served upon each such person omitting such part thereof as contains an allegation in which the person so served is not named.

(3) All subsequent pleadings and proceedings in respect of such plea shall be filed and carried on in the same manner as in respect of an original petition under the Act, except as hereinafter provided.

(4) If the charges contained in the plea of the officer are not denied or if no answer to the plea of the officer is filed within the time allowed or if an answer is filed and withdrawn or not proceeded with, the officer may apply forthwith for the rescission of the decree *nisi* and dismissal of the petition.

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* The Crown Prosecutor, Madras, has been appointed for the Madras High Court—(G.I. Notfn. 928-J of 1929).

5. Where the officer intervenes and shows cause against a decree *nisi* in any proceedings for divorce, the court may make such order as to the payment by other parties to the proceeding of the costs incurred by him in so doing or as to the payment by him of any costs incurred by any of the said parties by reason of his so doing as may seem just.

[*H.C.P. Dis.* 230 *of* 1930.]

III.—Rules under section 16 (2).

In exercise of the powers conferred by section 16 (2) of the Indian Divorce Act, IV of 1869, the High Court hereby makes the following rules. The rules shall supplement the Indian Divorce (Domiciled Parties) Intervention Proceeding Rules, 1928, framed by the Governor-General in Council :—

1. Any person other than the officer appointed under section 17-A of the Act wishing to show cause against making absolute a decree *nisi* shall, if the court so permits, apply in the petition in which such decree *nisi* has been pronounced and at the same time file affidavits setting forth the facts upon which he relies

Such applications shall be moved in open court.

2. Unless the court otherwise orders, notice of the application and certified copies of the affidavits shall be served upon the officer and the party or the pleader of the party in whose favour the decree *nisi* has been pronounced not less than five clear days before the return-day.

3. The party in the petition in whose favour the decree *nisi* has been pronounced may, unless the court otherwise orders, within three clear days from the date of service of the notice and affidavits, file affidavits in answer.

4. The person showing cause against the decree *nisi* being made absolute shall then be served with certified copies of the affidavits in answer, and he may thereupon, unless the court otherwise orders, file within three clear days from the date of service affidavits in reply.

5. Certified copies of the affidavits in answer and affidavits in reply shall also be served on the officer.

[*H.C. Dis.* 230 *of* 1930.]

CHAPTER VIII.

Rules under the Indian Soldiers (Litigation) Act, 1925.

In exercise of the powers conferred by section 13 of the Indian Soldiers (Litigation) Act, 1925 (IV of 1925), the Central Government, after consulting the High Courts concerned, is pleased to make the following rules,* namely—

1. These rules may be called the Indian Soldiers (Litigation) Rules, 1938.

2. (i) In these rules, " the Act," means the Indian Soldiers (Litigation) Act, 1925 (IV of 1925).

(ii) All words used herein and defined in the Act shall be deemed to have the meanings respectively attributed to them by the Act.

3. The prescribed authority for the purposes of sub-clause (*iv*) of clause (*b*) of section 3 and sections 6, 7 and 8 of the Act shall be the Officer Commanding the unit or the Depot of the unit to which the soldier belongs.

4. The certificate given by a Collector under section 5 of the Act shall be in Form A of the Schedule.

5. The notice given by the court under section 6 of the Act shall be in Form B of the Schedule and shall be sent to the prescribed authority care of the General Officer Commanding-in-Chief of the Command in which the court is situated, and the certificate of the prescribed authority under section 7 of the Act, shall be in Form C of the Schedule.

6. If at any time it appears to the prescribed authority that the circumstances in which he certified to the court under section 7 of the Act that a postponement of the proceedings was necessary in the interests of justice, no longer exist, he shall forthwith certify to the court to that effect in Form D of the Schedule.

7. On receipt of a certificate from the prescribed authority under section 7 of the Act that a postponement of the proceedings is necessary in the interests of justice, the court shall postpone the proceedings until the receipt of a certificate in Form D from the prescribed authority, or until the soldier is represented in the proceedings by some person duly authorized to appear, plead or act in his behalf.

8. The prescribed authority for the purposes of section 12 of the Act shall be the General Officer Commanding-in-Chief of the Command in which the court is situated.

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* G.I. Notfn. 455, Defence Dept., d. 14-5-1938. *H.C.P. Dis.* 590 *of* 1938.
For forms—Vide Appx. III-G, Part II, Vol. II.

CIRCULAR ORDER.

Postponement of proceedings.

The Indian Soldiers (Litigation) Act provides, *inter alia*, for the postponement, when necessary in the interests of justice, of proceedings pending before a civil or revenue court in British India to which any "Indian Soldier" [which expression includes any person subject to the Indian Army Act, 1911 (VIII of 1911) or the Indian Air Force Act, 1932 (XIV of 1932), vide section 2 (*b*) of the Indian Soldiers (Litigation) Act, serving under "special conditions," as defined in section 3 of the Indian Soldiers (Litigation) Act], is a party, when such person is unable to appear in person or is not represented by any person duly authorized to appear, plead or act in his behalf. This concession does not, however, extend to pre-emption cases or to cases where a soldier's interests are identical with those of any other party to the proceedings and are adequately represented by such other party or are merely of a formal nature.

[*G.I. Letter No. B.* 56937/1, *A. G.* 8, *Defence Dept. (Army Branch)*, *d.* 8–1–1940. *H.C.P. Dis.* 103 *of* 1940.]



CHAPTER IX.

Rules under the Land Acquisition Act I of 1894 as amended by Act XXXVIII of 1923.

In exercise of the powers conferred by section 55 (1) of the Land Acquisition Act, I of 1894, as amended by the Land Acquisition Amendment Act, XXXVIII of 1923, His Excellency the Governor in Council is pleased to make the following rules :—

1. *Issue and publication of notice by the Collector.*—Immediately after the publication of the notification under section 4 (1), the Collector shall issue a notice stating that the land is needed or is likely to be needed, as the case may be, for a public purpose and requiring all persons interested in the land to lodge before the Collector within 30 days after the issue of the notification, a statement in writing of their objections, if any, to the proposed acquisition. This notice should be published at convenient places in the said locality, and copies thereof fixed up in the offices of the Collector, the Tahsildar, and in the nearest police station.

2. *Statement of objections.*—The statement of objections should mention how the objector is interested in the land.

3. *Hearing of objections.*—(*a*) If a statement of objections is filed by a person who is not interested in the land it shall be summarily rejected.

(*b*) If any objections are received from a person interested in the land and within the time prescribed in sub-section (i) of section 5-A, the Collector shall fix a date for hearing the objections and give notice thereto to the objector as well as to the department or company requiring the land, where such department is not the Revenue Department. Copies of the objections shall also be forwarded to such department or company. The department or company may file on or before the date fixed by the Collector a statement by way of answer to the objections and may also depute a representative to attend the enquiry.

(*c*) On the date fixed for enquiry or any other date to which the enquiry may be adjourned by the Collector, the Collector shall hear the objector or his pleader and the representative, if any, of the department or company and record any evidence that may be produced in support of the objections.

4. *Collector's report to Government.*—On completion of his enquiry, the Collector shall submit the case for the decision of the *[Provincial Government] through the Board of Revenue, in the manner provided in section 5-A (2) of the Land Acquisition Act.

5. *Further procedure on Government's decision for or against the acquisition.*—On a consideration of the objections and

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* Subs. by the A.O. for "Local Government".

the Collector's report thereon, if Government decide that the land should be acquired, the declaration required under section 6 of the Act should be submitted by the Collector of the district or Collectors of the districts concerned to Government for approval and publication in the Official Gazette. If, on the other hand, Government decide to give up the acquisition, a notification under section 48 (1) withdrawing from such acquisition shall be published by them.

(*G.Os. Rev.*, 1851, *d.* 21-12-1923; 196, *d.* 9-2-1926, *and* 2173, *d.* 1-11-1927.)

CIRCULAR ORDERS.

I. CHANGES IN PROCEDURE IN REGARD TO THE ISSUE OF NOTIFICATION FOR ACQUISITION OF LAND UNDER THE LAND ACQUISITION ACT AS AMENDED—

Until the introduction of the Land Acquisition Amendment Act XXXVIII of 1923, a notification under section 4 (1) of the Land Acquisition Act was issued only in the rare cases in which the owner of the land objected to the entry of Government officers under section 4 (2). As a rule the notification under section 6 is issued at once on the submission of the draft notification. Under the Act, as now amended, the issue of a notification under section 4 of the Act is compulsory in every case in which it is proposed to acquire land under the Act, and unless the Government direct under section 17 (4) that the provisions of section 5-A should not apply, the procedure in the amended Act and the rules published in the Government Order read above should be followed before a notification under section 6 can issue. [*G.O. Ms.* 428, *L.* (*G.*), *d.* 9-2-1924. *H.C. Dis.* 453 *of* 1924.]

II. PAYMENT INTO COURTS OF COMPENSATION MONEY FOR DEPOSIT AND INVESTMENT OF SUCH DEPOSITS UNDER THE LAND ACQUISITION ACT, I OF 1894—

Under paragraphs 9, 10 and 21 of the Resolution of the Finance and Commerce Department of the Government of India, No. 2209-A, dated 10th May 1895, the High Court, in consultation with the Accountant-General, Madras, has issued the following instructions for the guidance of all subordinate courts in connexion with the payment into courts of compensation money for deposit under section 31 (2) and for the investment of such deposits under sections 32 and 33 of the Land Acquisition Act, I of 1894:—

1. In cases where persons interested do not consent to receive the compensation awarded by the Collector, or where there is no person competent to alienate the land, or where there is any dispute as to the title to receive the compensation or as to apportionment of it, the Collector is required to deposit the amount of compensation in the court to which a reference under section 18 of the Act would be submitted.

2. All such payments into court will be made by the Collector by means of cheques in favour of the presiding officer of the court concerned.

3. The cheques will be accompanied by receipts in triplicate in Form D * annexed duly filled up. One copy should be retained by the court for record, and the other two returned to the Collector duly signed. The cheques should be duly endorsed in favour of the treasury officer and sent with a chalan, prescribed for payment of suitors' money, to the treasury for encashment by transfer credit to the head "Civil Courts' Deposits." All payments of the amounts deposited will be made under the rules (vide Chapter IX, Part I supra) for payment of Civil Courts' Deposits.

4. Investments under sections 32 and 33 of the Act should be arranged for in the case of purchase of Government securities in communication with the Accountant-General; purchases of land should be effected under the court's orders through the Collector of the district. (*H.C. Cir.* 3404 *of* 1895, *as amended by Dis.* 1081 *of* 1899—vide also Appendix 19 of M.F. & A.C., Vol. II.)

* Vide Appx. III-H of Part II, Vol. II.

5. Pies awarded in cases of land acquisition, when the cases relate to trust or inalienable property, may be credited to Government direct by the court concerned after a month from the date of deposit of the main sum in the Postal Savings Bank, under the rules made by the High Court in their Proceedings Dis. No. 2273, dated 18th December 1917, relating to Lapsed Civil Court Deposits (vide Chap. III, Pt. I of Vol. II).
(*H.C. Dis.* 563 *of* 1923.)

III. JURISDICTION OF CIVIL COURTS—

1. Under the provisions of sub-section (*d*) of section 3 of the Land Acquisition Act, 1894, the Governor in Council hereby appoints all Subordinate Judges presiding over permanent sub-courts in the Presidency to perform the functions of the 'court' under the said Act within the limits of their local jurisdiction.
(*Notfn. No.* 160 *at p.* 253, *Pt. I, F.S.G.G., d.* 11-3-1924.)

2. The Government are advised that the result of the above notification will be to oust the jurisdiction of the District Judge under the Act within those local limits in his district over which a Subordinate Judge will exercise jurisdiction under the Act by virtue of the notification.

3. The Government do not consider it desirable at present to delegate to District Munsifs the power to try cases under the Act.
[*G.O.* 770, *L.* (*G.*), *d.* 7-3-1924. *H.C. Dis.* 700 *of* 1924.]

4. It appears from the wording of the notification in paragraph 1 above that Government did not intend that Subordinate Judges should try land acquisition cases not arising within the limits of the local jurisdiction of their courts. Such cases should not therefore be transferred to them by the District Judge. (*H.C. P. Dis.* 2201 *of* 1924.)

IV. PROCESS FEES ON REFERENCES UNDER SECTION 30 OF THE ACT—

(1) The High Court sees no reason why fees, whether levied beforehand or not, should not be treated as costs. It is observed that section 32 of the Act of 1876 directed that the costs of all proceedings under Part III of the Act (which also corresponds with Part III of the present Act I of 1894) should in the first instance be paid by the Collector. No similar section is to be found in the present Act. This alteration of the law was no doubt made advisedly and, if so, it would appear that it was not the intention of the Legislature that the Collector should continue to pay all the costs in the first instance. This being so, the court receiving the reference should calculate the process fees and require the persons who call for the reference to the court to deposit the fees. (*H.C. Dis.* 1144 *of* 1899.)

(2) On further consideration, the High Court is of opinion that the best plan will be to have the notices served by the court in the first instance without any deposit having been made, the cost of serving such notices being made costs in the case and dealt with in the final order. The High Court sees no reason to think that the Legislature intend that such notices should be served free of cost. (*H.C. Dis.* 1325 *of* 1899 *and* 2249 *of* 1925.)

CHAPTER X.

Rules relating to Legal Practitioners.

I—RULES UNDER THE INDIAN BAR COUNCILS ACT.

A.—ENROLMENT OF ADVOCATES.

Rules, framed, by virtue of the powers conferred by sections* 9 *and* 15 *of the Indian Bar Councils Act and all other powers thereunto enabling, by the Madras Bar Council, with the previous sanction of the High Court of Judicature at Madras.*

1. Subject to the conditions hereinafter mentioned—

(i) any person who has taken the Degree of Bachelor of Laws of any of the Universities established by Law in British India or taken a Degree in Law of any other University † which the Bar Council may, by general or special order, accept as equivalent to that degree; or

(ii) an advocate entered on the roll of advocates of a High Court established by Letters Patent other than the High Court of Judicature at Madras:

Provided that the rules for admission in such High Court entitle an advocate entered on the rolls of the High Court at Madras to be enrolled as an advocate of that High Court:

Provided further that where any person had been admitted as an advocate of such High Court without undergoing a course of study in the chambers of a practising advocate for a period of one year, he shall be of not less than one year's standing as an advocate of such High Court; or

(iii) a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland; or

(iv) an attorney of the High Court at Madras; or

(v) any person who having passed the First-grade Pleadership Examination of the Madras High Court before the end of 1928 shall have been admitted as a first-grade pleader before July 1929 provided that at the time of the application he has practised as such pleader for not less than ten years or presided as a judge of a civil court for not less than ten years;

may be admitted as an advocate of the High Court.

1-A. Persons who are on the roll of vakils or advocates of the High Court but who, on account of their being in Government service in British India or Native States or by reason of their carrying on any other trade, profession or calling, are not actually practising, shall, on their applications and subject to the payment of the fee prescribed, be entered on the roll of advocates of the

* *P. Dis.* 394 *and* 395 *of* 1929 as amended up to 1st February 1939.

† LL.B. Degree of London University (Resoln., dated 23-10-1932.)

High Court but a note shall be made against their names that they are not actually practising.

2. No woman shall be disqualified for admission as an advocate by reason only of her sex.

3. In the case of a person mentioned in clause (i) of rule 1, the applicant shall not be entitled to enrolment unless he shall have

(i) studied as a pupil in the chambers of an advocate actually practising in the High Court or in one of the district centres specified hereunder and passed the examination prescribed by rule 22; or

(ii) actually practised as a pleader in the court of a District or a Subordinate Judge in the Presidency of Madras or in the Chief Court of Mysore, Cochin or Pudukottai or in the High Court of Travancore or in the Court of the Commissioner or Judicial Commissioner of Coorg or in the Court of the Resident of Mysore for a period of not less than five years immediately preceding the date of his application or practised as a pleader for not less than ten years in any other court; or

(iii) presided as judge of a civil court in the Madras Presidency for a period of not less than five years immediately preceding the date of his application.

Any person who has served or is serving as an apprentice to an attorney, vakil or advocate of the High Court under the rules heretobefore in force for the enrolment of vakils shall be deemed on completion of his full term of his service to have complied with the requirements of clause (i) of this rule as to study.

District Centres.—Vizagapatam, Rajahmundry, Ellore, Masulipatam, Guntur, Bellary, Nellore, Salem, Chittoor, Tanjore, Trichinopoly, Tinnevelly, Madura, Coimbatore, Calicut and Mangalore.

4. The study referred to in clause (i) of rule 3 shall be for a period of not less than one year and shall ordinarily be under one and the same master:

Provided that the Bar Council may for good and sufficient reason, permit the pupil to complete the period of study in the chambers of any other master or masters.

5. (*a*) No advocate shall be entitled to take any pupil until he shall himself have been in practice for at least five years nor shall he be entitled to take without the permission of the Bar Council, more than two pupils to read in his chambers at one and the same time; such permission shall be for a period of one year from its date.

(*b*) No advocate practising in the mufassal shall be entitled to take any pupil to study in his chambers, until he himself has been in practice for at least ten years as an advocate or as an

advocate and vakil, or for fifteen years as a pleader and advocate; nor shall he be entitled to take more than two pupils to read in his chambers at one and the same time.

6. Every advocate taking a pupil to read in his chambers or to complete the period of his study under the proviso to rule 4 shall report the same to the Bar Council in Form No. 1.

The period of study shall be reckoned to have commenced or been continued from the date of the receipt of the report aforesaid unless the Bar Council shall otherwise order.

7. No pupil shall, without the permission of the Bar Council, during the period of his study, be engaged in any profession, trade or calling.

8. Before any pupil shall be admitted as an advocate,

(*a*) he shall file with the Secretary—

(i) a certificate or diploma showing that he has taken the degree referred to in rule 1 (i) and also a certificate showing that he has passed the examination prescribed by rule 22;

(ii) a certificate showing that he has attended not less than 50 per cent of the lectures provided in rule 27;

(iii) answers to the questions contained in Form No. 2 hereunto annexed, duly signed by him; and

(iv) two separate certificates in Form No. 3 each to be signed by an advocate of the High Court other than his master or masters.

(*b*) The master or the last of the masters under whom he has studied shall sign and file a statement in Form No. 4 hereunto annexed.

9. Before a person applies for admission as an advocate under clause (ii) or (iii) of rule 3, he shall file with the Secretary—

(i) satisfactory proof of having taken the degree referred to in rule 1, clause (i);

(ii) answers to the questions contained in Form No. 5 duly signed by him;

(iii) a certificate in Form No. 6 except in the case of an applicant who has presided as a judge in any court; and

(iv) two separate certificates of recent date in Form No. 3 each to be signed by an advocate of the High Court.

10. Unless the Bar Council otherwise orders every person intending to apply for admission as an advocate shall give one month's notice in writing to the Secretary and to the Registrar stating such intention and shall also insert in the *Fort St. George Gazette* a like notice in three successive issues.

11. (*a*) An advocate mentioned in clause (ii) of rule 1 shall file with the Secretary a certificate from the Bar Council of the High Court of which he is an advocate that he is entitled to practise in that High Court.

For forms—Vide Appx. III-I of Part II, Vol. II.

(*b*) He shall state in his application for admission that he intends ordinarily to practise in the High Court.

12. In the case of a barrister mentioned in clause (iii) of rule 1, he shall file with the Secretary a statement in Form No. 7 and two separate certificates in Form No. 3 each to be signed by an advocate of the High Court or barrister of England or Ireland or a member of the Faculty of Advocates in Scotland. He shall prove to the satisfaction of the Bar Council—

(*a*) (i) that he has read for at least six months continuously in the chambers of a Barrister of England or Ireland or a member of the Faculty of Advocates in Scotland of not less than seven years' standing whether of the United Kingdom or India;

(ii) that he is entitled to practise as such barrister.

(*b*) He shall state in his application for admission that he intends ordinarily to practise in the High Court.

13. In the case of a person mentioned in clause (iv) of rule 1, the applicant shall file with the Secretary his certificate of admission as an attorney and two separate certificates of recent date in Form No. 3 each to be signed by an advocate of the High Court.

14. In the case of a person mentioned in clause (v) of rule 1, the applicant shall file with the Secretary the certificate of the Pleadership Examination Board showing that he has passed such examination and the answers, certificates and testimonials, mentioned in clauses (ii), (iii) and (iv) of rule 9.

15. Every candidate for admission as an advocate shall, if required by the Bar Council, attend in person for the purpose of giving further information touching any matter mentioned in the answers, certificates or statements filed with the Secretary as hereinbefore mentioned.

16. If the papers filed by the applicant in accordance with the rules hereinbefore contained are approved by the Bar Council, a certificate signed by the Chairman or Vice-Chairman shall, within ten days from the date of filing the papers, be furnished to the candidate that he has complied with the requirements of these rules :

Provided that the Bar Council may, in special cases, for reasons to be recorded by it recommend to the High Court for exemption any candidate not complying with all or any of the requirements of the rules hereinbefore contained and that on such exemption being granted, he shall be deemed to have complied with the rules.

17. An application for admission as an advocate of the High Court shall be in Form No. 9 and be made to the Registrar of the High Court accompanied by a certificate mentioned in rule 16.

For forms—Vide Appx. III-I of Part II, Vol. II.

18. On receipt of the application the Registrar shall, unless the court otherwise orders,

(i) give not less than seven days' notice in writing to the Bar Council of the proposed application;

(ii) notify the same on the notice board of the court for not less than the said period.

19. The Registrar shall, after the expiry of the period of notice aforesaid, post the application before a Bench of the High Court of which the Chief Justice or in his absence the senior puisne Judge is a member and the High Court after considering the application and the objections thereto, if any, may admit the applicant as an advocate or refer the application to the Bar Council for its opinion or report thereon or pass such other order as it deems fit.

20. The fee payable to the Bar Council by every applicant for admission as an advocate of the High Court shall be Rs. 50.

A receipt from the Imperial Bank of India, Madras, acknowledging payment of the fee to the credit of the Bar Council shall be attached to the documents filed with the Secretary.

21. In the case of a person mentioned in rule 1-A the applicant shall file with the Secretary answers to the questions contained in Form No. 8 and also produce testimonials of recent date mentioned in clause (iv) of rule 9. Nothing in rules 15 to 20 shall apply to persons mentioned in rule 1-A.

Examination.

22. The Bar Council shall appoint examiners and hold examinations in the subjects specified in rule 25 twice a year in the months of April and October at such place as may be appointed and duly notified by it. The dates of the examination shall be fixed and appointments of the examiners made not later than the 1st March and 1st September of each year.

23. Each candidate shall file with the Secretary not later than the 15th February and 15th August before the examination an application in Form No. 10 with a receipt from the Imperial Bank of India, Madras, showing that he has paid to the credit of the Bar Council a sum of Rs. 25 as the fee for the examination. The fee shall in no case be refunded.

Provided that an application may be received out of time subject to its being received within ten days from the due date and to the payment by way of penalty of an additional fee of Rs. 5.

24. The necessary preliminary arrangements for the examination referred to in rule 22 shall be made under the supervision of the Chairman of the Bar Council.

For forms—Vide Appx. III-I of Part II, Vol. II.

25. The examination shall comprise the following subjects :—

Part I—

(1) Code of Civil Procedure with decided cases thereon.

(2) Rules relating to procedure issued by the High Court under the Code of Civil Procedure and rules connected with procedure in civil courts and in the High Court, Appellate Side, issued under other enactments.

(3) Rules of the Original Side of the High Court of Judicature at Madras.

Part II—

(4) Criminal Procedure Code with decided cases thereon.

(5) Criminal Rules of Practice.

26. There shall be two question papers in the examination, of which the first forming Part I shall contain questions on Civil Practice and Procedure and the second forming Part II shall contain questions on Criminal Practice and Procedure. Subject to the control of the Chairman of the Bar Council, the examiners shall set the papers and fix for each paper the full number of marks obtainable by answering it correctly. No candidate shall be declared to have passed either part unless he has obtained two-fifths of the total marks obtainable in that part. A candidate who has passed in both the parts shall be declared to have passed the examination. A candidate who has passed the examination in one part need not undergo the examination in that part again. The examiners shall report the result of the examination to the Chairman, who after such moderation as might be made by the Bar Council, shall publish the same. Certificates in Form No. 11 signed by the Chairman shall be issued to the successful candidates in accordance with the results so published.

27. The Bar Council may incur necessary charges—

(*a*) for holding the examination referred to in rule 22 and for remunerating the examiners and for other incidental expenses in respect thereof; and

(*b*) for arranging lectures or classes on professional conduct and advocacy and such other subjects as the Bar Council may from time to time prescribe.

28. No advocate shall without the leave of the Bar Council engage in any trade or calling.

An advocate may, however, be a director of a company with or without an ordinary sitting fee but no advocate may, without the leave of the Bar Council, be a managing director, or a secretary or even a director in receipt of remuneration other than the sitting fee.

For forms—Vide Appx. III-I of Part II, Vol. II.

29. All moneys received on behalf of the Bar Council shall be deposited with the Imperial Bank of India or with the Madras Central Urban Bank.

30. The Bar Council may from time to time give directions for investment on Government or authorized securities of such portions of its funds as it thinks proper.

B.—RULES RELATING TO THE PROCEDURE TO BE FOLLOWED BY TRIBUNALS AND DISTRICT COURTS IN CASES REFERRED TO THEM FOR INQUIRY UNDER THE BAR COUNCILS ACT.

The following rules have been made by the High Court under section 12 of the Indian Bar Councils Act, 1926, to regulate the procedure to be followed by tribunals and District Courts in the conduct of cases referred to them for inquiry under section 10 of the said Act, in supersession of the rules published at pages 14–15 of Part II of the *Fort St. George Gazette*, dated 1st January 1929, as subsequently added and amended :—

1. Upon receipt of a case referred for inquiry under section 10 (2) of the Bar Councils Act, the tribunal or District Court shall forthwith frame a charge or charges on the basis of the complaint, fix a date, hour and place for the inquiry and give notice thereof to the complainant and to the advocate whose conduct is the subject of inquiry (hereinafter called " the respondent "), at least twenty-one days before the date of inquiry and may call upon the complainant to file a list of witnesses and documents relied upon by him; provided that in exceptional cases, the tribunal or court may in its discretion, postpone the framing of charge or charges until after examination and cross-examination of witnesses for the complainant. The tribunal or court shall inform the respondent that he must deliver to the tribunal or court his written answer within fourteen days from the date of receipt of notice of inquiry, unless he obtains an extension of time.

2. At the commencement of the inquiry, the charge or charges shall be read to the respondent, his written answer shall be read and he shall further, if necessary, be called upon to supplement his written answer and to plead orally to the charge or charges.

3. If, after considering the reply to the charge or charges the tribunal or court deems proper to proceed with the inquiry, it shall inform the complainant that he must within fourteen days or such other time as the tribunal or court may fix, make application to the tribunal or court in respect of any evidence he may desire to have summoned, depositing with the application the necessary expenses or bring his evidence on the date fixed without invoking the assistance of the tribunal or court, and the tribunal or court may adjourn the case to a convenient date. On the

* [*H.C. P. Dis.* 236 *of* 1935 *as subsequently amended.*]

adjourned date or any later date on which the tribunal or court may take up the case, the case shall be opened on behalf of the complainant; and the evidence in chief in support of the charge or charges and cross-examination and re-examination shall follow.

4. If upon taking all the evidence referred to in rule 3 supra and making such examination (if any) of the respondent as the tribunal or court thinks necessary, it finds that no case against the respondent has been made out which, if unrebutted, would warrant disciplinary action being taken against him, the tribunal or court shall report to the High Court that in its opinion no case against the respondent has been made out or that the complaint against him is groundless, as the case may be, giving reasons for that opinion.

5. If upon taking all the evidence referred to in rule 3 supra, the tribunal or court finds that a case against the respondent has been made out which, if unrebutted, would warrant disciplinary action being taken against him, the respondent shall then be called upon to enter upon his defence, if he desires to make any defence, and, after opening his case, shall produce any evidence he desires to call.

6. If the respondent, after he has entered upon his defence, applies to the tribunal or court to issue any process for the purpose of compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the tribunal or court shall issue such process unless it considers that such application should be refused on the ground that it is made for the purpose of vexation or delay. Such ground shall be recorded by it in writing.

Provided that, when the respondent has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this rule unless the tribunal or court is satisfied that it is necessary for the purposes of justice.

7. (1) The tribunal or court, having heard the evidence for the complainant and the respondent, shall report to the High Court its finding on each charge that has been framed, giving reasons for its finding.

(2) The findings of the tribunal, if unanimous, shall be signed by all the members of the tribunal. If the members of the tribunal differ in their findings or any of them, all the findings shall be reported to the High Court, being signed respectively by the members whose findings they are. The reasons for the findings shall be reported to the High Court in one report if the members of the tribunal are unanimous and in separate reports if their findings differ, provided that, whether their findings are unanimous or not, any member may record the reasons for his findings separately and the record so made shall be forwarded

to the High Court with the other report or reports of the tribunal in the case.

8. The respondent may, if he wishes, give evidence as a witness in the inquiry.

9. If on the day appointed for hearing, or any other day, to which the tribunal or court shall have seen fit to adjourn the case, the respondent does not appear, and if the tribunal or court is satisfied that he has been duly served with notice and is absent without reasonable cause, the tribunal or court shall proceed to examine the complainant and such witnesses as it has ascertained from the complainant, or otherwise, are likely to be acquainted with the facts of the case. After such examination the tribunal or court shall report to the High Court which charges of misconduct, if any, have in its opinion been made out against the respondent giving reasons for its opinion.

10. Evidence given before a tribunal shall be recorded in English either (1) by a shorthand-writer who shall take down *verbatim*, both questions and answers, or (2) by the president or some member of the tribunal chosen by him, who may take it in the form of a deposition. The evidence so taken down shall be signed by the president or member and shall form part of the record.

11. Evidence given before a District Court shall be recorded by the District Judge with his own hand in English. The evidence so taken down shall be signed by the District Judge, and shall form part of the record.

12. The respondent and the complainant, if any, may be represented by an advocate or advocates, but the tribunal or court, as the case may be, may require the complainant to attend before it in person.

13. (i) In a case instituted by complaint, if the complainant does not appear, or appears and states that he desires to withdraw the complaint, the tribunal or District Judge shall have discretion either to proceed with the inquiry or to report to the High Court that the complainant has failed to appear, or has appeared and stated that he wishes to withdraw the complaint and that it is unnecessary or impossible to proceed, and thereupon the High Court may pass such orders as it thinks fit.

(ii) If, in a case instituted by complaint, the complainant dies and there is no representative who is willing to conduct the case, and the tribunal or District Judge thinks that it is not possible to proceed with the inquiry, the tribunal or District Judge may report to the High Court accordingly, and the High Court may pass such orders as it thinks fit:

Provided that, if the tribunal or District Judge, having regard to the allegations in the complaint and to the evidence available, thinks it fit and proper to proceed with the inquiry, the tribunal or District Judge may recommend to the High Court the appointment of an advocate to conduct the case.

14 In cases taken up by the High Court without a complaint or in which the complainant fails to appear but the tribunal or the District Judge decides to proceed with the inquiry or the complainant appears personally but the tribunal or the District Judge considers that having regard to the nature of the case the assistance of an advocate is desirable, the tribunal or the District Judge may recommend to the High Court the appointment of an advocate for conducting the case; and the High Court may thereupon appoint an advocate on such terms as to fees, etc., as it may think fit.

15. Every advocate appearing before the tribunal for any party or to conduct a case against a respondent shall file with the tribunal a memorandum of appearance; but the memorandum need not bear any stamp.

16. Process-fees for summoning witnesses to appear in Madras before the tribunal and batta for such witnesses shall be paid by the parties on the scales and in the manner prescribed for witnesses summoned to appear in suits on the Original Side of the High Court and for witnesses to appear before a District Court on the scales and in manner prescribed for witnesses in a District Court; provided that in cases taken up by the High Court without a complaint or in which the tribunal or District Judge, as the case may be, reports to the High Court that the complainant is unable to pay such process-fees and batta, summonses for witnesses whom the High Court or the advocate conducting the case against the respondent or the tribunal or District Judge thinks it necessary to call, shall be issued without charge by the Registrar of the High Court, who will pay the batta for such witnesses on the scales aforesaid.

17. Applications made to the tribunal for copies of records shall, if approved by the tribunal, be forwarded by the Secretary of the Bar Council with the original documents of which copies are required to the Registrar of the High Court, who will have the copies made by the Copyist establishment of the High Court and supplied in accordance with the rules for making and supplying copies in the High Court.

II. RULES UNDER THE LEGAL PRACTITIONERS ACT.

A.—GRANT OF PLEADERSHIP CERTIFICATES.

* *Rules relating to the grant of Pleadership Certificates issued by the High Court under sections* 6 *and* 7 *of the Legal Practitioners Act,* 1879.

1. Unless the High Court for special reasons directs otherwise, pleadership certificates, other than renewed certificates, will not be granted in future. This takes effect from 1st January 1932.

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* Revised by *H.C. P. Dis.* 540 *of* 1934 and subs. for the old rules 1 to 29.

Preliminary.

2. In these rules and in the forms * appended thereto the word "District" denotes the territorial jurisdiction of a District Judge.

3. The right to practise in the Court of Small Causes of Madras is confined to advocates, vakils and attorneys of the High Court.

Class of Pleaders.

4. Pleaders in the courts subordinate to the High Court shall be classed as—

(*a*) Pleaders of the first grade.

(*b*) Pleaders of the second grade.

5. Pleaders of the first grade shall be entitled to appear, plead and act in all the civil and the criminal courts of the districts in which their certificates authorize them to practise.

6. Pleaders of the second grade shall be entitled to appear, plead and act in any District Munsif's or Subordinate Judge's Court in the district in which they are enrolled and in the court of any District Judge exercising the powers of a court of small causes under section 28 of the Madras Civil Courts Act, 1873, in the district in which they are enrolled.

Pleaders of the second grade shall also be entitled to appear, plead and act in any court of criminal jurisdiction in the district in which they are enrolled, other than the sessions court of the division.

For the purpose of rules 5 and 6 the word "District" may at the discretion of the High Court include the whole or a portion of the area of a district, under the jurisdiction of a single District Judge within the limits of which the pleader was authorized to practise at the time of its bifurcation.

Qualification of Pleaders.

7. Subject to the provisions of rule 1, the qualification for pleaders of the first grade shall be as follows :—

(*a*) Any person who has obtained the Degree of Bachelor of Laws of one of the Universities of Madras, Allahabad, Bombay, Calcutta, Patna, Dacca, the Aligarh Muslim University, or the Benares Hindu University or who files a provisional certificate from the Registrar of the respective universities to the effect that he has passed the examination qualifying for the degree of the Bachelor of Laws of any of those universities.

(*b*) Any person who has passed the examination qualifying for the Degree of Bachelor of Laws of the University of Madras and whose name has appeared in the list of successful candidates published by the University in the *Fort St. George Gazette*.

* For forms—Vide Appx. III-I of Part II, Vol. II.

In the cases coming under clauses (*a*) and (*b*) application for admission must be made within one year from the date of obtaining the degree or of the provisional certificate or of the publication of the examination results in the *Fort St. George Gazette*, or, if the applicant has become an apprentice with a view to enrolment as an advocate within two years from the date of obtaining the degree or date of publication of the examination results.

8. The High Court may call for evidence of the respectability of the applicant in any case in which it may be deemed necessary.

Certificate.

9. Upon the applicant being admitted by the High Court, the Registrar of the High Court shall cause his name to be entered in the proper register and shall issue to him a certificate as required by section 7 of Act XVIII of 1879, authorizing him to practise up to the end of the calendar year in the courts specified therein :

Provided that—

(*a*) in no certificate issued to a pleader of the first grade shall courts of more than three adjacent districts be specified; and

(*b*) in no certificate issued to a pleader of the second grade shall courts of more than one district be specified.

On the renewal of a certificate, the districts and courts mentioned in the certificate for the preceding year shall not be altered except with the special sanction of the High Court or the Registrar thereof.

When applications for addition or substitution of districts in renewed certificates of pleaders are submitted for the sanction of the High Court, the last certificates of the pleaders concerned and also their applications in original should be forwarded to the High Court.

10. The certificate shall bear the number assigned to it in the register and shall be signed by the Registrar and forwarded to the District Judge to be delivered to the applicant.

The certificate shall be taken to authorize enrolment in the courts specified therein. The holder can take it to any court therein mentioned, and may, with the approval of the presiding judge, be enrolled in such court. The approval should not be withheld unless the judge is aware of circumstances which in his judgment affect the professional character of the applicant; and in any case in which enrolment is refused the fact and reasons for it should be communicated forthwith to the High Court.

Renewals.

11. Every application for the renewal of a certificate must be made through the judge presiding over the court in which the pleader ordinarily practises, and, unless the High Court or the Registrar thereof otherwise orders, shall be made not later than

the 15th November and shall be forwarded by the District Judge to the Registrar of the High Court not later than the 30th idem. The renewed certificates shall be issued as soon as possible and unless the High Court or the Registrar thereof, otherwise orders, shall be dated 1st January of the year to which they relate.

Printing of renewed Certificates.

Renewed certificates will be issued from the High Court in printed forms similar to those used for the original certificates. District Judges shall submit to the High Court without delay the blank stamp papers furnished by applicants for renewal of certificates. The prescribed form will thereupon be printed on the stamp papers which shall be returned to the district courts for the preparation and issue of certificates to the applicants. In case an applicant submits more than a single stamp paper for renewing his certificate, the paper of the highest value alone must be sent to the High Court with the words "first or second-grade pleader" as the case may be, written on the back. Pending the receipt of the renewed certificate, practitioners may continue to practise subject to such precautions as to identification as the District Judge may think fit to prescribe.

12. If any person, having obtained a certificate, shall fail to renew it for a period of two years, he shall not be entitled to have it renewed without the orders of the High Court and shall be required to produce satisfactory testimonials as to his character during the interval.

When a pleader who has not been suspended from practice applies for the renewal of his certificate after the expiry of the year for which it was last renewed, he should state in his affidavit explaining the delay in applying for renewal, that he has not practised in any court since the expiry of the year for which his certificate was last renewed. District Judges in submitting such applications should report whether the applicants during the time they were practising rendered themselves liable to fine or penalty under the Legal Practitioners Act, 1879.

13. If any person, having been admitted as a pleader, accepts any appointment under Government, becomes a student of any school or college for purposes of pursuing his studies, enters into any trade or other business, or accepts employment as a law agent other than a pleader, mukhtar or agent certified under Act XVIII of 1879 and these rules, he shall give immediate notice thereof to the High Court, who may thereupon suspend such pleader from practice or pass such orders as the said court may think fit:

Provided that, when a pleader is appointed by or under the authority of the High Court to the office of District Munsif, whether temporarily or permanently, it shall not be necessary to

give the notice prescribed in the first part of this rule; but no pleader, while employed as District Munsif, shall be permitted to practise or do any business as a pleader; and

Provided also that pleaders may take part in the management of societies, registered under the Co-operative Societies Act, II of 1912, in the areas in which they practise; but no pleader so taking part shall receive any remuneration other than the ordinary profits without the special leave of the High Court.

Inquiries, Suspensions and Dismissals.

14. * Any court conducting an inquiry into a complaint of professional misconduct under the provisions of the Legal Practitioners Act may issue a summons to the complainant in the said complaint requiring him to attend before such court at a specified time and give evidence and/or produce any document relating to such complaint. The provisions of rules 8 to 13 and 15 to 18 of Order XVI of the First Schedule to the Code of Civil Procedure shall apply *mutatis mutandis* to such summons and persons.

15. Subordinate Judges and District Munsifs are required to bring to the notice of the District Judge every case in which a pleader is guilty of misconduct for which he is liable to be suspended or dismissed under the provisions of the Legal Practitioners Act.

In every case in which a report is received under section 14 of the Legal Practitioners Act, or the High Court, after perusal of the records, considers that the proceedings of a subordinate court shall be revised under section 15 of the Act, the Registrar shall set the case down for hearing by a Bench of three Judges, and shall give reasonable notice to the pleader and to the person (if any) on whose complaint proceedings were instituted, of the day on which the report or order will be considered, and such pleader and complainant may appear in person or by counsel or vakil to show cause against or support the report or order.

Pending a final decision on a charge of professional misconduct against a pleader, the High Court may defer renewal of his certificate.

Accounts of Receipts and Disbursements of Clients' Money.

16. It shall be the duty of every pleader to keep regular accounts of all moneys received and disbursed by him in connexion with each suit, appeal or proceeding in which he is engaged as pleader. The failure to keep such accounts will be treated as a " reasonable cause " for suspension of certificate within the meaning of section 13 (*f*) of the Legal Practitioners Act, 1879.

* Inserted by *H.C. P. Dis.* 357 *of* 1940.

Pleaders prohibited from acquiring interest in decrees obtained by clients.

17. Practitioners of courts subordinate to the High Court are strictly prohibited from purchasing from their clients or from any other person, any interest in any decree passed by the court in which they practise.

18. Any wilful violation of any of the above rules shall subject a pleader to suspension or dismissal.

19. The certificate and renewed certificates issued or to be issued to pleaders under the Legal Practitioners Act, 1879, shall be in the following terms.*

CIRCULAR ORDERS.

I. VAKILS ENGAGING IN TRADE—

No vakil shall carry on any trade or business without the previous sanction of the High Court. Any vakil carrying on a trade or business without such previous sanction shall be liable to suspension or removal from practice.

Provided that vakils may take part in the management of societies registered under the Co-operative Societies Act, II of 1912, in the areas in which they practise; but no vakil so taking part shall receive any remuneration other than the ordinary profits without the special leave of the High Court. (*H.C. Dis.* 1618 *of* 1916.)

II. REPORT OF CASES WHERE PROCEEDINGS HAVE BEEN TAKEN AGAINST PLEADERS UNDER THE CRIMINAL PROCEDURE CODE—

Cases have come to the notice of the Hon'ble the Judges where pleaders in the mufassal have been dealt with under the security sections of the Code of Criminal Procedure. Such cases have been brought to their Lordships' notice, only when the question of the renewal of the pleaders' certificates was taken up. Their Lordships have reason to believe that in certain cases barristers, advocates and High Court vakils have been similarly dealt with, either under the Code of Criminal Procedure or even under the Indian Penal Code. No such cases, however, have been officially reported. Their Lordships are of opinion that, in every case where a legal practitioner is dealt with under the criminal law, a report, with a copy of the judgment in the case, should be submitted by the District Judge or by the District Magistrate through the District Judge, to the High Court, drawing their Lordships' attention to the occurrence, so that their Lordships may have an opportunity of considering whether any disciplinary action is necessary in the circumstances of the case. All District Judges and District Magistrates are therefore requested to submit such reports in future.
(*H.C. Dis.* 1047 *of* 1924.)

III. LANGUAGE TO BE USED IN ADDRESSING COURTS—

Legal practitioners may, whether in civil or criminal cases, address the court in English, either with the consent of the court and both parties or without such consent where due provision is made by the English speaker for the interpretation, if necessary, of what he says into the language of the court.

IV. DRESS TO BE WORN—

(1) From and after the 1st January 1890, no vakil of the High Court will be permitted to address the High Court unless he appears in the black gown prescribed by the University of Madras for Bachelor of Laws.
(*H.C. Rule* 2953, *d.* 5-12-1889.)

(2) Vakils of the High Court, when appearing before civil and sessions courts, shall wear their Bachelor of Laws gowns.
[*H.C. Dis.* 134 (*a*) *of* 1916.]

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* [Vide Forms Nos. 1 to 4 of Part II in Appx. III-I of Part II, Vol. II.]

(3) From and after the 1st January 1920 only such practitioners as are vakils of the High Court shall be entitled to wear their Bachelor of Laws gowns when appearing before civil and sessions courts.
(*G.O.* 1868, *d.* 22-8-1919. *H.C. Dis.* 1864 *of* 1919.)

(4) All advocates shall wear black coats, stiff collars and bands and the black gowns prescribed by the University of Madras for Bachelor of Laws when appearing before the court. (*H.C. P. Dis.* 846 *of* 1928.)

(5) A legal practitioner who appears in court wearing a head-dress must wear a turban, or if a Muhammadan a fez, or if a Parsi the kind of head-dress worn by Parsis. To wear any other head-dress is improper and must not be allowed. (*H.C. P. Dis.* 446 *of* 1930.)

(6) Pleaders shall wear black long coats. But practitioners wearing gowns or those not entitled to wear gowns but having their hair cropped in European fashion and appearing in court in European dress, may wear black short coats. A practitioner who has his hair cropped in European fashion and appears in court in European dress will not be expected to wear head-dress. (*H.C. P. Dis.* 584 *of* 1938.)

B.—Legal Practitioners' Fees.

*The following rules * relating to the fees payable to Legal Practitioners have been issued by the High Court under section 27 of the Legal Practitioners Act XVIII of* 1879—

30. Save by special leave of the court and except in the case of a legal practitioner appearing on behalf of Government or of an incapacitated proprietor who is a ward of the Court of Wards, no fee shall in any case be entered as recoverable in a decree or order except on production of a certificate from the legal practitioner that he has received such fee.

Note.—(i) The term "legal practitioner" means and includes an advocate, vakil, attorney or pleader authorized under the rules to practise before civil courts.

(ii) The fact of a promissory note or other agreement to pay the fee having been given or made by the client does not entitle the legal practitioner to certify that he has received the fee.

Courts Subordinate to the High Court.

31. † In courts subordinate to the High Court, in suits for money, effects or other personal property or for land or other immovable property of any description, fees to legal practitioners shall be payable on the following scale :—

(I) *Small Cause Suits*—

At 4 per cent subject to a minimum of Rs. 5.

(II) *Original Suits*—

(1) if the amount or value of the claim does not exceed Rs. 1,000,

(*a*) if of a small cause nature at 5 per cent subject to a minimum of Rs. 5, and

(*b*) in other cases at 5 per cent subject to the following minimum :—

(i) Rupees 10 if the suit falls under clauses (i) to (iii) of section 7, Court Fees Act, or under clause (iv), sub-clause (*f*) of that section, and

(ii) Rupees 25 in other cases.

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* (*H.C. Notification R.O.C. No.* 4120 *of* 1925 *as subsequently amended.*)
† *H.C.P. Dis.* 222 *of* 1933 *and* 787 *of* 1938.

Exception.—The rule as to minimum prescribed herein will not apply to suits between landholder and ryot falling under clause (xi) of section 7, Court Fees Act.

(2) If the amount or value exceeds Rs. 1,000 but does not exceed Rs. 5,000, at 5 per cent.

(3) If the amount or value exceeds Rs. 5,000 but does not exceed Rs. 20,000, on Rs. 5,000 as above and on the remainder, at 3 per cent.

(4) If the amount or value exceeds Rs. 20,000, but does not exceed Rs. 1,00,000, on Rs. 20,000, as above and on the remainder at $1\frac{1}{2}$ per cent.

(5) If the amount or value exceeds Rs. 1,00,000, on Rs. 1,00,000 as above and on the remainder at $\frac{3}{4}$ per cent.

(6) In batches of more than ten suits which are tried together and disposed of by a common judgment, the fees shall be at the discretion of the court, but not exceeding the fees prescribed above. The minimum prescribed in sub-clause (1) above shall not apply.

Provided that in the case of suits of the kind mentioned in clause (II) above, when such suits, at or before the settlement of issues, are settled, withdrawn, compromised, decided on confession of judgment or dismissed for default, the fee payable shall be one-fourth of the fee calculated under that clause subject to the minimum prescribed and to a maximum of Rs. 500.

Provided also that where suits of the kind mentioned in clause (II) above are decided *ex parte*, the defendant not entering appearance or having entered appearance not contesting, the fee payable shall be one-half of the fee calculated under that clause, subject to the minimum prescribed and to a maximum fee of Rs. 1,000.

32. (*a*) In courts subordinate to the High Court, in *appeals* for money, effects or other personal property or for land or other immovable property of any description, the fees payable to practitioners shall be as calculated under rule 31 (II) above subject to a minimum of Rs. 25.

(*b*) When such appeals are settled, withdrawn, compromised or dismissed for default, the fee payable shall be one-half of the fees calculated under clause (*a*) above subject to a minimum of Rs. 25.

33. In courts subordinate to the High Court, when the amount or value of the claim in a suit or appeal exceeds Rs. 1,000 an additional fee calculated at one-third the fee allowable under rules 31 and 32 above shall be payable to a *junior* practitioner engaged with a senior practitioner, provided that the junior was on record from at least the date of the settlement of issues in a suit or from the date fixed for the appearance of the respondent in an appeal.

34. The fee for practitioners appearing in *execution petitions* in small cause or original suits shall be one-fourth of the fee

allowable on the amount or value of the relief granted by the decree as calculated under rule 3 (I) and (II) above irrespective of the number of execution petitions.

35. The fee payable to practitioners in the following *applications* shall be at the discretion of the court subject to the minimum and maximum prescribed in each case :—

(1) *Application for arrest or attachment before judgment (O. XXXVIII, Sch. I, C.P.C.).*—The fee shall be not less than Rs. 5 and not more than Rs. 15 in a Munsif's Court and not less than Rs. 15 and not more than Rs. 25 in a Subordinate Judge's Court or District Court.

(2) *Applications for discovery, inspection and production of documents (O. XI, Sch. I, C.P.C.) and for notice to admit documents (O. XII, Sch. I, C.P.C.).*—The fee shall be Rs. 5 in a Munsif's Court and Rs. 10 in a Subordinate Judge's Court or District Court.

(3) *Applications for injunctions (O. XXXIX, Sch. I, C.P.C.) or for the appointment of Receivers (O. XL, Sch. I, C.P.C.).*—The fee shall be not less than Rs. 5 and not more than Rs. 25 in a Munsif's Court and not less than Rs. 15 and not more than Rs. 50 in a Subordinate Judge's Court or District Court.

(4) *Claim petitions (O. XXI, r. 58, Sch. I, C.P.C.).*—The fee shall be not less than Rs. 5 and not more than Rs. 25 in a Munsif's Court and not less than Rs. 15 and not more than Rs. 50 in a Subordinate Judge's Court or District Court.

(5) *Applications for setting aside execution sales (O. XXI, rr. 89, 90 and 91, Sch. I, C.P.C.).*—The fee shall be one-fourth the fee allowable on the value of the property sold according to the scale prescribed in rule 31 (II) subject to a maximum of Rs. 35 in a Munsif's Court and Rs. 100 in a Subordinate Judge's Court or District Court.

(6) *Applications under O. XXI, rr. 97 and 100, Sch. I, C.P.C.*—The fee shall be not less than Rs. 5 and not more than Rs. 25 in a Munsif's Court and not less than Rs. 15 and not more than Rs. 50 in a Subordinate Judge's Court or District Court.

(7) *Applications to sue or appeal in forma pauperis (O. XXXIII and O. XLIV, Sch. I, C.P.C.), applications for review (O. XLVII, Sch. I, C.P.C.) rejected after notice to the other side but without a rehearing, applications to set aside* ex parte *decrees (O. IX, r. 13, Sch. I, C.P.C. and O. XLI, r. 21, Sch. I, C.P.C.), applications to set aside abatement (O. XXII, Sch. I, C.P.C.) and applications in other cases not above provided for whether before or after decree.*—The fee shall not exceed Rs. 5 in a Munsif's Court and Rs. 15 in a Subordinate Judge's Court or District Court.

(8) *Where a suit or appeal is reheard on review.*—The fee for the rehearing shall be one-fourth the fee allowable on the amount or value of the claim calculated as under rule 31 (II).

(9) *Applications for filing an award passed on a submission out of court* (*r.* 20, *Sch. II, C.P.C.*).—The fee shall be one-half the fee allowable on the amount or value of the matter calculated as under rule 31 (II) subject to a minimum of Rs. 5 and a maximum of Rs. 100.

(10) *Applications for filing an agreement to refer to arbitration* (*r.* 17, *Sch. II, C.P.C.*).—The fee shall be one-half the fee allowable on the amount or value of the matter as under rule 31 (II) subject to a minimum of Rs. 5 and a maximum of Rs. 100.

36. The fee for legal practitioners in *Civil Miscellaneous Appeals* against orders including orders under section 47, Civil Procedure Code, shall be at the discretion of the court subject to a minimum of Rs. 15 and a maximum of Rs. 50.

37. The fee for legal practitioners in the following special cases shall be as noted below :—

(*a*) *Suits under ss.* 91 *and* 92, *C.P.C., suits under the Religious Endowments Act* (*XX of* 1863) *and suits and applications under the Madras Hindu Religious Endowments Act* (*II of* 1927) *other than those provided for in clause* (*aa*) *herein.*—The fees shall be at the discretion of the court subject to a maximum of Rs. 500 and a minimum of Rs. 50.

(*aa*) In the following cases under the Madras Hindu Religious Endowments Act (II of 1927);

(i) Recovery of arrears of contribution by the Board or Committee (s. 69 and s. 70, cl. 2);

(ii) recovery of cost and expenses incurred in connexion with legal proceedings by the Board or Committee (s. 68 and s. 70, cl. 2);

(iii) recovery of fines imposed by the Board on witnesses for default of appearance, etc. (rule 35 of the rules framed by Government in G.O. No. 2934, L. & M., dated 10th July 1926); and

(iv) enforcement of orders passed by the court under section 44;

the same fee as provided in rule 34 on the amount of property claimed, subject to a minimum of rupees ten only.

(*b*) *Declaratory suits.*—The fees shall be as below :—

(1) Where the subject-matter in respect of which relief is claimed is capable of valuation, according to the scale prescribed in rule 31 (II).

(2) Where it is not so capable of valuation, a reasonable fee at the discretion of the court, regard being had to

Clause (*a*) of rule 37 was *substituted* and clause (*aa*) *added* by *H.C.P. Dis.* 585 *of* 1930.

the time occupied in the preparation and hearing of the case and the nature of the questions raised therein subject to a minimum of Rs. 25 in a Munsif's Court and Rs. 100 in a Subordinate Judge's Court or District Court.

(*c*) *Suits under s. 77, Indian Registration Act.*—A reasonable fee at the discretion of the court, regard being had to the time occupied in the preparation and hearing of the case and the nature of the questions raised therein subject to a minimum of Rs. 25 and a maximum of Rs. 100 in a Munsif's Court and a minimum of Rs. 100 and a maximum of Rs. 250 in a Subordinate Judge's Court or District Court.

(*d*) *Interpleader suits.*—The fee to be given to the original plaintiff shall be one-fourth of the fee prescribed under rule 31 (II) subject to a maximum of Rs. 500.

(*e*) *Summary suits under s. 9, Specific Relief Act.*—The fee shall be one-half of the fee prescribed under rule 31 (II) subject to a maximum of Rs. 50 in a Munsif's Court and Rs. 150 in other courts.

(*f*) *Suits under O. XXXVI, Sch. I, C.P.C., and under O. XXXVII, Sch. I, C.P.C., where leave to defend has not been granted.*—The fee shall be half the fee prescribed under rule 31 (II) subject to a maximum of Rs. 500.

(*g*) *Insolvency Proceedings.*—The fees shall be as below :—

(1) *Creditor's petitions.*—Fee not exceeding Rs. 15 in a Munsif's Court and Rs. 50 in a Subordinate Judge's Court or District Court.

(2) *Applications under ss. 53 and 54, Provincial Insolvency Act.*—Fee not exceeding Rs. 35 in a Munsif's Court and Rs. 100 in a Subordinate Judge's Court or District Court.

(3) *Applications for annulment of adjudications.*—Fee not exceeding Rs. 15 in a Munsif's Court and Rs. 100 in a Subordinate Judge's Court or District Court.

(4) *Other petitions.*—Fee not exceeding Rs. 5 in a Munsif's Court and Rs. 15 in a Subordinate Judge's Court or District Court.

NOTE.—No pleader's fee shall be allowed for any proceedings before the Official Receiver.

(*h*) *Applications for Succession Certificate or Letters of Administration.*—The fee shall be one-half of the fee prescribed in rule 31 (II) subject to a minimum of Rs. 5 and a maximum of Rs. 100.

(*j*) *Applications for Probate or Letters of Administration with the will annexed where the genuineness of the will is disputed.*—The fee shall be as prescribed in rule 31 (II) subject to a maximum of Rs. 500.

(*k*) *Applications under Part VII of the Indian Succession Act (XXXIX of 1925).*—The fee shall be one-half of the fee

prescribed in rule 31 (II) subject to a maximum of Rs. 100 and a minimum of Rs. 5.

(*l*) *Applications under the Guardians and Wards Act and under the Indian Lunacy Act.*—The fee shall be at the discretion of the court subject to a maximum of Rs. 100 and a minimum of Rs. 5.

(*m*) *Land Acquisition cases.*—As between the Collector and the claimants the fee shall be 4 per cent on the amount claimed in excess of the award subject to a minimum of Rs. 25 and a maximum of Rs. 500. As between rival claimants, the fee shall be calculated as prescribed for suits under rule 31 (II).

(*n*) *Proceedings relating to recovery of wife, restitution of conjugal rights, divorce and other matrimonial cases.*—The fee shall be at the discretion of the court, having regard to the nature of the contest, subject to a maximum of Rs. 250.

(*o*) *Petitions arising out of elections under the Local Boards and District Municipalities Act.*—The fee shall be at the discretion of the court subject to a maximum of Rs. 500.

(*p*) *Petitions for winding up companies.*—The fee shall be at the discretion of the court subject to a maximum of Rs. 500.

Miscellaneous applications in winding up proceedings.—The fee shall not exceed Rs. 50.

(*q*) *Proceedings relating to Copyright and under the Patents and Designs Act and cases under Special and Local Laws where damages are not claimed.*—The fee shall be at the discretion of the court subject to a maximum of Rs. 250. But where damages are claimed the fee shall be on the amount allowed or disallowed as in suits according to the scale prescribed in rule 31 (II).

37-A. A Subordinate Judge's Court or a District Court shall, when dealing with any suit, application, petition or other matter within the ordinary pecuniary jurisdiction of a Munsif's Court owing to there being no Munsif's Court with jurisdiction, be deemed to be a Munsif's Court for the purposes of rules 31 to 37 *supra*.

High Court.

38. In the High Court, in *appeals from original or appellate decrees* in suits for money, effects or other personal property, or for land or other immovable property of any description, fees are payable on the following scale :—

(*a*) When, at the time of hearing, the appeal stands on the "ready board "—

(i) if the amount or value of the claim does not exceed Rs. 5,000, at 5 per cent;

(ii) if the amount or value exceeds Rs. 5,000 and does not exceed Rs. 20,000, on Rs. 5,000, as above, and on the remainder, at 2 per cent;

(iii) if the amount or value exceeds Rs. 20,000 and does not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder, at 1 per cent;

(iv) if the amount or value exceeds Rs. 50,000 and does not exceed Rs. 80,000, on Rs. 50,000 as above, and on the remainder at $\frac{1}{2}$ per cent;

(v) if the amount or value exceeds Rs. 80,000, Rs. 1,000.

(*b*) When, at the time of hearing, the appeal does not stand on the "ready board" but printing of the records has been applied for and the estimated printing charges have been paid by the party to whom costs are awarded—

(i) if the amount or value of the claim does not exceed Rs. 5,000, at $2\frac{1}{2}$ per cent;

(ii) if the amount or value exceeds Rs. 5,000 and does not exceed Rs. 20,000, on Rs. 5,000, as above, and on the remainder, at 1 per cent;

(iii) if the amount or value exceeds Rs. 20,000 and does not exceed Rs. 50,000, on Rs. 20,000, as above, and on the remainder, at $\frac{1}{2}$ per cent;

(iv) if the amount or value exceeds Rs. 50,000 and does not exceed Rs. 80,000, on Rs. 50,000, as above, and on the remainder, at $\frac{1}{4}$ per cent;

(v) if the amount or value exceeds Rs. 80,000, Rs. 500.

(*c*) When, at the time of hearing, the appeal does not stand on the "ready board" but notice has been served and appearance (in the case of respondent) has been entered but no printing charges have been paid—

(i) if the amount or value of the claim does not exceed Rs. 5,000, at $1\frac{1}{4}$ per cent;

(ii) if the amount or value exceeds Rs. 5,000, and does not exceed Rs. 20,000, on Rs. 5,000, as above, and on the remainder, at $\frac{1}{2}$ per cent;

(iii) if the amount or value exceeds Rs. 20,000, and does not exceed Rs. 50,000, on Rs. 20,000, as above, and on the remainder, at $\frac{1}{4}$ per cent;

(iv) if the amount or value exceeds Rs. 50,000, and does not exceed Rs. 80,000, on Rs. 50,000, as above, and on the remainder, at $\frac{1}{8}$ per cent;

(v) if the amount or value exceeds Rs. 80,000, Rs. 250.

39. In the High Court, in *appeals from orders, rehearing on review, and other miscellaneous cases* (not being applications provided for in rule 48) fees are payable on the following scale:—

(i) if the amount or value of the claim does not exceed Rs. 5,000, at $1\frac{1}{4}$ per cent;

(ii) if the amount or value exceeds Rs. 5,000, and does not exceed Rs. 20,000, on Rs. 5,000, as above, and on the remainder, at $\frac{1}{2}$ per cent;

(iii) if the amount or value exceeds Rs. 20,000 and does not exceed Rs. 50,000, on Rs. 20,000, as above, and on the remainder, at $\frac{1}{4}$ per cent;

(vi) if the amount or value exceeds Rs. 50,000, and does not exceed Rs. 80,000, on Rs. 50,000, as above, and on the remainder, at $\frac{1}{8}$ per cent;

(v) if the amount or value exceeds Rs. 80,000, Rs. 250.

40. In *appeals* the fees payable under rules 38 and 39 shall be subject to the following *minima* :—

(*a*) In *appeals* to the High Court from *original* decrees—

	Minimum fee. RS.
(i) when, at the time of hearing, the appeal stands on the " ready board "	100
(ii) when, at the time of hearing, application for printing and payment of printing charges have been made by the successful party ...	50
(iii) when, at the time of hearing, notice has been served on and (in the case of respondent) appearance entered by the successful party.	25

(*b*) In *appeals* to the High Court from *appellate* decrees—

(i) when, at the time of hearing, the appeal stands on the " ready board "	35
(ii) when, at the time of hearing, applications for printing and payment of printing charges have been made by the successful party	25

(*c*) In all other cases on the Appellate Side of the High Court not hereinbefore specified and not being applications mentioned in rule 48 25

General.

41. The words " the amount or value of the claim " in rules 31 to 39 mean the value as set forth in the plaint, memorandum of appeal or cross-objection or petition and, where court fees are payable *ad valorem*, the value on which such court fees are paid. Where the claim does not admit of valuation but is valued for purposes of jurisdiction, the fee for practitioners shall, unless the court orders to the contrary, be calculated on such value according to the scale fixed in rules 31 and 32 above.

42. Fractions of a rupee in the amount or value of a claim are to be rejected in calculating the fee payable thereupon.

43. *In cases in which the subject-matter of the claim does not admit of valuation*, the court, or in the case of the High Court, the taxing officer, shall fix a reasonable fee, regard being had to the time occupied in the preparation and hearing of the case and

the nature of the questions raised therein, as also to the minima fees prescribed by rule 40.

44. If several defendants or respondents who have a joint or common interest succeed upon a *joint defence*, or upon separate defences substantially the same, not more than one fee shall be allowed, unless the court shall otherwise order for a reason which shall be recorded in the judgment. If only one fee be allowed, the court shall direct to which of the defendants or respondents it shall be paid or shall apportion it among the several defendants or respondents in such manner as the court shall think fit.

45. If several defendants or respondents who have separate interests set up *separate and distinct defences* and succeed thereon, a fee for one legal practitioner for each of the defendants or respondents who shall appear by a separate legal practitioner may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated with reference to the value of the separate interest of such defendant or respondent, in the manner hereinbefore prescribed.

46. On the Appellate Side of the High Court (except in appeals from the Original Side) in *cases of special difficulty or importance*, the Judge or Bench disposing of an appeal or other matter may, on the application of a party, direct that (1) a higher fee than would ordinarily be admissible under these rules be allowed, (2) two sets of fees be allowed to a party who has engaged more than one legal practitioner and ~~the taxing officer shall thereupon allow to that party a second fee equal to half the fee that would ordinarily be admissible under these rules.~~

47. For each fee allowed under the three last preceding rules, the value of the stamp on one vakalatnama only shall be awarded as costs.

48. On the Appellate Side of the High Court, in all *interlocutory applications* in pending appeals or other matters and in all *miscellaneous applications* after their disposal, which are decided on the merits after contest, the taxing officer shall fix a reasonable fee not in any case exceeding Rs. 50.

49. Except where an *adjournment* is made with the consent of all parties or where from insufficiency of notice a party has not had reasonable time to prepare himself for trial or where the adjournment is necessitated by a cause beyond the control of the party, an adjournment should not be granted, save on the condition that the party applying pays all the costs of the day including a reasonable fee to the legal practitioner engaged by his adversary. In a District Munsif's Court, a sum not exceeding Rs. 10, in a Subordinate Judge's Court or a District Court a sum not exceeding Rs. 20, and on the Appellate Side of the High Court a sum not

No. 57.

Page 312, *rule* 46.—*Delete* the last clause commencing with the words "and the taxing officer."

NOTE.—These amendments shall apply only to appeals filed on or after 1st October 1942.

(*P. Dis. No.* 795 *of* 1942.)

[VII list, 12-1-43]

exceeding Rs. 25, shall be deemed to be a reasonable fee within the meaning of this rule.

50. Where a suit or an appeal is *remanded* by an appellate court for retrial, a fee of one-third the fee allowable under rule 31 (II) or 32 (*a*) shall be allowed for the hearing after remand, in addition to the fee allowable for the original trial. Where the appellate court has called for a *finding* only, no such additional fee is allowable for appearance before the court from which the finding has been called for.

50-A. In cases in which the court directs that the appellant and respondent do pay and receive *proportionate costs*, the whole costs incurred by each party, including court fees, pleader's fees, printing and translation charges, cost of printed papers, batta, etc., shall, unless the court otherwise orders, be taxed by the taxing officer and, after such taxation, ordered to be paid and received in the proportion in which the parties have respectively succeeded or failed.

Presidency Court of Small Causes, Madras.

51. Where costs are awarded by the court, and where the certificate prescribed in rule 30 of these rules has been obtained, the fees payable in respect of an adversary's advocate, attorney or vakil in the *Presidency Court of Small Causes* shall be as follows :—

In suit not exceeding Rs. 10 in value, a fee not exceeding Re. 1, in suit exceeding Rs. 10 but not exceeding Rs. 20 in value a fee of Rs. 2, in suit exceeding Rs. 20 but not exceeding Rs. 50 in value a fee of Rs. 5, in suit exceeding Rs. 50 but not exceeding Rs. 100 in value a fee of Rs. 10, in suit exceeding Rs. 100 but not exceeding Rs. 200 in value a fee of Rs. 15, in suit exceeding Rs. 200 but not exceeding Rs. 300 in value a fee of Rs. 20, in suit exceeding Rs. 300 but not exceeding Rs. 400 in value a fee of Rs. 25, in suit exceeding Rs. 400 but not exceeding Rs. 500 in value a fee of Rs. 30, in suit exceeding Rs. 500 but not exceeding Rs. 700 in value a fee of Rs. 35, in suit exceeding Rs. 700 but not exceeding Rs. 800 in value a fee of Rs. 40, in suit exceeding Rs. 800 in value, an additional Re. 1, for every twenty rupees or fraction thereof by which the suit value exceeds Rs. 800.

52. Fees shall be fixed at the termination of a suit, and, except as hereinafter mentioned (rule 53), shall be in full satisfaction for all trouble and attendances bestowed, but exclusive of any compensation which may be granted under section 26, or section 62 of Act XV of 1882.

53. Except where an adjournment is made with the consent of all parties, or where, from insufficiency of notice, a party has not had reasonable time to prepare himself for trial, or where the adjournment is necessitated by a cause beyond the control of the

party, an adjournment shall not be granted save on the condition that the party applying pays all the costs of the day including a reasonable fee not exceeding Rs. 10 to the legal practitioner engaged by his adversary.

54. Except by special leave of the court, fees shall not be allowed in cases entered as compromised, or in any case where the defendant, three days before the day of hearing, has intimated to the court his intention not to contest the plaintiff's demand. When the defendant confesses judgment or where a number of suits by the same plaintiff are summarily disposed of in succession, the court shall exercise its discretion in granting fees. In cases of a value exceeding Rs. 500 decided *ex parte*, three-fifths of the fee usually allowable may be allowed subject to a minimum of Rs. 30.

55. In respect of claims and proceedings under Chapter VIII of Act XV of 1882 and other miscellaneous proceedings, the court may allow an advocate, attorney or pleader, such fee as it thinks fit, provided that it shall ordinarily be guided by the scales contained in these rules, and that the highest rate of fee allowed is in no case exceeded.

56. For the purpose of determining the fee to be allowed in suits for ejectment, the amount of one year's rent, and in other suits or proceedings, the amount of debt or damage claimed, or value of the property in dispute, shall be taken to be the value of the suit.

57. Fees shall not be allowed in any case unless by order of the judge; and he shall determine and certify in each case what fee or fees shall be allowed and by whom they shall be paid.

C.—* Rules regarding Pleaders' Clerks in Mufassal Civil and Criminal Courts.

1. The rules shall come into force on the 1st day of January 1937 in civil and criminal courts in the mufassal.

2. In these rules, the expression—

"Pleader" means and includes all legal practitioners recognized under the Legal Practitioners Act;

"District Judge" means the judge having jurisdiction over a judicial district;

"District Magistrate" means a magistrate of the first class appointed by the Local Government for every district outside the Presidency town;

"Recognized clerk" means a clerk employed by a pleader and permitted as such to have access to the courts in which his employer is authorized to practise and to the offices attached thereto.

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* As revised by *H.C. P. Dis.* 799 *of* 1936 and further amended by 648 of 1938 and 558 of 1939.

3. A pleader shall have at a time not more than two recognized clerks, unless the District Judge by general or special order otherwise directs.

4. The District Judge shall maintain a register * of all recognized clerks employed within his jurisdiction. The District Judge shall direct his sarishtadar to issue under his signature to each recognized clerk, a card, which shall be strictly non-transferable in form No. 7† and it shall be produced by the holder upon request of a member of the court establishment. These cards shall be forwarded to the District Judge for renewal so as to reach him on or before the first day of December each year, by the pleader under whom the recognized clerk is working through the judge or magistrate presiding in the court in which the pleader ordinarily practises.

If the application for the renewal of a card shall not be made within the time prescribed in this rule, no renewal shall be made unless the District Judge is satisfied for good reasons that such failure should be excused.

5. The register prescribed by rule 4 shall contain the name, father's name, and residence of each recognized clerk, the date of his registration, the name of the pleader by whom he is employed, the courts in the districts in which his employer is authorized to practise, the date of his removal from the register and a column for remarks. Copies of the register shall be supplied by the District Judge at the commencement of each year to all subordinate civil courts within his jurisdiction and to the District Magistrate of the district, for supply to magistrates subordinate to him in the district.

6. No clerk employed by a pleader shall as such be allowed access to any of the courts of the district, or any of the offices attached thereto, unless he is for the time being a recognized clerk.

7. Whenever a pleader ceases to employ a recognized clerk, he should notify the fact to the District Judge. The District Judge will thereupon order the removal of such recognized clerk's name from the register and the cancellation of his card and notify the fact of removal to other civil courts in the district, and to the District Magistrate of the district for communication to the Subordinate Magistrates in the district. The District Judge will also inform the District Judge of each of the other districts mentioned in the card of the order of removal and cancellation for similar notification and communication to be made.

If, on the death, retirement, discharge or dismissal of a recognized clerk, a pleader wishes to engage another in his place, he shall apply to the District Judge for recognition. He shall be

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* Vide Civil Register No. 50-A in Appx. II of Part II, Vol. II.
† Vide Form No. 5 of Part II in Appx. III-I of Part II, Vol. II.

entitled to look into the register (copy of which is maintained in all the civil and criminal courts in the district) to satisfy himself whether the person seeking his employment had previously been in the employment of another pleader.

8. The District Judge may for misconduct order the removal of a recognized clerk's name from the register and the cancellation of his card. In such an event, a notification similar to that provided for in rule 7 shall be made.

9. The District Judge may, at his discretion, refuse to register again a clerk who has once been removed from the register on account of his dismissal or discharge. No appeal shall lie against the refusal of the District Judge to re-register a clerk who has been removed from the register, for the reasons aforesaid.

10. No person registered as the recognized clerk of one pleader shall do business in the courts or offices thereof on behalf of any other pleader, except in the case of illness or absence on leave of any recognized clerk, when the presiding judge or magistrate of the court may on the written requisition of the pleader under whom the recognized clerk is engaged, permit the recognized clerk of another pleader to discharge the absentee's duties for a period not exceeding 15 days. Provided, however, that a recognized pleader's clerk may serve more than one pleader, if the pleaders work together in the same office as father and son, or brothers or as partners. Any recognized clerk who contravenes this rule shall be liable to be struck off the register.

11. District Judges should submit to the High Court, on or before the 31st January of each year, a statement showing :—

(*a*) The number of recognized pleaders' clerks whose names are in the register on the last date of the year; and

(*b*) the number of such recognized clerks who have applied for the renewal of their cards, for the succeeding year.

12. Nothing in these rules shall be deemed to authorize indiscriminate entry of pleaders' clerks into the offices attached to courts, or any violation of the High Court Circular Dis. No. 168, dated the 6th February 1905 (reproduced below).

No pleader, pleader's clerk, party or other person not belonging to the establishment should ever be allowed to enter the office room in which the clerks are employed. The only clerk with whom the outside public is allowed to deal is the chief ministerial officer of the court, and he should sit apart from the other clerks, in a separate room, if possible, and should there receive plaints, petitions, etc., and answer such questions, as pleaders and others are entitled to ask him. It is utterly subversive of all discipline to allow pleader's gumastas to go into the clerks' room to talk to them and see papers there.

NOTE.—This order is not intended to prohibit pleaders and others who have business with the Superintendent of copyists, or the nazir, or deputy nazir, or, in a District and Sessions Court, with the head clerk, from consulting those officers in the rooms where they sit.

CHAPTER XI.

Rules under the Destruction of Records Act (Act V of 1917).

1. *Index paper to be opened.*—An index of the form prescribed in Part A of the appendix hereto shall be put up with the record of every case, other than an uncontested suit or proceeding in the Court of Small Causes, Madras, on its first institution in each court, and each paper, as it is filed with the record, shall be entered in such index.

The index paper itself and the B diary need not be entered in the index. The date of issue of processes shall be entered in column 2 of the form and the date of return after execution in column 3. The dates on which depositions, judgments and decrees were completed or signed by the judge shall be entered in column 2, and the date of receipt by the suits clerk shall be shown in column 3.

2. *Records to be divided into parts.*—Every record shall, after its completion and immediately before it is deposited in the record room, be divided into parts as shown in the table given in Part B of the Appendix, and to facilitate this division, each paper other than records in uncontested suits or proceedings in the Court of Small Causes, Madras, shall, so soon as it is filed with the record, be numbered and marked off in the index as appertaining to one or another of such parts.

Unfiled documents to be kept apart and destroyed.—Other documents which have been produced by parties but have either not been tendered in evidence, or, having been tendered in evidence, have been rejected, shall be kept apart from the record of the suit or other proceeding to which they belong and shall, if not reclaimed by the party who produced them, be retained in the court in which they were produced for a period of one year from the date of the final order of the court in the suit or proceeding in which the documents were produced, and shall, at the expiration of that period, be destroyed in the manner prescribed by rule 6 *infra*.

Provided that notice of destruction shall be given in the manner prescribed by rule 7 *infra* in the month of January succeeding the date of expiry of the period of one year referred to in this rule and also by affixing to the notice board of the court (at the time of publication in the Gazette) a copy of the notice published in the District Gazette. Rule 8 *infra* shall not apply to such documents.

No application is necessary for the return of the documents produced, which have either not been tendered in evidence, or, if tendered, have been rejected. It is sufficient if a receipt for their return is taken in the list with which they have been put up.

3. *Periods of retention of records.*—The parts of records described in the table given in Part C of the Appendix shall be retained for the periods respectively specified against them from the date of their completion * provided that in any case the presiding judge or magistrate may, for reasons to be recorded in writing, direct that any of the papers in any one part be transferred to any other part for which a longer period of retention is prescribed; in which case the fact shall be noted in the index and the papers dealt with as if they had belonged from the commencement to the part to which they were so transferred.

Processes to defendants in ex parte *suits.*—The processes issued to defendants or respondents who are *ex parte* in suits or appeals falling under sub-heads 1 (*d*), 2 and 3 of Part C-1 shall be transmitted by the District Court to subordinate courts at the time of the destruction of Part I so that they may be included in Part I of the execution record, in cases in which the execution is not complete. If at the time of the destruction of Part I execution is complete, the record-keeper should include the said processes in Part I execution record.

4. *Periods of retention of court registers, etc.*—The court registers, books and papers described in the table given in Part D of the Appendix, shall be retained for the periods respectively specified against them reckoning from their respective dates or from the dates at which they close.

Provided that the District Judge or District Magistrate may, in his discretion, direct the retention, for a longer period or permanently, of papers which he may consider likely to be useful in the future, as containing the results of inquiries or other information, or the opinions of experienced officers in matters connected with the general administration of justice; and provided also that no court subordinate to the District Judge nor any criminal court subordinate to the Magistrate of the district shall cause any papers to be destroyed under the next succeeding rule without having first obtained from such District Judge or Magistrate of the district, as the case may be, permission in writing to do so.

Documents ripe for destruction re-exhibited.—Where any document of which the destruction is ordered by these rules is, before it has been destroyed, made evidence in any other suit or proceeding, the rule regarding its destruction shall be the rule applicable to evidence filed in such suit or proceeding where the period prescribed by such last-mentioned rule is in excess of the period prescribed by the rule which originally governed its destruction.

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* For the date on which the records in the several classes of cases should be deemed to have reached completion—see Notes (1) and (2) under Appx. C.

5. *Books and papers to be destroyed after prescribed period.*—All records, books and papers described in the tables given in Parts C and D of the Appendix, shall be destroyed without fail at the expiration of the periods respectively indicated against them unless the High Court sanctions their disposal in any other manner.

Provided that documents produced in courts by Government officials or sent for under Order XIII, rule 10 of Schedule I, Code of Civil Procedure, 1908, shall not be destroyed, but shall, if not previously returned, be transmitted to the responsible officers on the expiry of the period prescribed for their retention.

5-A. *Records which are not to be destroyed.*—The following should on no account be destroyed :—

Records connected with expenditure which is within the statute of limitation.

Records connected with expenditure on projects, schemes or works not completed although beyond the period of limitation.

Records connected with claims to service and personal matters affecting persons in service.

Orders and sanctions of a permanent character until revised.

5-B. *Records of Village Panchayat Courts.*—All records of civil suits of village panchayat courts other than those mentioned in sub-head 8 of Appendix B—Civil—Part I shall, unless the High Court sanctions their disposal in any other manner, be destroyed by the presidents of the panchayat courts a week after the transmission of the records to the District Munsifs' Courts under rule 54 of the rules framed by the Government under the Madras Village Courts Act, 1888, as amended by Madras Act II of 1920. Before destruction, proclamation in the village by beat of tom-tom shall be made, but the previous permission of the District Judge as prescribed by the proviso to rule 4 above is not necessary.

6. *Districts and Fort St. George Gazettes.*—With the exception of District Gazettes, Parts I-A, I-B, II, III and IV of the *Fort St. George Gazette* and Parts I, II and III and supplements of the *Government of India Gazette,* which may be sold as waste paper, all other records, books and papers to be destroyed under rule 5 shall be burnt in the presence of the record-keeper.

Whenever records, books or papers are destroyed under rule 5, a complete list of the records, books or papers so destroyed shall be prepared and the date of destruction shall be entered at the head thereof. It shall be the duty of the record-keeper (or his assistant, if there is one) to certify the correctness of these lists. Whenever in sessions cases judgments in which the sentence passed is one of transportation for life are destroyed, the record-keeper (or his assistant, as the case may be) shall also certify that the judgment is destroyed either because a report of the

Rules 5 and 5-B were last amended by *H.C. P. Dis.* 1031 *of* 1940.

convict's death has been received or because the convict has been released.

7. *Publication of list of documents to be destroyed in the Gazette.*—To enable parties, who have filed documents in court, to withdraw the same before the period appointed for their destruction, a notice shall be published in the District Gazette in January of each year stating that all documents filed in the suits (to be therein enumerated) will, unless previously reclaimed, be destroyed at the expiration of the period indicated in the notice; and the following note shall also be entered at the foot of every copy of a decree or order granted to any of the parties to the suit or proceeding in which such decree or order was made or to the pleaders or authorized agents of such parties :—

" The parties should apply as soon as possible for the return of all exhibits which they may wish to preserve, as the record will be liable to be destroyed after three years from this date."

8. *Submission of records to District Court for safe custody.*—All courts subordinate to the District Court, except where otherwise ordered by the High Court for special reasons, shall send to the District Court during each of the three periods from the 1st January to the 31st March, the 1st April to the 31st August and the 1st September to the 31st December, at such time as the District Judge may fix, the records of all suits tried by them during the previous period and the records in execution or miscellaneous proceedings in which full satisfaction has been recorded or which have become time-barred or have reached completion. This rule shall apply also to the records of small cause suits. On receipt of the records of suits, the District Court record-keeper shall satisfy himself that the papers in the records are arranged, and the index prepared, in the mode prescribed by rules 1 and 2.

NOTE.—If at the time when copies of the judgment and decree of the appellate court are received in a District Munsif's Court under Order XLI, rule 37 of the Code of Civil Procedure, the records of the original proceedings with which such copies are to be filed, are in the District Court, the necessary entry should be made in the register of civil suits as required by the aforesaid rule, and the copies of the appellate decree and judgment should then be returned to the District Court in order that they may be filed with the original records there. (*H.C. Dis. No.* 320 *of* 1909.)

9. *Rules applicable only to judicial records.*—The above rules do not apply to non-magisterial records of revenue officers, such as gazette files, etc., but apply only to the judicial records of these officers.

10. *Registers prescribed.*—In order to facilitate the work of destruction of records there shall be maintained in the record room of every District Court five registers in the forms prescribed in Part E of the Appendix and it shall be the duty of the record-keeper to see that all records received by him in accordance with rule 8 are entered at once in the appropriate registers.

APPENDIX.

A

Form of Index.

(Rules 1 and 2.)

[Vide C.M.F. No. 71, Appx. III-L, Part II, Vol. II.]

B

Table showing the divisions of the record and the description of the papers falling under each division.

(Rule 2.)

CIVIL.

Part I.

Class of cases.	Divisions of the record and description of the papers falling under each division.
1. Suits or appeals falling under sub-head 1 of table C (civil).	1. Index. 2. Plaint including schedule and genealogical tables. 3. Written statements. 4. Judgment and decree (Original and Appellate), including the draft * judgment as finally settled, signed and delivered and, when a decree has been passed upon a razinama, the razinama itself and the judgment and decree on remand or finding and also the judgment or order remitting an issue for a finding and a finding thereon. 5. Applications by a next friend or guardian *ad litem* to enter into any agreement or compromise on behalf of the minor, and the orders passed thereon. 6. Processes issued to defendants and respondents in *ex parte* proceedings. 7. Appeal memorandum.
2. Suits or appeals falling under sub-head 1 (*d*) of table C (civil).	1. Order appointing a guardian *ad litem*. 2. Agreement to state a case for decision. 3. Application for arbitration. 4. Order of reference to arbitration. 5. Award. 6. Order appointing receivers. 7. Judgment and order remanding or remitting a suit on issues. 8. Commissioners' reports, maps and plans.
3. Execution proceedings—Sub-head 4 (*a*) of table C (civil).	1. Index. 2. Final judgment and order (Original and Appellate). 3. Application for execution. 4. Counter-application including claims and objections. 5. Order directing execution. 6. Order allowing time for satisfaction of judgment.

* The transcript in long hand of the oral judgment delivered to the shorthand writer under O. XX, r. 1, C.P.C., when signed by the judge, shall be deemed to be the draft judgment for the purposes of the rules for the destruction of records and for the preservation of judgments.
(*H.C. Dis.* 2036 *of* 1914.)

Table showing the divisions of the record and the description of the papers falling under each division—cont.

CIVIL—*cont.*

Part I—*cont.*

Class of cases.	Divisions of the record and description of the papers falling under each division.
3. Execution proceedings—Sub-head 4 (*a*) of table C (civil)—*cont.*	7. Order recording payment or satisfaction in whole or in part of judgment debt. 8. Report of sale by Court's officers. 9. Orders confirming sales. 10. Order for delivery of possession. 11. Report of delivery of possession. 12. Appeal memorandum. 13. Judgments and orders in appeal. 14. Processes to defendants and respondents in *ex parte* proceedings.
4. Insolvency cases—Sub-head 4 (*b*) of table C (civil).	1. Index. 2. Decisions on questions of title, priority, etc., arising in insolvency. 3. Insolvency petition. 4. Order dismissing the insolvency petition. 5. Order of adjudication. 6. Schedule of creditors. 7. Order annulling adjudication under section 35 of the Provincial Insolvency Act (V of 1920). 8. Order on proposal for composition or scheme of arrangement. 9. Order on application for discharge. 10. Report of the receiver. 11. Order annulling adjudication on failure to apply for discharge. 12. Order annulling voluntary transfer (if it relates to immovable property). 13. Order annulling preferences (if it relates to immovable property). 14. Judgment and order on appeals.
5. Proceedings relating to Probates and Letters of Administration—Sub-head 4 (*c*) of table C (civil).	Probates and Letters of Administration and wills filed with applications for the grant of probate and letters of administration which have been dismissed.
6. Small Cause Court suits and village munsif court suits falling under sub-heads 2 and 3 and miscellaneous proceedings falling under sub-head 4 (*e*) of table C (civil).	Entire records.
7. (*a*) Guardian Proceedings.	(*a*) Entire records except batta memorandums, notices and publications in newspapers.
(*b*) Proceedings under section 83 of the Transfer of Property Act (IV of 1882) relating to minor mortgagees.	(*b*) 1. Application. 2. Verified petition of the mortgagee stating his willingness to accept the deposit. 3. Order thereon. 4. Order of payment of money.

Table showing the divisions of the record and the description of the papers falling under each division—cont.

CIVIL—*cont.*

Part I—*cont.*

Class of cases.	Divisions of the record and description of the papers falling under each division.
8. Village Panchayat Court suits falling under sub-head 3 of table C (civil).	1. Plaint. 2. Written statement. 3. Decree. 4. Suit documents. 5. Processes issued to defendants in *ex parte* proceedings. 6. Execution petition.

Part II.

1. Suits or appeals falling under sub-heads 1 (*a*), (*b*) and (*c*) of table C (civil).	1. Order appointing a guardian *ad litem*. 2. Agreement to state a case for decision. 3. Application for arbitration. 4. Order of reference to arbitration. 5. Award. 6. Order appointing receivers. 7. Judgment and order remanding or remitting a suit on issues. 8. Commissioners' reports, maps and plans.
2. Proceedings relating to Probates and Letters of Administration—Sub-head 4 (*c*) of table C (civil).	1. Application. 2. Accounts filed.
3. Insolvency cases falling under sub-head 4 (*b*) of table C (civil).	All papers not already specified.

Part III.

1. All suits and miscellaneous proceedings other than those falling under sub-heads 4 (*b*), (*d*) and (*e*) of table C (civil).	1. Documentary evidence. 2. B. Diary. 3. Issues. 4. Oral evidence. 5. All papers not already specified.
2. (*a*) Guardian Proceedings and (*b*) Proceedings under section 83 of the Transfer of Property Act (IV of 1882) relating to minor mortgagees, falling under sub-head 4 (*d*) of table C (civil).	(*a*) Batta memorandums, notices and publications in newspapers, and (*b*) All papers not already specified in Part I.

CRIMINAL.

Part I.

1. Trials (other than summary).	1. Index. 2. Judgment and sentence, if any (Original and Appellate). 3. Petition of appeal, or application for revision, or letter of referring court, and judgment and order thereon. 4. Charges. 5. Documentary evidence.

Table showing the divisions of the record and the description of the papers falling under each division—cont.

CRIMINAL—*cont.*

Part I—*cont.*

Class of cases.	Divisions of the record and description of the papers falling under each division.
2. Summary trial	All papers including register.
3. Miscellaneous cases ..	1. Index. 2. Order and grounds, if any (Original and Appellate). 3. Petition of appeal, or application for revision, or letter of referring court, and judgment and order thereon. 4. Documentary evidence.

Part II.

1. Trials (other than summary).	1. Warrant of commitment to jail, if any. 2. Complaints to Magistrates, when acted upon by the Magistrate. 3. Reports by the Police under sections 174 and 175 of the Criminal Procedure Code, Act V of 1898, when followed by action on the part of the courts. 4. Oral evidence. 5. All papers not already specified.
2. Miscellaneous cases ..	1. Oral evidence. 2. All papers not already specified.

C

Table showing the periods prescribed for the retention of the various parts of the records in the various classes of proceedings.

(Rule 3.)

PART I—CIVIL.

Nature of proceedings.	Number of years for which records are to be retained.		
	Part I.	Part II.	Part III.
1. In suits or appeals—			
(*a*) For or affecting immovable property other than for foreclosure of mortgage	Permanent ..	5	3
(*b*) In respect of succession to an office; or to establish or set aside an adoption, or otherwise to determine the status of an individual or in suits under the Indian Succession Act (X of 1865) and the Hindu Wills Act (XXI of 1870), or in cases under the Indian Divorce Act (IV of 1869), the Indian Succession Act (XXXIX of 1925), and the Land Acquisition Act (I of 1894). Decisions regarding a public right or custom or any matter affecting the public or portion of it ..	20	5	3
(*c*) For foreclosure of mortgage ..	15	5	3
(*d*) Not already named	6	..	3

Table showing the periods prescribed for the retention of the various parts of the records in the various classes of proceedings—cont.

PART I—CIVIL—*cont.*

Nature of proceedings.	Number of years for which records are to be retained.		
	Part I.	Part II.	Part III.
2. In small cause suits	4	..	..
3. In village court suits	3	..	..
4. In miscellaneous proceedings—			
(*a*) In execution cases	6	..	3
(*b*) In insolvency cases	20	6	..
(*c*) In proceedings relating to Probates and Letters of Administration	20	5	3
(*d*) In guardian proceedings and proceedings under section 83 of the Transfer of Property Act (IV of 1882), relating to minor mortgagees.	Until three years after the minority ceases.	..	3
(*e*) In other miscellaneous proceedings	3	..	..

NOTE.—(1) In *civil execution cases* the record must be taken to have reached completion on the date the decree is recorded as satisfied in full, and when further execution proceedings are not taken on the expiry of six years from the date of the final order on the last application for execution. [See also Circular Order II (7) at page 331.]

In *insolvency cases* the date of completion of the record will be the date of closing the administration of the estate by the Official Receiver, or the date of absolute discharge or of annulment of adjudication under section 43 or of the final appellate order thereon whichever is the latest. The insolvency records should not be destroyed where there is neither discharge nor annulment of adjudication and the insolvent is alive.

(2) In *all other cases*, the records must be taken to have reached their completion on the date of the final order or decree of the court of first instance, or in the event of an appeal, from the date of the final order or decree of the appellate court.

(3) Suits described in serial numbers 1, 2, 3, 4 (so far as appealable to the District Court), 5, 6, 12, 17, 19 and 20 of Part A of the Schedule to the Madras Estates Land Act, 1908, which affect immovable property, shall be brought under 1 (*a*) and other classes of suits—except the plaints and decrees in suits for arrears of rent under section 77 of the Madras Estates Land Act, 1908, which will be retained for a period of twelve years—under 1 (*d*).

(4) All security bonds taken in proceedings under the Guardians and Wards Act, VIII of 1890, the Indian Succession Act, XXXIX of 1925 and rule 6, Order XXXII, Civil Procedure Code, shall be retained for thirty years; where, however, Letters of Administration are granted with will annexed or the court requires security from an executor, the bonds shall be retained permanently.

(5) Decrees for maintenance in which there is a recurring liability for an indefinite period, whether or not a charge is created on immovable property, should be brought under item 1 (*a*) of table C-1 (civil) and retained permanently. (*G.O. Ms. 4505, H., d.* 10-11-1937.)

Table showing the periods prescribed for the retention of the various parts of the records in the various classes of proceedings—cont.

PART II—CRIMINAL.

Nature of proceedings.	Number of years for which records are to be retained.	
	Part I.	Part II.
1. In trials and appeals—		
(*a*) Sessions cases	20	3
N.B.—In cases in which the sentence passed is one of transportation for life, judgment must be preserved until a report is received of the convict's death or release.		
(*b*) Warrant cases	20	3
(*c*) Summons cases	5	3
(*d*) Summary trials—		
(A) Forms kept under section 263 of the Code of Criminal Procedure and judgment recorded under section 264 in cases where either [1] some of the accused or parties proceeded against have not been apprehended, or [2] the accused or any of them have been convicted of an offence a repetition of which renders the offender liable to whipping or to enhanced punishment	10	..
(B) All other records	3	..
(*e*) All records in criminal cases before Village Magistrates and Panchayat Courts except documentary evidence	1	..
(*f*) Documentary evidence in cases before Village Magistrates and Panchayat courts	3	..
2. In miscellaneous proceedings—		
(*a*) Maintenance	20	3
(*b*) Nuisance (Jury)	10	3
(*c*) Security to keep the peace or for good behaviour	10	3
(*d*) Other miscellaneous proceedings	3	3

NOTE.—The records of (*a*) cases under the City Police Act (III of 1888), other than those falling under sections 37, 45, 46, 53, 64 and 65 thereof and (*b*) cases under the Hackney Carriages Act (V of 1911), in the Courts of the Presidency Magistrates in the City of Madras, may be destroyed after one year. (*G.O. Ms.* 20, *H.*, *d.* 3-1-1938.)

D

Table showing the periods prescribed for the retention of the various court registers, books and papers.

(Rule 4.)

Number.	Description of court registers, books and papers.	Number of years for which registers, etc., are to be retained.
1	Register of suits (civil) other than that of a village court	Permanent.
2	Register of appeals (civil)	Do.
2 (*a*)	Register of miscellaneous appeals received (civil) ..	Do.
2 (*b*)	Register of insolvency petitions received	Do.
2 (*c*)	Register of insolvency petitions disposed of	Do.

Table showing the periods prescribed for the retention of the various court registers, books and papers—cont.

Number.	Description of court registers, books and papers.	Number of years for which registers, etc., are to be retained.
2 (*d*)	Register of proceedings in insolvency subsequent to orders of adjudication.	Permanent.
3	Repealed Acts of permanent value	Do.
4	Cash book and ledger	25
5	Register of Small Causes	20
5 (*a*)	Dividend register in insolvency	20
5 (*b*)	Register of assets in insolvency	20
5 (*c*)	Register of leases in insolvency	20
6	A Diaries from the dates on which they close ..	5
6 (*a*)	Village court's register of suits (civil)	12
7	Register (other than of summary trials) in the use of Criminal courts including courts of Village Magistrates and Panchayat courts	5
8	Register of court-fees and registers in the Nazarat department	3
9	Register of execution petitions and register of execution proceedings in suits of other courts. ..	12
10	Copyists' registers and process service registers ..	3
10 (*a*)	Registers of deposits relating to receipts and repayments	10 years or so long as any outstandings remain.
11	Other registers—	
	(*a*) Account books other than cash book and ledger, Register of applications for return of documents, Receipt books for documents returned to parties, Stationery accounts, Postage accounts, Contingent bills and registers, Register of Commissions issued..	5
	(*b*) Registers of movable and immovable property attached	12
12	Chalan and cheque books	10
12 (*a*)	Magisterial and Judicial registers of correspondence received and despatched and administrative registers of despatch	5
12 (*b*)	Receipt Registers of administrative correspondence ..	10
13	Other court or office-books and registers other than Civil Register No. 50 (Register of Pleaders and their gumastas)	3
13 (*a*)	Quarterly Civil Lists, Lawrence Asylum Press Almanacs, Lists of Judicial Establishments, Postal and Telegraph Guides and other similar books ..	3
13 (*b*)	Civil Register No. 50 (Register of Pleaders and their gumastas)	12
14	District Gazette	3
15	*Fort St. George Gazette*	Permanent.
	Except Parts I-A, I-B, II, III and IV	10
16	Government of India Gazette, Parts I, II and III ..	10
	Government of India Gazette Supplements	3
	Rest	Permanent.
17	Official correspondence with the High Court and all orders including administration reports received from the High Court and Government other than those provided for above or hereafter	20
18	Other official correspondence relating to matters which have terminated	3
19	Yearly statements other than that showing the names of pleaders to whom renewed certificates were issued during the preceding year and half-yearly statements	5

Table showing the periods prescribed for the retention of the various court registers, books and papers—cont.

Number.	Description of court registers, books and papers.	Number of years for which registers, etc., are to be retained
19 (*a*)	Annual statement showing the names of pleaders to whom renewed certificates were issued during the preceding year	12
20	Monthly and quarterly statements, including accounts of stamp duties and penalties	3
21	Applications for leave and orders thereon, applications from candidates for employment and reports on applications not relating to suit or proceedings in Court	1
22	Magisterial diaries, Police arrest returns, Police occurrence reports and Police reports on unnatural and sudden deaths	3
23	Register of suits disposed of	3
24	Register of petitions	12
25	Pay bills and acquittance rolls, where these are maintained separately, of Government servants for whom no establishment returns are submitted or no service books are maintained	35
	N.B.—In the case of copyists of the Judicial department who do not belong to pensionable service, pay bills need be preserved only for six years.	
25 (*a*)	Pay bills and acquittance rolls, where these are maintained separately, of inferior Government servants.	45
	N.B.—Where, however, the service of inferior Government servants is verified annually (under the orders issued in G.O. No. 45, Finance, dated 8th February 1937), the period of preservation of pay bills and acquittance rolls will be only six years. (*G.O. Ms.* 4612, *H.*, 15–11–1937.)	
25 (*b*)	Pay bills of other classes of Government servants and acquittance rolls for pay and allowances (other than travelling allowance) when maintained separately..	6
26	Cancelled Pleadership certificates	6
27	Annual establishment return	35
28	Detailed budget estimates of an office	5
29	Travelling allowance bills and acquittance rolls relating thereto	3
30	Cases (including service books and leave accounts attached thereto) in which invalid or compensation pensions have been sanctioned	25
30 (*a*)	Other pension cases (including service books and leave accounts attached thereto)	5 years after retirement.
31	Statement of monthly progressive expenditure and correspondence relating to discrepancies in figures.	2

NOTE.—(1) History of Gazetted Officers comes under the head "Other similar books" in item No. 13 (*a*) of Appendix D to the rules for the destruction of records and may be retained for three years and then destroyed. Any books of this class which can be sold for waste paper may be so disposed of. (*H.C. Dis.* 2461 *of* 1919.)

(2) Administration reports submitted by District Judges to the High Court every year fall under item 17 of Appendix D to the rules for the destruction of records and must be retained for 20 years.

Check slips and the correspondence relating thereto should go with the statements or returns that gave rise to them and be destroyed after the lapse of five or three years according as they fall under item 19 or 20 of Appendix D.

(*H.C. Dis.* 912 *cf* 1925.)

N.B.—(i) In the case of gratuities, service books need be preserved only till the claim for a gratuity has been finally disposed of, but in no case may the service books and gratuity papers be destroyed till the gratuitant has attained 55 years of age.

(ii) As regards service registers of Government servants dismissed, discharged, resigned or deceased while in service, see paragraph 14–16 of the subsidiary rules under Fundamental Rule 74 (*a*) (iv).

(3) Where a minimum period after which any record may be destroyed has been prescribed, heads of departments and other officers duly authorized in this behalf may order in writing the destruction of such record in their own and subordinate offices, on the expiry of that period counting from the last day of the latest official year covered by the record.

(4) Heads of departments are competent to sanction the destruction of such other records in their own and subordinate offices as may be considered useless, but a list of such records as properly appertain to the accounts audited by the Indian Audit Department should be forwarded to the Accountant-General for his concurrence in their destruction before the destruction is ordered by the head of department.

(5) Full details should be maintained permanently in each office of all records destroyed from time to time.

(*G.O.* 504, *Fin.*, *d.* 12–7–1927 *and G.O.* 706, *Fin.*, *d.* 6–10–1927.)

E

Civil Register Nos. 63 to 66—vide Appendix II, Part II of Volume II.
Criminal Register No. 24—vide Criminal Rules of Practice.

(Rule 10.)

CIRCULAR ORDERS.

I. Preservation of Judgments.

In supersession of High Court's Circular No. 2363, dated 27th August 1894, as amended by Circular No. 3638, dated 13th December 1894, the High Court has made and passed the following rules for the greater security and better preservation of judgments and decrees, and directs that they may be observed by all civil courts:—

(1) All draft judgments* in regular suits and in appeals, as finally settled, signed and delivered, whether they may be in the judge's handwriting or be copies signed by him, shall be kept for the same periods as the formal judgments are kept, i.e., for the periods specified in under the headings 1 (*a*), 1 (*b*), 1 (*c*) or 1 (*d*) in Part I of Appendix C according as each judgment belongs to one of these classes. They shall be collected, arranged in chronological order (the pages or sheets being numbered in consecutive series) and bound in separate books, one for each class, each year, so as to facilitate destruction in cases falling under (*b*), (*c*) and (*d*) of the first head of Schedule C, at the appropriate periods. At the end of each year, or such other convenient period as the District Judge may prescribe for any court, the bound volumes shall be forthwith forwarded to the District Court for safe custody and shall there be preserved in a locked receptacle in the sole charge of the sarishtadar of the District Court who shall be responsible that the judgments in cases falling under items 1 (*b*), (*c*) and (*d*) in Part I of Appendix C are destroyed upon the appropriate dates fixed for their destruction by the rules.

(2) When all the papers falling under Parts II and III of Appendices B and C, in a regular suit or in an appeal, shall have been destroyed in accordance with the rules, the judgment and the decree in the suit or appeal

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* (*a*) The word "judgment" in the rule relating to the binding of draft judgments includes final orders such as those passed in suits either withdrawn, settled out of Court or compromised, which should be dealt with accordingly. (*H.C. Dis.* 957 *of* 1902.)

(*b*) The transcript in long hand of the oral judgment delivered to the shorthand-writer under rule 1 of Order XX of the Code of Civil Procedure, when signed by the judge, shall be deemed to be the draft judgment for the purposes of the rules for the destruction of records and for the preservation of judgments. (*H.C. Dis.* 2036 *of* 1914.)

shall be separated from the other papers appertaining to Part I. The judgments and decrees in all suits and appeals, after being so separated, shall be arranged in accordance with the classifications adopted in items 1 (*a*), (*b*), (*c*) and (*d*) of Appendix C, the judgments and decrees pertaining to each of these classes being kept separate and filed in chronological order of disposal. They shall then be placed and shall remain in the sole charge of the principal record-keeper and shall be secured by him in a suitable locked receptacle, of which the key shall remain in his sole custody. It shall be the duty of the principal record-keeper to see that the judgments and decrees of cases falling under items 1 (*b*), (*c*) and (*d*) are destroyed upon the appropriate dates fixed for their destruction by the rules.

(*G.O.* 672, *J.*, *d.*, 3-5-1901. *H.C. Dis.* 505 *of* 1901.)

II. Miscellaneous.

(1) *Copper-plate documents—Destruction of.*—The following rule is issued by the High Court in accordance with G.O. No. 717, Public, dated 2nd June 1898:—

Whenever copper-plate deeds of grant or other documents of archæological interest are found among records which should under existing rules be destroyed, the District Judge should communicate with the Government Epigraphist, who will decide whether the plates or documents should be destroyed or be forwarded to the Government Museum.

(*H.C. Cir.* 1311 *of* 1898.)

(2) *Wills outside the scope of the Act.*—It has come to the notice of the High Court that an original will filed in a testamentary suit was destroyed by the court in which it was filed acting under the rules framed under the Destruction of Records Act, III of 1879. It is therefore necessary to point out for the guidance of all District Courts that these rules do not provide for the destruction of original wills, and that such documents are altogether outside the scope of the Destruction of Records Act (vide section 5) as they have to be filed and preserved among the records of the court under section 294 of the Indian Succession Act XXXIX of 1925 (vide Notification regarding preservation and inspection of wills, printed in Chapter V of this Part *supra*). (*H.C. Dis.* 877 *of* 1905.)

It has been brought to the notice of the High Court that some courts have destroyed the original wills produced on summons by the Registration Department. This is a serious mistake and should be put an end to. The High Court hereby directs that *proved* wills, i.e., wills in respect of which probates or letters of administration have been granted, should not be destroyed or returned to the Registration Department or the party that produced them. They must be preserved permanently in the District Court or the High Court according to the rules. In the case of *unproved* wills, they must be returned to the Registration Department which produced the same under section 46 (2) of the Registration Act after the need for their retention in court is over. In no case should they be destroyed by the courts. (*H.C.P. Dis.* 373 *of* 1932.)

(3) *Mortgage suits—*

(*a*) *Classification.*—It has been brought to the notice of the High Court that no uniform principle is being followed in regard to the classification of mortgage bond suits—including hypothecation suits and suits on usufructuary mortgages—for the purposes of destruction of records in such suits. In some districts such suits are held to fall under item 1 (*a*) of Appendix C (civil) of the rules for the destruction of useless records; in others under item 1 (*d*). The High Court is of opinion that suits of the kind above specified fall under item 1 (*d*) of Appendix C (civil) and in supersession of all orders previously issued on this point directs that in future the records in such suits be dealt with accordingly under that item.

(*H.C. Dis.* 311 *of* 1906.)

(*b*) *Records not to be destroyed with reference to the date of the preliminary decree.*—The High Court Proceedings Dis. No. 781, dated 16th July 1909, directing that mortgage suits in which preliminary decrees have been

passed should, for statistical purposes, be treated as disposed of, should not be understood as relating to anything except returns, or as controlling the rules relating to the destruction of records.

The rules, as they stand, do not authorize the present practice of destroying records with reference to the date of the preliminary decree. Time for the retention of Part III records, including the mortgage deed, should run from the date of the final decree.

Records in mortgage suits should be kept in the trial court until final decree is passed, or until three years from the date fixed for payment have elapsed. They should then be sent to the District Court and retained there in accordance with the rules, Part III records for three years.
(*H.C. Dis.* 588 *of* 1922.)

(4) *Arrangement of records in cases disposed of.*—Records in cases disposed of should be arranged according to the serial order of the numbers of the cases and not in the order of their disposal. (*H.C. Dis.* 2319 *of* 1915.)

(5) *Clerks prohibited from taking papers home.*—It has come to the notice of the High Court that in some subordinate civil courts, clerks are in the habit of taking to their houses original records and other court-papers for the purpose of their work. In a recent instance, this practice led to the destruction of certain original records by fire. The High Court considers that clerks and other officers holding similar posts should be forbidden to take original records or other court-papers to their own houses and directs that the practice, wherever it exists, be at once stopped.
(*H.C. Dis.* 846 *of* 1901.)

(6) *District Judges to exercise supervision over their record-rooms.*—The High Court desires to impress on District Judges the necessity of exercising some personal supervision over their record-rooms. It has reason to believe that, though much progress has certainly been made in bringing the destruction of old records up to date, there is still in some courts an accumulation of old registers and useless papers, which occupies much space and interferes with the orderly and systematic arrangement of records which have to be preserved.

(7) *Execution records to be submitted to the District Court, only after completion.*—It is believed that in some districts Note (1) to Appx. C in the rules for the destruction of records has been overlooked. Execution records are only required to be sent to the District Court after completion, and this stage is not reached when each successive application is finally disposed of, but as stated in that note, only on the date on which final satisfaction is recorded or when no proceedings have been taken for six years. If this rule is not attended to the record-keeper has to give out and take back the record for each successive application for execution.

(8) *Duties of the record-keeper*—

He should—

(*a*) verify the record by running over the serial numbers at the top of each paper;

(*b*) then deal it into Parts I to III and tie up each separately;

(*c*) verify the date on which Part III has to be destroyed and enter below it any remarks as to the destruction of other papers which he thinks necessary. The date being shown in a prominent place, there will generally be no occasion to open the bundle again until the time for destroying Part III has arrived;

(*d*) when Part III (or any other part) has been destroyed, the fact should be noted on the index and the date on which the next part or document has to be destroyed should be substituted;

(*e*) when any exhibit is returned, the fact and the date should be entered in the remarks column;

(*f*) when material papers are sent to the High Court, new serial numbers should not be given but they should be entered in the list according to their old numbers, and the total number of papers sent, shown at foot of the list. (*H.C. Cir.* 2514 *of* 1885.)

[*N.B.*—For intsructions to be followed by clerks attending the trial of suits, vide Circular Order No. 1 under rule 84 of Chapter III, Part I, at page 97 *supra.*]

CHAPTER XII.

Rules under the Madras Village Courts Act, 1888, as amended by Madras Act II of 1920.

1. Forms of Summonses and Notice.

Under section 75 of the Madras Village Courts Act, 1888, and section 15 of 24 and 25 Victoria, Chap. 104, the High Court has prescribed the following forms * of summonses and notice for use in the courts of village munsifs. (*H.C. Cir.* 1092 *of* 1894.)

2. Fees for serving Processes.

(*a*) *General.*

[57.] † The following shall be the amount of fees leviable for the service of summons under section 27 of the Act upon defendants beyond the local jurisdiction of the village court, viz. :—

For each summons—

(*a*) to a single defendant	8 annas
(*b*) to every additional defendant residing in the same village, if the process be applied for at the same time ...	4 annas

[58.] The following fees shall be leviable for summons under sections 25 and 40 of the Act which are served otherwise than by a village servant :—

(i) For every witness or defendant resident within the limits of the local jurisdiction of the court	1 anna
(ii) For every witness resident beyond the limits of the local jurisdiction of the court	2 annas

[*Notfn. No.* 144, *Law* (*Genl.*), *d.* 28-2-1922, *at pp.* 256—262, *Pt. I*, F.S.G.G., *d.* 7-3-1922.]

Note.—In cases where the witness resides outside the jurisdiction of the village court issuing the summons or forwarding the interrogatory a fee of two annas will be levied under rule (ii) above. If the village munsif to whom the summons is directed or the interrogatory is forwarded has a special establishment for the service of processes, the fee for serving the summons or issuing a summons to the witness to whom the interrogatory is addressed will, under rule (1), be one anna. The village court issuing the summons or forwarding the interrogatory shall pay this sum to the village munsif to whom the summons is directed or the interrogatory is forwarded. If the village munsif to whom the summons is directed or the interrogatory is forwarded has no special establishment, the service of summons will be performed gratuitously by the ordinary village establishment and no fee shall be payable by the court by which the summons was issued or the interrogatory forwarded.

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* Vide Forms 1–4, Appx. III-J, Part II, Vol. II.

† Note.—In this chapter the numbers within square brackets indicate the numbers given in the consolidated rules under the Madras Village Courts Act issued by Government in G.O. 572, L. (G.), d. 2-3-1922.

(*b*) *In Yercaud.*

The following fees shall be leviable for summonses issued in writing under sections 25 and 40 of the said Act which are served otherwise than by a village servant within the jurisdiction of the village munsif of Yercaud in the Salem district :—

(1) For every summons to a witness or defendant residing within the Yercaud Union ...	1 anna
(2) For every summons to a witness or defendant resident outside the Yercaud Union and within the jurisdiction of the village munsif of Yercaud	2 annas

(*Notfn. d.* 15-4-1905, *at p.* 315, *Pt. I.*, F.S.G.G., *d.* 18-4-1905. *H.C. Dis.* 448 *of* 1905.)

3. Form of Decree and Registers of Suits and Execution Petitions.

(1) Under section 75 of the Village Courts Act (Madras Act I of 1889), the High Court hereby prescribes a form of decree for use in village courts. Village munsifs shall adopt Form 5 (vide Vol. II, Part II, Appx. III-J) for drawing up their decrees. The High Court considers that a form of judgment is unnecessary. The decree contains a space for "reasons for the decision," and if the space provided is insufficient, the village munsif may continue his reasons on a page to be attached to the form of decree.

(2) The High Court considers that a revision of the suits register now maintained by village munsifs is necessary. A register of suits in Form No. 7 (vide Vol. II, Part II, Appx. III-J) shall be kept in all village munsifs' courts in place of the present suits register.

(3) The High Court further is of opinion that the form of diary (prescribed in H.C. Dis. No. 379, dated 23rd March 1908) is superfluous, in view of the completeness of the suits register now prescribed. The form of diary is accordingly abolished. But the register of proceedings in execution (Form No. 8 in Appx. III-J, Part II of Vol. II) should be retained and an extract from that register should be submitted twice a month to the District Munsif having jurisdiction. (*H.C. Dis.* 578 *of* 1914.)

4. District Munsif to transfer suits triable by Village Courts to their file in proper cases.

The attention of all District Munsifs is invited to their powers under section 20-A of the Madras Village Courts Act, 1888, as amended by Madras Act II of 1920, and to the use to be made of those powers when the village courts established within their jurisdiction are found to be working satisfactorily.

Information as to the number of suits transferred under this section of the Act should be given in the annual administration reports of the respective districts. (*H.C. Dis.* 2243 *of* 1923.)

5. Proceedings of Panchayat Court not invalid by any defect in its constitution.

[64.] * No proceeding or act of a panchayat court or in relation thereto shall be deemed to be invalid by reason only of any defect

* Subs. by *H.C.P. Dis.* 730 *of* 1937.

in the constitution of such court or that any member of such court was disqualified or disentitled to act as such or to hold any office in relation to such court or by reason of any such proceeding or act having taken place during any vacancy in the office of president, vice-president or member of such court, but any such proceeding or act may be set aside by the Collector of the district on the application of any party affected thereby.

Explanation.—For the purpose of this rule " proceeding " shall include judgments, decrees and orders.

6. Rules for the grant of copies of Records of Village Munsifs.

[56.] Application for copies of records of a village court shall be made to the village court except in cases where the records are in the custody of the sub-magistrate or district munsif when application may be made either to the village court or the sub-magistrate or the district munsif as the case may be. When the application is made to the village court, it shall call for the necessary stamps and shall forward the application with the stamps and the records, if in its custody, to the district munsif or sub-magistrate, as the case may be, within whose jurisdiction the village court is situated. The district munsif or sub-magisrate shall have the copies made by their establishments and return the copies with the records, if any received, to the village court and the village court shall deliver the copies to the applicants. Provided that, if any applicant so desires in his application that the required copies may be delivered to him in person or sent to him by ordinary or registered post at his cost direct by the district munsif or the sub-magistrate, it shall be so delivered or sent.

Delivery of copy of the decree under section 46 *of the Act.*

[65.] A copy of the decree shall be delivered to each of the parties to the suit or his agent at the office of the court, or, if he so desires, shall be transmitted to him by post on prepayment of the cost of such transmission.

[*G.O.* 431, *L.* (*G.*), *d.* 7-2-1933. *H.C. P. Dis.* 223 *of* 1933.]

[*N.B.*—Rule (62) directing the levy of a fee of one anna on each application for copies was *cancelled* by notification No. 326, Law (General), dated 19th May 1923, published at page 564, Part I of the *Fort St. George Gazette*, dated 5th June 1923. *H.C. Dis.* 1007 *of* 1923.]

7. Annual Return of Suits.

1. The High Court considers that the quarterly submission of the statistical returns prescribed in High Court Proceedings Dis. No. 910, dated the 25th September 1906, is unnecessary and accordingly directs that they be

submitted in future annually. The form appended to these proceedings (vide Form No. 18 in Appx. III-M, Part II, Vol. II) is prescribed under section 75 of the Village Courts Act for adoption in supersession of the form approved in 1906. It has been revised with reference to the amendments made by Madras Act II of 1920.

2. Collectors of districts are requested to cause the compilation of the annual returns in the amended form and to forward them to the District Judges for submission to the High Court with any remarks they may have to offer.

3. The form as amended will come into force from 1st January 1926. (*H.C. Dis.* 2159 *of* 1925.)

4. The revised annual return of suits tried by village courts prescribed in High Court Proceedings Dis. No. 2159 of 1925, should be sent by Collectors to District Judges on or before the 5th February of each year. The District Judges will transmit the returns to the High Court on or before the 15th February as hitherto. (*H.C. Dis.* 15 *of* 1926.)

8. Proceedings in Execution.

Rules under section 78 (2) (*h*) *of the Act.*

[52.] Application for execution of decrees of panchayat courts shall be made to the president or any other member appointed by him in this behalf.

[53.] (*a*) All summonses, notices, and processes in execution issued by a panchayat court shall be signed by the president or, when he is unable to do it, by any other member appointed by him in this behalf.

(*b*) It shall be the duty of the village munsif or president as the case may be to execute all orders in execution.

Note.—In this rule the term "village munsif" does not include "president of a panchayat court."

Rules under section 78 (2) (*i*) *and* (*j*) *of the Act.*

[61.] The following fees shall be levied for the execution of the decrees :—

(*a*) where the amount of the decree exceeds fifty rupees ... ... 1 rupee

and

(*b*) where the amount of the decree does not exceed fifty rupees ... ... 8 annas

[*G.O.* 3521, *L.* (*G.*), *d.* 26-9-1932.]

[63.] All fees must be paid in cash.*

* [Subs. for the words "in the shape of court-fee labels" by G.O. 572, L. (G.), d. 2-3-1922. *H.C. Dis.* 325 *of* 1923.]

NOTE.—Under section 75 of the Madras Village Courts Act, I of 1889, the High Court has prescribed the following form of register of proceedings in execution to be kept by village munsifs (vide Vol. II, Part II, Appx. III-J) and under the same section directs that an extract from that register be submitted twice in each month to the District Munsif having jurisdiction. The extract relating to the first fifteen days of each month shall be submitted on the first of the following month, and the extract for the latter half of each month shall be submitted on the 16th of the following month.

District Munsifs are directed to scrutinize such returns as soon as they are received, and, when it appears that fifteen days have elapsed since the receipt of the money or property realized in execution by a village munsif, and payment or delivery has not been made to the judgment-creditor, to call up the whole proceedings as well as the money or property realized, under section 67 of the Act, and deal with the matter according to the existing rules. (*H.C. Dis. No.* 769 *of* 1905.)

9. RECORDS.

(*a*) *Postage on Records called for by higher Courts.*

Under section 75 of the Madras Village Courts Act, I of 1889, the District Judge or the District Munsif may at any time call for and inspect the registers and records of village courts. This section does not, however, empower a village munsif to produce his records, and the Government are pleased to direct that when registers and records of village courts are called for under this section they should be sent by the village munsif concerned by post, service bearing, and returned service paid, by the court which called for them.

(*G.O.* 1259, *Judl.*, *d.* 4-8-1911. *H.C. Dis.* 1007 *of* 1911.)

(*b*) *Travelling Allowance for production of Records.*

(1) *To non-official presidents.*—The following rates of travelling allowance shall be admissible for the journeys performed by non-official presidents of panchayat courts to produce records and registers of their courts, if so specifically directed by District Munsifs :—

Mileage.—(*a*) Not exceeding 2 annas per mile subject to the production of a certificate that the places are not connected by public motor service, etc.

(*b*) Not exceeding 1 anna when places are connected by public motor service.

Train fare.—Single third-class fare.

Batta.—Not exceeding 10 annas per diem.

[*G.O.* 1014, *L.* (*G.*), *d.* 28-3-1934. *H.C. P. Dis.* 386 *of* 1934.]

(2) *To village menials.*—Travelling allowance shall be admissible to village menials at the undermentioned rates when they carry the records and registers of the village panchayat courts on the civil side for inspection by the District Munsifs, if the distance

between the village where the panchayat court is situated and the District Munsif's Court exceeds 25 miles :—

Journey.	Rate of travelling allowance.
(i) By Rail	Third-class fare.
(ii) By public motor service.	The lower or lowest class fare.
(iii) By road	Two annas for every ten miles or fractions of the ten miles unit in cases where the fraction is not less than five miles.

The allowances will be treated as batta to witnesses and will be paid to the menials by the District Munsif.

The expenditure will be debited to "24-e—Administration of Justice—B. Civil and Sessions Courts—Reserved—Supplies and Services—Voted."

[*G.O.* 2593, *L.* (*G.*), *d.* 12-8-1935. *H.C. P. Dis.* 640 *of* 1935.]

(c) Inspection of records by District Munsifs.

The inspection of records and registers of village munsifs' courts and village panchayat courts by District Munsifs shall be limited to once a year except in special cases in which the neglected condition of the records requires a further inspection.

At the time of inspection of the records, the presence of village munsif will not be required, as in the case of presidents of panchayat courts, unless a preliminary examination of the records shows his presence to be desirable.

No allowance shall be granted to village menials for carrying the records and registers of village munsifs' courts for inspection by District Munsifs. The village munsifs may, in accordance with the orders issued in G.O. No. 1259, Judicial, dated 4th August 1911, send records, etc., to the District Munsifs' Courts, service bearing, and the records shall be returned to them postage paid by the courts which called for them.

This procedure relating to transmission of records, etc., shall be adopted by the presidents of village panchayat courts also wherever it is found to be more economical.

[*G.O.* 330 (*H.*), *d.* 25-1-1937. *H.C. P. Dis.* 323 *of* 1937.]

(d) Custody of Records.

[54.] * The president shall have the custody of the records of the panchayat court. He shall send the records of criminal cases disposed of to the court of the sub-magistrate and the records specified in the margin relating to civil cases disposed of to the court of the District Munsif, within whose jurisdiction the village court is situated,

1. Plaint,
2. Written statements,
3. Decree,
4. Suit documents,
5. Processes issued to defendants in *ex parte* proceedings, and
6. Execution petitions.

* Subs. by *H.C. P.* Dis. 787 *of* 1931.

before the end of the calendar year succeeding that in which the cases were disposed of :

Provided, that any document filed by any party to a case or suit shall be returned to such party on his application, after the expiry of sixty days after the case or suit has been disposed of or, in case a revision petition is preferred, after the disposal of the revision petition.

10. PROCEDURE TO BE FOLLOWED FOR THE ACCOUNTING OF COURT-FEES REALIZED BY VILLAGE COURTS INCLUDING PANCHAYAT COURTS.

1. All fees leviable under rules 57, 58, 60 and 61 of the rules made under the Madras Village Courts Act, 1888, as amended by Madras Act II of 1920 issued in G.O. No. 572, Law (General), dated the 2nd March 1922, shall be collected by the village courts, and a receipt shall be given to the payee.

2. The fees so collected shall be handed over with the least possible delay to the village headman who shall send them to the sub-treasury with the next remittance of land revenue or other collections or with the first village menial who is sent to the taluk office after the money is handed over to the village headman. Where the headman is the president of the court, the same rule shall apply, that is, he shall send the money with the next remittance or with the village menial who is sent next to the taluk office. The fee shall be credited to Provincial Revenues under " XVII. Administration of Justice—Court-fees realized in cash—Fees realized by village courts in civil cases—Fees realized by village courts in criminal cases," according as the fees credited relate to civil or criminal cases.

In the case of fees realized for the service of processes, the process-servers may be paid the fees actually realized for the service of processes, subject to a maximum of Rs. 8 per mensem each. The excess of receipts from fees over expenditure during any particular month may be held over as a reserve for appropriation during the months in which the fees realized may fall short of the minimum requirements. At the end of the official year, however, the surplus receipts shall be credited in the treasury.

The amount which may be kept in the hands of the president of a village court at any time in the course of a year and not remitted into the treasury shall be limited to Rs. 15.

3. The village court shall maintain a cash book and a remittance book showing the dates on which the fees were collected and on which they were remitted to the treasury.

The cash book should show the full receipts and the payments, if any, made therefrom, distinctly on the receipt and expenditure

sides, respectively, remittances to the treasury being also shown on the expenditure side.

4. Each process in respect of which a fee is leviable shall bear an endorsement by the village court to the effect that the proper fee has been levied thereon, the amount in each case being specified.

5. On or before the 15th May of each year, the District Treasury officer shall forward to the District Judge a statement of court-fee realized by village courts in *civil cases* and remitted to the treasury during the preceding official year. A similar statement in respect of *criminal cases* shall be sent to the District Magistrate.

NOTE.—In cases where the jurisdictions of civil courts are not co-terminous with those of District Magistrates, the Treasury officers should maintain separate accounts for the several courts and forward the returns to the District Judge or the District Magistrate concerned.

6. The Collector of the district shall arrange for a half-yearly inspection by his subordinate officials of the accounts maintained by the village courts in his district.

(*G.O.* 788, *Fin.*, *d.* 10-11-1927.)

CHAPTER XIII.

Rules under the Madras Agriculturists Relief Act, 1938.

I.—Rules under Section 28.

In exercise of the powers conferred by section 28 of the Madras Agriculturists Relief Act, 1938 (Madras Act IV of 1938), the Government of Madras are hereby pleased to make the following rules :—

1. Any tenant desirous of paying into court any amount towards the rent due or claimed to be due by him, for faslis 1347 or 1346 or both, under sub-section (4) of section 15 of the Act, shall present to the court an application in writing for the purpose. The application shall specify the name and address of the applicant, the amount of rent paid by him into court, the fasli or faslis for which it is paid and the name and address of the landholder, under-tenure holder, janmi or intermediary to whom it is to be paid. The application shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908.

1-A. Where a tenant has paid into court an amount which he believed to be the full amount of the rent due in respect of the holding—

(i) for fasli 1347, on or before the 30th September 1938, or

(ii) for fasli 1346, on or before the 30th September 1939,

and it is subsequently found by the court that owing to a *bona fide* mistake in calculating the price of paddy or other article payable as rent, or the interest on the rent, or otherwise, the amount actually paid fell short of the correct rent due for the fasli concerned as finally determined by the court, the tenant shall be entitled to pay into court the deficiency within fifteen days of the date on which the court determined the correct rent; and such payment shall, for the purposes of the Act, be deemed to have been made on the date on which the original payment into court was made.

2. An application under section 18, 19, 20, 22 or 23 of the Act shall be in writing, shall specify the name and address of the applicant, the name and address of the respondent, a clear statement of the facts of the case and the nature of the relief prayed for, and shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908.

3. An application under section 26 or 27 of the Act shall be in writing, shall specify the name and address of the applicant,

the information required, and the name and address of the person in respect of whom, and the purpose for which, such information is required, and shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908.

4. There shall be affixed to every application under section 15 (4) read with rule 1 or under section 18, 19, 20, 22, 23, 26 or 27 of the Act, a court-fee stamp of the value of twelve annas.

5. (1) A memorandum granted to a creditor under section 26 of the Act shall be in Form A appended to these rules with such variations as circumstances may require.

(2) A certificate granted to a creditor under section 27 of the Act shall be in Form B appended to these rules, with such variations as circumstances may require.

6. (1) All suits and execution proceedings for the recovery from an agriculturist of the arrears of rent due from him to a landholder or an under-tenure holder under the Madras Estates Land Act, 1908, or to a janmi or intermediary under the Malabar Tenancy Act, 1929, which has accrued for the fasli year 1345 and prior faslis, whether solely or in combination with the arrears of rent which has accrued for fasli 1346 or 1347 or both, pending on the 21st June 1938 or instituted thereafter, shall stand stayed until the 30th September 1938, or if the rent for fasli 1347 is paid on or before the 30th September 1938 until the 30th September 1939 :

Provided that nothing in this sub-rule shall be deemed to deprive the agriculturist of any remedy or relief which may be available to him in any such suit or proceeding.

Explanation.—In this sub-rule, the expressions ' fasli year ' and ' fasli ' shall have the same meaning as in section 15 of the Act.

(2) All suits and execution proceedings stayed under sub-rule (1) shall, after the 30th September 1938 or the 30th September 1939, as the case may be, proceed, subject to the provisions of the Act, from the stage which had been reached at the time when they were so stayed.

7. Where a person in whose name an assessment to property or house-tax has been made in terms of proviso (C) to section 3 (ii) of the Act proves that he was not the owner of the property or house assessed, at any time during the period mentioned in the said proviso, such assessment shall not by itself have the effect of excluding such person from the category of ' agriculturist ' as defined in the said section.

* **8.** Appeals shall lie from any of the following orders passed by a court under the Act, namely :—

(*a*) an order under section 18 (1) amending or refusing to amend a decree;

* In A.A.O. No. 501 of 1939 it has been held by a Full Bench of the High Court, Madras, that rule 8 is *ultra vires*.

(*b*) an order under section 19 amending or refusing to amend a decree or entering or refusing to enter satisfaction in respect of a decree;

(*c*) an order under section 20 staying or refusing to stay procedings in execution of a decree;

(*d*) an order under section 22 directing or refusing to direct the refund of any sum realized in execution of a decree;

(*e*) an order under section 23 setting aside or refusing to set aside any sale or foreclosure of immovable property; and

(*f*) an order under section 24 directing or refusing to direct the repayment of any purchase money realized in execution of a decree;

as if the order related to the execution, discharge or satisfaction of the decree within the meaning of section 47 of the Code of Civil Procedure, 1908.

FORM A.

[See rule 5 (1).]

Memorandum granted by the Collector of *under section* 26 *of the Madras Agriculturists Relief Act,* 1938 (*Madras Act IV of* 1938).

Read application from dated

Mr.
Mrs. of has been
Miss

assessed to—

(1) income-tax under * in the financial year ending

(2) profession-tax by the cantonment for the half-year ending on a half-yearly income of rupees, derived from a profession other than agriculture, under *

(3) property or house-tax by the cantonment in respect of buildings or lands other than agricultural lands under *
and that the aggregate annual rental value of such buildings or lands is rupees.

Signature of the Collector.

* The appropriate Act or law under which assessment is made shall be entered here.

FORM B.

[See rule 5 (2).]

Certificate granted under section 27 of the Madras Agriculturists Relief Act, 1938 (Madras Act IV of 1938).

Read application from dated

I the executive authority of / the President of / the Revenue Officer of the Corporation of Madras / Municipality / Board of Mr. / Mrs. / Miss do hereby certify that has been assessed to—

(1) profession-tax for the half-year ending on a half-yearly income of rupees derived from a profession other than agriculture, under *

(2) property or house-tax in respect of buildings or lands other than agricultural lands under *
and that the aggregate annual rental value of such buildings or lands is rupees.

Signature of the authority granting the certificate.

II.—RULES UNDER SUB-SECTION (1) AND CLAUSES (*b*) AND (*c*) OF SUB-SECTION (2) OF SECTION 28.

In exercise of the powers conferred by sub-section (1) and clauses (*b*) and (*c*) of sub-section (2) of section 28 of the Madras Agriculturists Relief Act, 1938 (Madras Act IV of 1938), His Excellency the Governor of Madras is hereby pleased to make the following rules :—

1. In these rules—
(*a*) " Act " means the Madras Agriculturists Relief Act, 1938 ;
(*b*) " Court " means the court having jurisdiction under these rules ; and
(*c*) expressions used in these rules but not defined herein shall have the same meaning as in the Act.

2. (1) Where any debt, other than a decree-debt, is due by any person claiming to be an agriculturist entitled to the benefits of the Act in respect of such debt, the debtor or the creditor, may apply to the court for a declaration as to the amount of the debt due by the debtor to the creditor :

Provided that no such application shall be presented or be maintainable if any suit for the recovery of the debt be pending.

(2) The provisions of sub-rule (1) shall also apply to any person claiming that this debt has been discharged by virtue of the provisions of the Act.

* The appropriate Act or law under which assessment is made shall be entered here.

3. (1) Every application under rule 2 shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints.

(2) There shall be affixed to every such application whether by the debtor or by the creditor a court-fee stamp of the value of 12 annas.

4. (1) Every application presented by a debtor shall contain the following particulars, namely :—

(*a*) the name and address of the applicant;

(*b*) the name and address of the creditor in respect of whose debt the application is presented;

(*c*) a statement that the debtor claims to be an agriculturist entitled to the benefit of the Act in respect of the debt of the creditor as against whom the application is presented;

(*d*) the particulars of the debt in respect of which the declaration is claimed, including all matters necessary to invoke the jurisdiction of the court to have the debt scaled down; and

(*e*) the amount for which the applicant prays that the debt may be reduced.

(2) The provisions of sub-rule (1) shall apply *mutatis mutandis* to an application presented by a creditor.

5. The application shall be rejected if it does not comply with any of the requirements of rule 4.

The rejection of an application under this rule shall not preclude the applicant from presenting a fresh application.

6. (1) On receipt of an application under rule 4, the court shall, unless it rejects it under rule 5, pass an order fixing a date for hearing the application.

(2) Notice of the order under sub-rule (1) shall be served on the creditor and the debtor.

7. On the date originally fixed under rule 6 or on any subsequent date to which the application may be adjourned by the court, the court shall, after taking such evidence or making such enquiry as it may consider necessary, pass such order on the application as it thinks fit.

8. If, at any time, while an application is pending in the court, a suit is filed by the creditor for the recovery of the debt which is the subject-matter of the application, the court shall dismiss the application.

9. The order of the court declaring the amount of the debt under rule 7 shall be subject to appeal and second appeal as if it were a decree in an original suit.

10. The courts having jurisdiction under these rules shall be the courts which would have jurisdiction to entertain suits for the recovery of the debts as unscaled.

ALPHABETICAL INDEX

NOTE.—As the rules in Part I and the several chapters of Part II, as also in the distinct sets of rules incorporated in the volume, are separately numbered, the citation of the rules within square brackets [ ] hereunder should be understood with reference to the pages noted against them.

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