Thursday,
23rd July, 1891

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXX

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ABSTRACT OF THE PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

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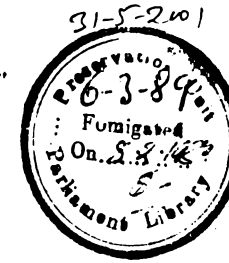

CALCUTTA
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1892

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vict., Cap. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 23rd July, 1891.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, BART., V.C., G.C.B., G.C.I.E., R.A.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Colonel R. C. B. Pemberton, R.E.

MADRAS SMALL CAUSE COURT BILL.

The Hon'ble SIR PHILIP HUTCHINS moved for leave to introduce a Bill to extend the jurisdiction of the Court of Small Causes of Madras. He said:—

"As indicated by its title, the effect of this Bill, when it becomes law, will be to transfer the cognizance of certain original civil suits, arising within what is called the City of Madras, from the High Court to the Court of Small Causes. It will give to the Madras Small Cause Court a jurisdiction which is at present excluded from it by section 19 of the Presidency Small Cause Courts Act of 1882, and that is the reason why it has to be introduced in this Council; but it is really a local measure only, and it has been framed in order to give effect to proposals which have been frequently pressed on the Government of India by the Governor of Madras in Council.

"Last year, after we had obtained the approval of Her Majesty's Secretary of State to those proposals, we drew up a rough Bill and transmitted it to Madras, in order that before its introduction we might be quite certain that it expressed the intentions of the local authorities. This rough sketch was unfortunately treated as a carefully prepared measure which the Government of India was determined, without any regard to local criticisms and at all hazards, to pass into law

before the day which the Secretary in the Legislative Department had, in accordance with ordinary practice, tentatively inserted as the date on which it might come into force. The day thus fixed happened to fall within the High Court's vacation, and a cry was at once raised that our aim was to abrogate the Court's jurisdiction without allowing the Judges a chance of being heard. This point was immediately put right by its being explained that the 1st July was merely a tentative date, that we had no sort of desire to hurry on the Bill, and that in any case it would have to be circulated after introduction, when, according to rule, a reasonable time would be allowed for its consideration and criticism by every one concerned. I am afraid, however, that the idea which got abroad that we were trying to rush the Bill in spite of opposition has not even now been altogether dissipated; and it seems to have infected the mind of the High Court itself as then constituted, for the Hon'ble the Judges repeatedly declare that the measure has been launched without that serious attention and consideration which its gravity demands. I shall presently show that the outlines of the scheme had emanated from the High Court itself, and had been under the consideration of the local authorities for something close on twenty years. Those outlines, however, had perhaps been filled in by our sketch draft in a manner which was open to some objection; and before I proceed further it will be well to make clear both what the Bill which I now lay on the table contains and in what respects it differs from the rough draft to which I have referred.

"And, first, as to the date on which the measure is to come into force, in order to avoid all possibility of future misunderstanding I propose to allow the Governor in Council to appoint the day by notification in the Fort St. George Gazette.

"In the second place, I have cut out all reference to the insolvency jurisdiction. The Government of India recognize the disadvantage of a dual jurisdiction in such matters, and fully accept the assurance of the Hon'ble the Chief Justice that an alteration of the present practice would fail to afford any material relief to the High Court.

"In the third place, at the suggestion of my hon'ble and learned friend Sir Alexander Miller, I have preserved the concurrent jurisdiction of the High Court even in those cases which are to be brought within the cognizance of the Court of Small Causes. Personally I am inclined to agree with the Local Government in this matter, and to hold that we ought to apply the ordinary rule laid down in the Code of Civil Procedure, which is that, when a transfer of jurisdic-

tion is made from a superior to an inferior Court, the power of the former to take cognizance of cases included in such jurisdiction, except by specially calling them up for trial, is *ipso facto* ousted. Section 15 of the Code enacts that every suit must be instituted in the Court of the lowest grade competent to try it, and therefore in no other Court. My own view with reference to the change of jurisdiction now under consideration is that, until the new tribunal has proved its ability to deal with cases involving difficult questions of mercantile law and usage, it would not only be right and proper for the High Court, but would even be its duty, to lend a favourable ear to an application that such a suit should be called up for trial by itself. The Hon'ble the Judges have, however, repudiated the idea of any understanding as to the course which they would adopt, and, as it is impossible to fetter their discretion upon such a point by legislation, the only alternative seems to be to allow plaintiffs for the present and under certain conditions to choose their own forum. The condition will be similar to that which already prevails in regard to suits cognizable by the Small Cause Court under the existing law. If the plaintiff chooses to resort to the High Court when he might go to the Small Cause Court, he will be debarred from recovering costs, and in case of failure he will have to pay costs as between attorney and client, unless the presiding Judge certifies that the suit was one fit to be brought in the High Court. According to my recollection, there is no class of plaintiffs who give the High Court more trouble than paupers, and I do not think that any provision as to costs is likely to influence them much in the choice of a forum. Perhaps the Hon'ble the Judges may wish to propose some special proviso for the exclusion of pauper suits from the High Court; but I will not venture to do more than suggest the matter for their consideration in this general way.

"Then as regards court-fees, the chief ground and, I think I may say, the only ground on which the High Court based its suggestion that the Bill had been launched without due consideration was that the sketch draft omitted to say in so many words what scale of court-fees should be levied. We intended that the scale which Chapter X of the Act lays down for small causes proper should be followed in regard to all suits which might be instituted in the Court of Small Causes. The High Court considers that this Chapter cannot apply to suits which are excluded by section 19 of the Act, and to meet this objection it has now been provided in the Bill that Chapter X of the Presidency Small Cause Courts Act shall govern all proceedings which may be heard before the Court or any Judge thereof.

"I now come to another point about which the High Court as constituted last September has expressed itself with perhaps unnecessary warmth. The jurisdiction which the draft Bill before them, which, as I have so frequently pointed out, was only a rough attempt to sketch what was believed to be the intention of the local authorities and should have been so treated—the jurisdiction which that draft purported to make over to the Small Cause Court included suits up to the value of Rs. 2,500, but reserved power to the Local Government to extend this limit by notification. The idea was that the suits up to Rs. 2,500 might prove either too few to occupy one Judge of the Small Cause Court, or too many for one Judge but not enough for two, and that the Legislature, having established the principle that the original jurisdiction should be reasonably divided between the High Court and the Court of Small Causes, might leave it to the Local Government to make the necessary adjustment from time to time with reference to the business to be done. There was certainly no thought of giving the Executive Government power to extinguish the High Court's original jurisdiction altogether; and, if at any time His Excellency the Governor in Council had been so ill-advised as to make any attempt to do this, it could easily have been defeated by the High Court calling up such cases as it thought proper to its own file. The fact was that we did not contemplate the possibility of the Executive Government exercising its powers without reference to the Judges and otherwise than substantially in concurrence with their advice. The High Court had itself proposed the transfer and might reasonably have been expected to give it effect as from time to time might seem reasonable. As, however, the objection has been raised, and it is perhaps within the bounds of possibility that a Governor in Council might go beyond what is reasonable, and even that he might succeed in securing that previous sanction of the Government of India which the sketch draft made indispensable, there can be no objection to the Legislature fixing any fair limit to his powers. The limit suggested in the Bill which I have laid on the table is Rs. 10,000, but the precise figure is open to revision and will be a matter for the consideration of the Select Committee. On the other hand, now that the concurrent jurisdiction of the High Court is to be maintained, I think the pecuniary value of suits to be transferred to the Small Cause Court absolutely and without any special order of the Local Government may well be raised from Rs. 2,500 to Rs. 5,000.

"Hon'ble members will have now gathered the exact practical effect of the Bill which I have laid before them. Stated in a few words, it is this. There will be a regular side to the Court of Small Causes at Madras. It will try all ordinary suits up to a value of Rs. 5,000, which are not already cognizable on the small cause side of the Court. Some few classes of suits are excepted, and, speaking

generally, it may be stated that the admiralty, matrimonial and testamentary jurisdiction of the High Court will remain unimpaired. It will be left to the Chief Judge to depute any member or members of the Court to preside from time to time on the regular side. The procedure will be governed by the Code of Civil Procedure, and the decrees will be subject to appeal to the High Court. Power is reserved to the Local Government to extend the pecuniary limit of this regular jurisdiction from Rs. 5,000 to any sum not exceeding Rs. 10,000; and it is intended that they should exercise this power with reference to the number of Judges who can be made available in the High Court and Small Cause Court, respectively, and the business which has to be distributed between them. In other words, without going so far as to establish a District Court with fixed powers, which shall oust the jurisdiction of the High Court, and the Judge of which might not have enough work or might have too much, we shall make use of machinery which already exists and apply it under conditions so elastic that it will be in the power of the Local Government to assign to the inferior Court just so much work as may fully occupy the one, one and a half, two or even three Judges whom it is prepared to employ over and above those required for small cause work proper, and to reserve for the High Court so much of the more important original civil business as with the criminal sessions and insolvency work will occupy the one Judge, or it may be one and a half, who can be spared from the appellate side of the High Court. My own view of the situation is that in all probability one Judge ought to be ample for the whole of the original work which deserves to be retained in the High Court. Whether a single Judge will be enough for the regular side of the Small Cause Court must depend on the effect which this legislation may have on the petty litigation of the City. It has been all along recognized that it is likely to cause a considerable increase in the number of suits, and it may well be that the work will be beyond the powers of a single Judge even with the occasional aid of a colleague not at the time required for the small cause work. Should this prove to be the case, the Local Government can at once apply an effectual remedy by appointing a temporary additional Judge, or by enlarging the jurisdiction to such extent as may seem desirable and giving another permanent Judge. This elasticity of the scheme is to my mind one of its chief recommendations. I need hardly remind any one conversant with the work of the Madras High Court in the last decade or two how extremely difficult it is to get an additional Judge appointed to the High Court by letters patent. Mr. Justice Innes' long and ineffectual struggle for the appointment of a fifth Puisne Judge must be well remembered in Madras; and, although in 1883 I had the advantage of entering into his labours, I might never have succeeded but for the

fact of my having in 1886 become a Member of the Government and for a further happy concatenation of circumstances of which I was able to take advantage to overcome the very reasonable objections entertained by the Secretary of State.

"But now it may be asked—indeed it has been asked—even granted that the scheme is a good one, why press it at the present time? There is a fifth Puisne Judge at last, and if he is confirmed the High Court will probably be able to get through the work which will come before it for some years to come—why not get him confirmed and have done with it? The simple answer is that this puts the case on an entirely false issue. I am surprised and sorry to find this put forward as the only real issue in some of the newspapers which had no full knowledge of the facts; but I still more regret that the High Court itself, as constituted last September, should have ventured to say that 'the measure appears to have been designed with a purely financial object, simply and solely to relieve the High Court of a portion of its work and thereby enable the Government to avoid appointing permanently a fifth Puisne Judge.' If this were the sole or even the main object in view, I should still think that the measure is one which deserves to be carried into effect, first, in order that we may ascertain whether after all the fifth Puisne Judge is really necessary, and secondly, because in a few years' time we may have a sixth Judge proposed and exactly the same trouble over again. But so far is this from being the main object in view that the Local Government in its last letter, while expressing 'a decided opinion that the present strength of the High Court will never admit of reduction,' is equally decided that the Bill is necessary in order to provide a tribunal both less expensive and less dilatory than a High Court.

"I may say, then, that the objects and reasons of this Bill are twofold. The first is to remove that 'practical denial of justice to a not insignificant portion of the inhabitants of the city' which the High Court admits to exist, and to be inevitable under the present system of judicial administration in the Presidency-town. And the second is to obviate the lamentable waste of judicial power involved in that system, which requires every petty dispute not technically a small cause to be fully investigated by so highly paid an officer as a Judge, or perhaps even a Chief Justice, of the High Court. This waste is more marked in Madras than in Bombay or Calcutta, because the litigation is pettier, and because the original jurisdiction of the Court extends over a far wider area, and one much less distinguishable from the outer Mufassal. It includes a large number of suburban hamlets, and there is no conceivable reason why a petty dispute arising in one of

these hamlets should occupy the attention of a High Court Judge on Rs. 3,750 with all his paraphernalia, when a similar dispute outside the toll-bar would be adequately dealt with by a Munsif drawing perhaps no more than Rs. 200.

"I say then that, quite apart from the question whether the fifth Puisne Judge should be retained permanently or not, there are the strongest possible reasons for amending the existing state of things in Madras. Even those Judges who deprecate the measure concede this much, for they distinctly 'approve of the measure so far as its effect will be to create a cheaper *forum* for certain classes of actions which will not endure the expense entailed on suitors' in the High Court. It is true that they add a rider to the effect that the result of establishing such a tribunal will be to multiply suits to an extent which will astonish the Government; but, if their estimate turns out to be correct, what will it show? It will only prove that the present denial of justice is even more serious, and therefore that the measure which I am advocating is still more necessary, than had been supposed.

"I have seen it stated that the High Court has only recently been made aware what was really contemplated, and, as I have already mentioned, the Court itself has thought fit to denounce the measure as crude and ill-considered. It must, however, be remembered that three of the six Judges then on the Bench were officiating only, while the oldest and most experienced dissented from the majority. It must also be borne in mind that their remarks were directed to the original sketch which has since been modified in various material respects. I do not anticipate that the Court as now constituted will object to the Bill which I have placed on the table, and for that reason I abstain from any further criticism of its letter; but all the same it is right that I should show that the measure originated with the High Court itself, and has received from it, as well as from the Government, very ample consideration.

"When I had myself the honour of a seat among Their Lordships, I was greatly struck, coming as I did from the Mufassal and from a special enquiry with a view to reorganize the Mufassal Courts, by what I have ventured to describe as a lamentable waste of judicial power. The remedy which suggested itself to me is the very remedy which I now wish to apply. On submitting the matter to the Chief Justice I learned that the same remedy had been suggested by Sir Walter Morgan and more than once urged by himself. I mention this partly because Sir Walter Morgan and Sir Charles Turner were specially remarkable among Chief Justices for their knowledge of the country and talent for organisation, and partly because it will help to explain a letter which Sir Charles Turner drafted, embody-

ing the Court's deliberate and unanimous proposals, and which I will now proceed to read so far as it is material. It is dated 27th February, 1885, and contains the following paragraphs :—

* * * * *

'7. A measure suggests itself which would at once effect this object, benefit suitors and not injuriously affect the legal profession, *viz.*, that the Court of Small Causes at the Presidency-town should be invested with power to try as a Court of Original Jurisdiction all suits (of which it at present cannot take cognizance) except testamentary, matrimonial and maritime, arising within the local limits of the High Court, and not exceeding in value Rs. 2,000 or Rs. 2,500, subject to an appeal to the High Court.

'8. The exclusive jurisdiction of the High Court in certain classes of cases entails on poorer suitors expense altogether out of proportion to the benefit they derive from the presumed superiority of the forum. It not unfrequently happens that suits are instituted for the partition of immoveable property where the costs incurred exceed the value of the subject-matter. The same observation applies to other cases, such as maintenance, mortgage, inheritance and administration.

'9. In a suit for partition which recently came before the Court the value of the property was Rs. 169 subject to a mortgage for Rs. 100, which it was the object of the suit to avoid. The suit was instituted *in formâ pauperis*, and no party was in a position to engage legal assistance. It frequently happens in a suit for maintenance that the rate awarded, or indeed claimed, does not exceed a few rupees *per mensem*. Yet it may be necessary to determine whether the plaintiff's husband was a divided member of the family, whether there was ancestral property, whether there were debts and to what amount, how many members have to be married and maintained, and whether the widow has forfeited her right by unchastity.

'10. In other cases, of which the High Court has not exclusive cognizance, suitors are compelled to resort to it if it is necessary to obtain the attachment of immoveable property before judgment.

'11. In view of the expenses entailed on the poorer classes of suitors, this High Court has admitted vakils to plead on the original side, so as to avoid the necessity for the employment of the higher-paid agency of attorneys and counsel; but it has been found impossible to reduce court-fees without encouraging the institution of suits in the High Court which should be brought in the Court of Small Causes.

* * * * *

'16. The appellate and supervisional work of the High Court is, and to all appearance will continue to be, sufficient to occupy the time of at least four Judges. The strain now experienced by the Court arises from the necessity of employing a second Judge in the disposal of business on the original side. The value of a suit is no certain criterion of the expense of judicial time occupied in its disposal, and it seems inexpedient to employ a

highly-paid judiciary in the disposal of cases which, if they arose on the other side of a toll-bar, would be triable by a District Munsif.

'17. Meanwhile, the trial of suits which from their value or intricacy are properly cognizable by a High Court is retarded by the disposal of petty litigation of the nature above indicated.

'18. The strengthening of the Small Cause Court by the appointment of an additional Judge, who would possess the qualifications of a Subordinate Judge, on a salary of Rs. 1,200 or Rs. 1,500 per mensen, would, the Court believes, avoid the necessity for the appointment of an additional Judge of the High Court—at all events for a time. Whether it may not ultimately become necessary is a question upon which the Court cannot at present express a decided opinion; but, on all grounds, it appears desirable that the experiment now proposed should be made.,

'19. If the scheme of the Court is accepted, it is believed that a reduction of the establishment of the High Court might set free some funds to provide for the establishment required by conferring on the Small Cause Court a new jurisdiction.

'20. It will be in the recollection of the Government that the proposal now made is not novel.

'21. It originated in a correspondence between the late Chief Justice and the Government between 1872—1877. It was more formally made in a minute by Mr. Justice Busteed (then Chief Judge of the Small Cause Court, but officiating in the High Court), which will be found in G. O., 11th March, 1879, No. 494, Judicial Department. It met with the approval of all the Judges then present in the Court, of Mr. Justice Muthusami Aiyar (pp. 3, 4, 10—14), then in the Small Cause Court, and of Sir Walter Morgan (pp. 14—16).

'22. The present Chief Justice has more than once pressed its adoption on the Government—G.O.s, 27th May, 1879, No. 1247, and 8th October, 1880, No. 2425, Judicial Department.

'23. The Government of Madras recommended the measure and deprecated the rejection of the proposal when the Small Cause Court Act was under amendment—G. O.s, 2nd November, 1880, Nos. 2623 and 2624, Judicial Department.

'24. The Court was not informed of the grounds on which the Government of India regarded the proposal as inexpedient. The only objection which was mentioned to the Chief Justice by Mr. Stokes was that he doubted whether the same Judge could, with equal efficiency, exercise Small Cause Court and ordinary jurisdictions. The Court is not without experience that this objection is untenable. For some years the Subordinate Judges and Munsifs in this Presidency have exercised both jurisdictions, and the Court has not seen any reason to think that the exercise of the one has prejudiced the exercise of the other.

'25. It is believed that the objections proceeded from other High Courts. If this be so, it is suggested that an Act should be passed empowering the Local Government to

confer the jurisdiction on the Small Cause Court in this city, and that its working should be first tested in Madras.'

"This letter shows, among other things, that the proposals emanated from the High Court and were unanimously approved by all the Judges in 1879 and again by another set of Judges in 1885. They were further referred to, as having been deliberately adopted, in a letter dated 3rd March, 1887—after a sketch Bill had been submitted to the Chief Justice by the Hon'ble Mr. Ilbert—and in another letter written by the Registrar as recently as 12th November, 1889; and, notwithstanding what was written last September, I believe that, as now formulated, they will again be generally approved by the full Court. The Local Government has throughout given the measure its warm support. I may refer to, but I will not stop to quote, its letters dated 14th May, 1887, 21st December of the same year, 2nd June, 1888, and 16th March, 1889. In the last letter His Excellency in Council urged the importance of expediting the measures required to effect the transfer, as otherwise 'even six Judges may not be able to keep down the arrears without relief.'

"Lastly, in order that we might be quite sure that we were not going beyond what was locally recognized to be desirable, before laying the matter before the Secretary of State we took the precaution of asking for the views of the mercantile community. The members of the Trades Association were 'unanimously of opinion that the change proposed would afford great relief to the High Court, and be beneficial and a great convenience to suitors.' The Chamber of Commerce approved of the proposals, 'provided the services of the sixth Judge are not dispensed with until it is satisfactorily established that the relief afforded by the proposed change will reduce the work of the High Court to dimensions that can be efficiently dealt with by a smaller number of Judges than six.' As to this proviso, I have only to say that both the Government of India and the Local Government recognize their obligation to provide a sufficient staff of Judges, and there is no intention whatever to dispense with the sixth Judge, *i.e.*, the fifth Puisne Judge, unless it should turn out that he is not required. Whether he will be required or not it is more than I or any one else can assert with any degree of confidence. All that I am inclined to insist on is that a single Judge ought to be able to dispose of all the important original work of the Presidency-town, and this would leave all the other Judges free for the undoubtedly heavy appellate business.

"My Lord, I am not in the habit of noticing attacks by anonymous contributors to newspapers; but, as I have been more than once lately denounced by name in connection with this measure as an insidious enemy of Madras, and of

the High Court and the sixth Judge in particular, I may perhaps be permitted to take this opportunity to mention that this Bill merely embodies proposals which I made when I was myself in the High Court and expected to remain there, and that the present existence of a sixth Judge is more due to my own personal efforts, undertaken after I had quitted the Court, than to anything else I am aware of. All that can truly be laid to my charge is that I do not regard the original civil jurisdiction of the High Court as a fetish which it would be sacrilegious to interfere with in the smallest degree, and that I consider that the interests of the Bar must give way when they come into conflict with the interests of the suitor and the public tax-payer. The Bar, however, is but slightly affected by the Bill now in question, as may be gathered from the letter of 1885 which I have quoted almost in full. All the pettier suits of the original side are already conducted by vakils, and by far the best paying work is connected with Mufassal litigation. In this respect, as well as in other local peculiarities which I have already mentioned, Madras differs essentially from Calcutta and Bombay. Many good authorities are of opinion that some similar measure of reform is demanded for the other Presidency-towns also, but Madras has advantages which enable her to take the lead. Whether her sisters will be inclined to follow when they see how easily the proposed transfer of jurisdiction can be effected, and the good results which follow, is a question which we may well leave it to time to solve.

"My Lord, there are yet two objections with which I ought to deal before I bring this long speech to an end. The first is that the addition of this new business will make the Court of Small Causes less efficient for the primary purpose for which it was created, namely, the summary recovery of simple debts. The High Court's letter of 1885 dismissed this difficulty as untenable by showing that almost every Court in the Madras Presidency has its two sides, for the disposal of regular suits and small causes respectively, and that no practical inconvenience has resulted. The only fact brought forward to show that the summary work may have been delayed is that the average duration of a small cause suit in the Presidency Court is less by ten days than the similar average for all the Mufassal Courts.... Those who made this comparison appear to have overlooked the wide extent of the territorial jurisdiction possessed by Mufassal Courts. It will often take much more than ten days to get a summons served on a defendant and returned to the Court, and reasonable time must of course be allowed to a distant party to put in an appearance. Besides, in the Mufassal there is but one Judge for both sides of the Court, and the rule is for him to take only two days in each week for small causes. In the Presidency Court the two sides will be absolutely and entirely distinct, and the only outward and visible signs that the regular

side is part of the Small Cause Court will be, first, that it will be styled 'the Court of Small Causes, Regular Side,' and, secondly, that the presiding Judge will be one or other of the Judges appointed to the Small Cause Court. I have already dwelt on the advantages of such an elastic arrangement. The Chief Justice of the High Court does not appear to have any difficulty in deciding how many or which Judges should be deputed to the original side or the appellate side, as the case may be, or in determining their relative claims to consideration from time to time. The two sides of the Small Cause Court will be every whit as distinct, and the Chief Judge will have exactly the same power to make arrangements. As to the efficiency of the Judges, I need only point out that, supposing their number to be four or five, two must be Advocates of the High Court, while the others have hitherto been the pick of the Subordinate Judges, as good a body of judicial officers as can be found anywhere.

"Lastly, it has been urged that the work of the High Court will not really be decreased, because, if it is saved original trials, it will get more appeals. The weighty authority of Sir Henry Maine has been called in aid of this objection, but after all his arguments are either *à priori*, or at all events they do not take into account the actual facts at Madras. We will suppose 200 suits to be transferred, and that appealable decrees are passed in 100. The average percentage of appeals from appealable decrees of the Mufassal Courts is 12, but we will allow 20. Now, bearing in mind that what takes up most time in Court is the recording of evidence, and that the record is complete before an appeal comes on for hearing, about 6 appeals may be heard in the time which 1 original suit will occupy. We will, however, reduce this number to 4 only. Thus, 20 appeals would take as long as 5 original suits. This is just one-twentieth of the business which I have supposed to be transferred, without making any allowance for the interlocutory work connected with the other 100 suits not disposed of on the merits. I have not lost sight of the fact that two Judges sit together on an Appellate Bench, but I set it against another fact, *viz.*, that at least 10 per cent. of the appealable decrees passed by High Court Judges are already appealed.

"I regret, My Lord, that I have encroached so much on the time of this Hon'ble Council, but the matter is one on which the public of Madras is naturally interested, and on which it has not hitherto enjoyed full information. I trust I have now succeeded in making it sufficiently clear, and at all events that I shall no longer be suspected of entertaining any insidious designs to their disadvantage."

The Motion was put and agreed to.

1891.] [*Sir Philip Hutchins; Sir Alexander Miller.*]

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort St. George Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

INDIAN CHRISTIAN MARRIAGE ACT, 1872, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872, which was introduced and ordered to be published at the last Meeting of the Council, be referred to a Select Committee consisting of the Hon'ble Sir Philip Hutchins, the Hon'ble Mr. Rattigan and the Mover.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 6th August, 1891.

S. HARVEY JAMES,

Secretary to the Government of India,
Legislative Department.

SIMLA;
The 24th July, 1891.

D

G. C. Press, Simla.—No. 162 L. D.—24-7-91.—316.