M.R.O. 1—22,000—16-12-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 760 Press ~~Mis.~~

35-36

Dated 31— 5— ~~1935~~ 9

Not to be folded or roughly handled

No. 35. Read the following letter from H. FORBES, Esq., Member of the Legislative Council; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated Fort William, the 3rd May 1859.

I have the honor to inform the Government that the Bill for the establishment of Courts of Small Causes beyond the local limits of the Supreme Courts of Judicature established by Royal Charter passed through a Committee of the whole Council on the 30th Ultimo, when such changes were made in its principle, that it was decided that it should be re-published for a period of two months before it be read a third time.

2. The letter from the Sudder Court, a copy of which was transmitted* to me with your letter of the 8th of February last, No. 164, was laid before the Select Committee on the Bill, and the desire of the Judges, a desire which it was said that the Government shared, that a more simple Procedure should be introduced into these Courts than that laid down in the Code of Civil Procedure which has lately become Law, was fully considered by the Committee, and in the Bill, as reported to the Council, provision was made that, in all suits under the Act, the summons to the defendant should be for a final disposal of the suit, and for enabling the Court, on a verbal application of the party in whose favor a decree might be passed, to direct immediate execution of the same.

* 14th February 1859, No. 5.

Section 20.

3. It was not considered by the Select Committee desirable that there should be a separate Code of Procedure for these Courts. The Government will have observed that, as the Small Cause Courts are not to deal with suits for real property, a great part of the Procedure Code will not apply to them, and will need no consideration at their hands, and that of the parts, that will apply, comparatively few Sections will be in daily use, and that a large proportion will be had recourse to only on unusual and exceptional occasions.

4. Although however the parts of the Code which, affecting such suits as these Courts will try, will be in constant use, are comparatively few, it does not follow that all the rest may be wholly omitted from the Procedure which will guide the Small Cause Courts. However seldom a particular occasion may arise, when it does arise it must be met, and if it be important that one uniform system should guide all the Civil Courts, it is as important that the action taken on these unusual occasions should be uniform, as that the Procedure on ordinary occasions should be so.

5. The framers of the Civil Code in England were of opinion that "in the simpler class of suits, the Procedure" which they prepared, "would be equally expeditious and economical with that of the Small Cause Court at Calcutta," and certainly the alterations made in the Code in this country detracted in no way from its simplicity.

Section 172 of the Code.

6. In the second paragraph of their letter the Judges object to the Civil Code that "it requires that the statement of witnesses shall be taken down in extenso," but this is a misapprehension, for where no appeal is allowed, and none will be allowed from the decision of the Small Cause Courts, a memorandum of the substance only of each witness' evidence need be taken down in writing.

Section XIX of the Bill

7. The changes made in the Bill as reported by the Select Committee were first, that, instead of its being left optional with the Government to entrust any existing Court with Small Cause jurisdiction as far as fifty Rupees, every District Moonsiff should have such jurisdiction up to 20 Rupees. Second, in the introduction of a new Section, providing that no special appeal shall lie from any decision or order passed in regular appeal by any Court subordinate to the Sudder Court, in any suit of the nature of those to be tried by the Small Cause Courts, when the cause of action shall not exceed 500 Rupees, and third, in so altering Section I of the Bill, as to declare that no Court established under its provisions shall hear or determine any suit which, under the provisions of Section XIX as amended, can be heard by any District Moonsiff, under the unappellate jurisdiction therein generally given.

8. The first two alterations were proposed by Mr. Peacock, and the third by Mr. LeGeyt, the first and third were opposed by Messrs. Currie, Harington and myself, but were carried by the votes of Messrs. Peacock, Grant, LeGeyt, and General Outram, no other Members being present.

9. To the second amendment no opposition was offered.

10. To the first amendment the Members for the Lower and North Western Provinces of Bengal, objected that the Moonsiffs were as a body unfit to be entrusted with any unappellate jurisdiction. This objection was wholly untenable as regards Madras, where the power to decide, without appeal, in suits, up to 20 Rupees, has been enjoyed for forty years, has not been abused, and has given general satisfaction, but I opposed the amendment because it took away the power with which it was proposed to invest the Government of enlarging this unappellate jurisdiction to 50 Rupees, a power which I considered might, in many instances, be very advantageously given to our District Moonsiffs.

11. The third amendment has more mischievously affected the Bill, and its adoption will probably prevent any benefit arising, even if the measure should ever become Law. It was hoped that, as Small Cause Courts, presided over by selected, able and well paid Judges, were established, the Courts of many District Moonsiffs might be abolished, and that thus the expenses of the new Courts would be met. Under the Bill as now amended all the District Moonsiff's Courts must be retained, as they alone will be competent to decide on suits of the value of 20 Rupees or nearly half the litigation of the country. In the present state of the finances, the Government can hardly be expected to incur fresh expenses, and the establishment of Small Cause Courts will again be indefinitely postponed.

12. There was another object sought in the proposal to establish Courts which should try only such suits as come before Courts of Small Causes, which will be lost under the amended Bill. When a Court has to deal with suits for only simple debt or personalty, its action is so rapid, that an almost certainty exists that every suit will be heard and determined on the day set down for the hearing, and no delay arises to any of the parties, but when such suits are heard indiscriminately with those for real property, it is more than probable that parties coming for the decision of a question of simple debt, may have to wait while difficult questions of inheritance or adoption are considered and decided, and will be made to feel the great inconvenience of the want of that rapid action to which the Bill, as originally drawn, was calculated to lead, and which can be had only when the attention of the Court is not distracted from a consideration of those simple cases which properly come within Small Cause jurisdiction, by the weightier matters which are often involved in claims to real property.

The Bill as amended will be forwarded to you when printed, and will be re-published for two months, when it will probably be re-committed.

No. 36. ORDER THEREON, 31st May 1859, No. 760.

Communicated to the Judges of the Sudder Udalut, in reference to their letter of the 14th January last, No. 5. Any observations relative to the amendments in the Bill, which the Judges wish to submit, should be laid before Government at an early date, that they may reach Mr. Forbes before the Bill is re-committed.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

SUPPLEMENT TO

The Fort St. George Gazette.

Published by Authority.

TUESDAY EVENING, MAY 17, 1859.

LEGISLATIVE COUNCIL OF INDIA.

THE 30TH APRIL 1859.

The following Act, passed by the Legislative Council of India, received the assent of the Right Honorable the Governor General on the 30th April 1859, and is hereby promulgated for general information :—

ACT No. IX OF 1859.

An Act to provide for the adjudication of claims to property seized as forfeited.

Preamble. WHEREAS it is expedient to make provisions for the adjudication of claims to property seized as forfeited, with a view to the speedy determination of the same; and whereas it is also expedient to remove doubts concerning the powers of officers or other persons to whom Commissions may have been issued for the trial of heinous offences in certain districts, and concerning the validity of convictions and adjudications of forfeiture made by such Officers or other persons; It is enacted as follows:—

Courts of Special Commission to be established. I. It shall be lawful for the Executive Governments of the Lower and North-Western Provinces of the Presidency of Bengal, to establish within any part of the Territories subject to their respective Governments, Courts of Special Commission for the trial and determination of claims to property seized as forfeited, and to assign, from time to time, such local jurisdiction to the Courts so established as may appear proper. Provided that no additional expense shall be incurred by the establishment of any such Court without the previous sanction of the Governor General of India in Council.

Proviso.

Court to consist of three Commissioners. II. Every Court established under this Act shall consist of not less than three Commissioners who shall sit together for the trial and determination of claims; but any one or more of them shall have power to make all such orders as may be necessary for preparing the cases that may be instituted for trial and decision.

Notification of establishment of Court in any District. III. Whenever any Court shall be established under the provisions of this Act, with jurisdiction in any district or districts, notice thereof shall be given by a written proclamation, of which copies shall be affixed in the several Courts and in the Offices of the several Collectors and Magistrates of such district or districts; and the powers heretofore vested in the Court of such district or districts in respect of all cases cognizable by the Courts established under this Act, shall be suspended until such Courts shall be informed, by an order under the signature of the Secretary to Government, that the local jurisdiction of such Court of Special Commission has ceased, of which notice shall be given by proclamation in the manner aforesaid.

Transfer of pending suits. IV. Any case pending before any Court sitting as a Court of original jurisdiction at the time of the passing of this Act, in respect of a matter made cognizable by Courts established under its provisions, shall be transferred to the Court of Special Commission, within the limits of whose jurisdiction the property in dispute is situate, and such Court shall summon the defendant and proceed to dispose of the case in the same manner as if it had been instituted before it.

V. The Courts established under this Act shall be held at such place within the limits of their respective jurisdiction, as shall from time to time be appointed by the local Government.

Court where to be held.

VI. The plaint in suits instituted under this Act shall be written on the stamp paper prescribed for petitions of plaint in regular suits, and shall contain the following particulars, namely,

Form of plaint.

The name, description, and place of abode of the plaintiff, the relief sought for, the subject of the claim, and the cause of action; and if the suit be brought against a defendant other than the Government or some Officers on the part of Government, the name, description, and place of abode of such defendant.

VII. The plaint shall be verified in the manner prescribed for the verification of plaint in Section XXVII. Act VIII of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)*; and if the plaint contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

Verification of plaint.

Punishment for false averment in plaint.

VIII. The plaint may be presented by the plaintiff in person or by his duly constituted representative, either in the principal Civil Court of original jurisdiction in the district in which the property or any part of the property in dispute is situate, or in the Court of Special Commission having jurisdiction over the claim under this Act. If the plaint be not presented in the Court of Special Commission, it shall be forwarded to such Court without delay.

Presentation of plaint.

IX. The Court shall fix a day for the appearance of the parties and for the hearing of the suit, of which due notice shall be given to the parties or their representatives, and on the day so fixed the parties shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit, and the Court shall issue a subpœna requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the plaintiff on the day fixed for the hearing of the suit or at any subsequent stage.

Procedure before hearing of suit.

X. On the day fixed for the hearing of the suit or as soon after as may be practicable, the Court shall proceed to examine the plaintiff or his representative (when his personal attendance is not required) and the witnesses of the parties, and upon such examination and after inspecting the documents of the parties and making any further enquiry that may appear necessary, shall proceed to pass such order in the case in respect both to the claim and to the costs of suit as it may consider just and proper.

Procedure on hearing.

XI. It shall not be necessary to take down the depositions of the witnesses in writing at length; but the Court, as the examination of each witness proceed, shall reduce into writing the substance of what such witness deposes, and the deposition so taken shall form part of the record. In all other respects the provisions of the Regulations and Acts for procuring the attendance of witnesses and for the examination, remuneration, and punishment of witnesses in suits before the Civil Courts, shall be of equal force and effect in cases tried under this Act.

Examinations, &c., of witnesses.

XII. The rules contained in Act XII of 1843 *(concerning the time at which and the language in which the decisions of the Judges in the Courts of the East India Company are to be written)* shall be applicable to decisions passed under this Act.

Decisions.

XIII. No appeal shall lie from any decision passed under this Act, nor shall any such decision be open to revision.

No appeal.

XIV. The decrees of the Courts of Special Commission established under this Act shall be enforced by the Civil Courts of the district in which the property in dispute is situate, under the rules applicable to the execution of decrees passed by those Courts.

Execution of decrees.

XV. The records of cases disposed of by Courts established under this Act shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the district in which the property in the dispute is situate.

Records of cases where to be deposited.

XVI. Whenever any person shall have been convicted of an offence for which his property was forfeited to Government, no Court has power in any suit or proceeding relating to such property, to question the validity of the conviction.

Validity of Convictions of offences involving forfeiture of property not to be questioned by any Court.

XVII. Whenever any person shall have been convicted as above by an Officer having power to try and convict, the validity of any such conviction shall not be questioned upon the ground that the record of the conviction does not show in what capacity such Officer acted, or that it represents him to have acted in a different capacity from that in which he had power to convict.

Validity of convictions not to be questioned because the record does not show in what capacity the convicting Officer acted.

XVIII. Whenever any property shall have been attached or seized without either conviction or an adjudication of forfeiture by any Officer of Government as property forfeited or liable to be forfeited to Government for an offence for which upon conviction the property of the offender would be forfeited, the validity of such attachment or seizure shall not be called in question by any Court or other authority in any suit or proceeding, unless the offender or alleged offender shall, within one year after the seizure of his property, have surrendered himself for trial and upon trial before a competent Court shall have been or shall be acquitted of the offence and shall prove to the satisfaction of the Court that he did not escape or keep out of the way for the purpose of evading justice. Nothing in this Section shall extend to persons entitled to pardon under Her Majesty's proclamation published in the Calcutta Gazette Extraordinary dated the 1st November 1858, or to any person who, having surrendered himself within the period of one year after the seizure of his property, shall be discharged by order of Government without a prosecution.

Property attached without adjudication of forfeiture.

Validity of such attachment not to be questioned unless offender surrender within one year and be acquitted, &c.

Proviso.

XIX. No Judge or other person acting as Commissioner under the provisions of Acts XIV and XVI of 1857 has power to release property attached or seized as forfeited or as liable to be forfeited to Government except under the provisions of Section VIII Act XXV of 1857, when the offender or alleged offender shall have surrendered himself for trial and shall be tried and acquitted by such Judge or Commissioner, and shall prove that he did not escape or keep out of the way for the purpose of evading justice; and any order passed by any such Judge or Commissioner for the release of any property attached or seized as forfeited or liable to be forfeited to Government, except upon the acquittal before him of the person accused, and upon proof that he did not escape or keep out of the way for the purpose of evading justice, is hereby declared null and void.

Release of property attached as forfeited.

XX. Nothing in this Act shall be held to affect the rights of parties not charged with any offence for which upon conviction the property of the offender is forfeited, in respect of any property attached or seized as forfeited or liable to be forfeited to Government; provided that no suit brought by any party in respect of such property shall be entertained unless it be instituted within the period of one year from the date of the attachment or seizure of the property to which the suit relates.

Act not affect the rights of parties not charged with an offence punishable by forfeiture of property.

Proviso.

W. MORGAN,
Clerk of the Council.

THE 23D APRIL 1859.

THE following Bill was read a second time in the Legislative Council of India, on the 23d April 1859, and was referred to a Select Committee who are to report thereon after the 30th of July next:—

A Bill to amend Act III of 1857 (relating to trespasses by Cattle).

WHEREAS, under the provisions of Act III of 1857, fines may be levied from the owners of Cattle found trespassing and doing damage or straying in any public place, and all unclaimed Cattle so found may be sold after sufficient notice; and whereas it is provided in the said Act that the sums received on account of fines and unclaimed proceeds of the sale of unclaimed Cattle shall be applied to the payment of the salaries of pound-keepers and other purposes connected with the execution of the Act; and whereas the amount of the said sums may be larger than is required for the said purposes, and it is expedient to provide for their legal application to other purposes; It is enacted as follows:—

Preamble.

I. When the amount of the sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle is larger than is required for the payment of the salaries allowed to pound-keepers and the expenses incurred for the construction and maintenance of pounds and other purposes connected with the execution of the said Act, any surplus which may remain after making full provision for the said salaries and expenses may be applied, under the direction of the local Government, to the construction and repair of roads and bridges, and other works of a like nature.

Appropriation of surplus fines, &c.

II. This Act shall be read with and taken as part of Act III of 1857.

Act to be read as part of Act III of 1857.

W. MORGAN,
Clerk of the Council.

THE 23D APRIL 1859.

THE following Bill was read a second time in the Legislative Council of India, on the 23d April 1859, and was referred to a Select Committee who are to report thereon after the 30th of July next:—

A Bill to empower Magistrates to decide certain disputes between contractors and workmen engaged in Railway and other works.

Preamble. WHEREAS it is expedient to empower Magistrates to decide disputes concerning wages and certain other disputes between contractors and workmen engaged in Railway and other works; It is enacted as follows:—

Who shall be deemed a contractor within this Act. I. Any person who has contracted or who may hereafter contract to construct any portion of a Railway, canal, or other public work, the construction of which is or shall be sanctioned by Parliament or by the Government of India, shall be deemed a contractor within the meaning of this Act.

Magistrate to take cognizance of cases of non-payment of wages to workmen by contractors. II. If any person being a contractor within the meaning of this Act shall employ or engage with any artificer, workman, or laborer for the execution of any work connected with or incidental to the performance of his contract (whether such work is to be performed by the person so employed or engaged or by others to be employed with, by or under him), and shall not from time to time pay all such sums of money and wages as shall be justly due to the person or persons so employed, it shall be lawful for the Magistrate of the Zillah or District where the work is performed, to take cognizance of the matter.

To decide summarily after summoning the parties &c. III. The Magistrate shall summon such contractor (or in his absence his local manager or agent) to appear at a time and place to be named in the summons; and it shall be lawful for the Magistrate to examine witnesses upon oath or solemn affirmation and in a summary way to decide between the parties, which decision shall be final and conclusive to all intents and purposes.

Order for payment. Distress. IV. The Magistrate shall order the payment of such sum of money as shall appear to him to be justly due to the person or persons so employed as aforesaid, and in default of payment of such sum immediately or within such time as the Magistrate shall direct, he shall issue his warrant to levy the same by distress and sale of the goods and chattels of the defaulting contractor.

Property distrained. V. If any question shall arise whether any goods or chattels seized under the warrant of distress belong to the defaulter or are liable to be distrained and sold as aforesaid, the decision and order of the Magistrate shall be final and conclusive with respect thereto.

Penalty for workmen neglecting or refusing to work. VI. Any artificer, workman, or laborer employed or engaged by a contractor within the meaning of this Act to execute any work of the nature mentioned in Section I, who shall wilfully and without lawful or reasonable excuse neglect or refuse to perform such work, shall be liable on conviction before the Magistrate to a fine not exceeding Rupees. The Magistrate may, at the request of the complaint or of any one authorized to act on his behalf, instead of fining such artificer, workman, or laborer, order him to perform or get performed the work according to the terms of his contract, and if he shall fail to comply with the order, the Magistrate may, upon proof to his satisfaction of such non-compliance, sentence such artificer, workman, or laborer to be imprisoned with hard labor for any term not exceeding months.

Interpretation. 'Magistrate.' VII. The word "Magistrate" in this Act shall included any person who may be specially empowered by the Executive Government to exercise the powers vested in a Magistrate by this Act.

Operation of Act. VIII. This Act shall take effect only in those Districts or places to which it shall be extended by order of the Governor General of India in Council or of the Executive Government of any Presidency or place.

W. MORGAN,
Clerk of the Council.

THE 30TH APRIL 1859.

THE following Bill, as settled in Committee of the whole Council, was ordered to be published for general information, and to be re-considered after two months:—

A Bill for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter.

Preamble. WHEREAS, with a view to the more easy recovery of small debts and demands, it is expedient to establish Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter at the several Presidencies of Calcutta, Madras, and Bombay; It is enacted as follows:—

Constitution of Small Cause Courts. Limits of territorial jurisdiction to be fixed. I. It shall be lawful for the Executive Government of any of the said Presidencies or of any place, with the previous sanction of the Governor General in Council, to constitute Courts of Small Causes, with the required establishment of Officers, at any place within the limits of their respective Governments, for the trial of suits under this Act. Whenever any such Court may be so constituted, the Executive Government shall fix the territorial jurisdiction of such Court, and may, from time to time, alter the same as may appear proper.

Description of suits cognizable by Small Cause Courts. Proviso. II. The following are the suits which shall be cognizable by Courts of Small Causes constituted under this Act, namely, claims for money due, whether on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees. Provided that no action shall lie in any such Court on a balance of partnership account, unless the balance shall have been struck by the parties or their agents; or for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will; or for any claim for the rent of land or any other claim for which a suit may be brought before a Revenue Officer, if commenced in due time; or for the recovery of damges on account of alleged personal injuries, unless special damage of a pecuniary nature shall have resulted from such injury.

Jurisdiction of the Courts. III. Every Court of Small Causes constituted under this Act shall have cognizance of all such suits as are mentioned in the last preceding Section, if the cause of action shall have arisen or the defendant at the time of the commencement of the suit shall dwell or personally work for gain within the local limits of the jurisdiction of such Court.

Seal of the Court. Court to be generally subject to the Zillah Judge and Sudder Court. IV. Every Court constituted under this Act shall use a seal, bearing the following inscription in English and in the language of the Court—"Court of Small Causes of ;" and every such Court shall be subject to the general control and orders of the Judge of the District and of the Sudder Court.

Suits cognizable by a Small Cause Court under this Act not to be cognizable in any other Court. V. Whenever a Court of Small Causes is constituted under this Act, all suits cognizable under the provisions of this Act, for any amount exceeding twenty Rupees which shall arise within the limits of the jurisdiction of such Court, shall be heard and determined in such Court and shall not be cognizable in any other Court.

Saving of jurisdiction of Magistrates, &c. of Village Moonsiffs and Village or Districts Punchayets in Madras. of Military Courts of Requests— of single Officers appointed to try small suits in Madras and Bombay; and of Military Punchayets in Madras. VI. Nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or a [illegible] of a Civil nature; or the jurisdiction which can be exercised by Village Moonsiffs or Village or District Punchayets under the provisions of the Madras Code, or by Military Courts of Request, or by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III of 1859, or by a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in Military Bazars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively, or by the Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

Courts where to be held. VII. Courts of Small Causes constituted under this Act shall be held at such place or places within the local limits of their respective jurisdictions as shall from time to time be appointed by the local Government to which such Courts are subordinate.

Time of holding Courts if they be directed to be held in more places than one. VIII. Whenever any such Court is directed to be held at more places than one within the local limits of its jurisdiction, the Judge of such Court, subject to the control of the Judge of the District, shall appoint the time at which the Court shall hold its sittings in every such place. Due notice of the time so appointed shall be given by a proclamation to be fixed up in some conspicuous place in the Court-house or other building in which the sittings of the Court are to be held.

Procedure. Proviso. IX. The procedure to be observed in the trial of cases cognizable under this Act, shall be that prescribed in Act VIII of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)*, in so far as the same may be applicable and necessary. Provided that in all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and provided also that, at the time of passing a decree under this Act, the Court may on the verbal application of the party in whose favor the decree is passed direct immediate execution of the same by the issue of a warrant directed either generally against the personal property of the judgment debtor wherever it may be found within the local limits of the Court's jurisdiction, or specially against any personal property belonging to the judgment debtor within the same limits which may be indicated by the judgment creditor.

X. In the execution of decree under this Act, if, after the sale of the moveable property of judgment debtor, any portion of a judgment shall remain due and the holder of such judgment desire to issue execution upon any moveable property belonging to the judgment debtor, the Court on the application of such judgment creditor, shall grant him a copy of the judgment and a certificate of any sum remaining due under it, and on the presentation of such copy and certificate to any Civil Court having general jurisdiction in which the immoveable property of the judgment debtor is situate, such Court shall proceed to enforce such judgment according to its own rules and mode of procedure in like cases.

Execution against immoveable property, if moveable property not sufficient.

XI. In suits tried under this Act, all decisions and orders of the Court shall be final. Provided that it shall be competent to the Court, if it shall think fit, to grant a new trial if applied for within the period of thirty days from the date of the decision.

Decision in certain suits to be final.

Proviso.

XII. If in the trial of any suit under this Act any question of law or usage having the force of law of the construction of a document affecting the merits of the decision shall arise, on which the Court may entertain reasonable doubts, the Court may, either of its own motion or on the application of any of the parties to a suit, draw up a statement of the case and submit it, with its own opinion, for the decision of the Sudder Court.

Court may refer questions of law &c. to Sudder Court.

XIII. The Court may proceed in the case, notwithstanding a reference to the Sudder Court, and may pass a decree, contingent upon the opinion of the Sudder Court on the point referred; but no execution shall be issued in any case in which a reference may be made to the Sudder Court, until the receipt of the order of that Court.

Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

XIV. Cases referred for the opinion of the Sudder Court shall be dealt with by a full bench of that Court.

Full bench of the Sudder Court to decide cases referred under this Act.

XV. The Sudder Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-house, of that Court.

Sudder Court to fix an early day for the hearing of the case.

Proclamation thereof.

XVI. The parties to the case may appear and be heard in the Sudder Court in person or by pleader.

Parties may appear and be heard in person or by pleader.

XVII. The Sudder Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the Register, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case conformable to the decision of the Sudder Court.

Decision of Sudder Court how to be transmitted.

XVIII. Costs, if any, consequent on the reference of a case for the opinion of the Sudder Court shall be costs in the suit.

Costs of reference to Sudder Court.

XIX. No appeal shall lie from a decree of any existing Court subordinate to District Court in any suit of the description contained in Section II, when the debt, damage, or demand shall not exceed twenty Rupees, but every such decree shall be final. Provided that the provisions of Section IX and the proviso in Section XI shall be applicable to every suit in which the decree is by this Section made final.

No appeal from decision of any existing Court subordinate to a District Court in suits below 20 Rupees.

Proviso.

XX. No special appeal shall lie from any decision or order passed on regular appeal by any Court subordinate to the Sudder Court in any suit of the nature described in Section II, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed five hundred Rupees. But every such order or decision shall be final.

No special appeal from decision of any Court subordinate to the Sudder Court in suits below 500 Rupees.

XXI. In every case in which a decree or decision is by the two last preceding Sections made final, the Court passing the final decree or decision shall have the same power to draw up a statement of the case for the opinion of the Sudder Court as is hereby vested in a Court of Small Causes, and all the provisions of this Act relative to statements drawn up by Courts of Small Causes shall be applicable to statements drawn up under the provisions of this Section.

Reference of questions to Sudder Court under two last preceding Sections.

W. MORGAN,
Clerk of the Council.

Republished by order of the Honorable the Governor in Council.

T. PYCROFT, *Chief Secretary.*

Madras:—Printed and Published by H. SMITH, at the Fort St. George Gazette Press.

may be advantageously given to our Native Proprietors.

11. The third amendment by more immediately affected the Bill, and I shall probably prevent any benefit arising, even if the measure should ever become Law. It was hoped that, as Small Cause Courts, presided over by selected, able and well paid Judges were established, the Courts of ordinary Districts might be abolished, and that then the powers of the new Courts would be met. Under the Bill as now amended all the District Moonsiffs Courts must be retained, as they also will be competent to decide on suits of the value of 20 Rupees or nearly half the obligations of the Country. In the present state of the finances the Government could hardly be expected to incur fresh expenses, and the establishment of Small Cause Courts will again be indefinitely postponed.

12. There was another object sought in the proposal to establish Courts which should try only such suits as came before Courts of Small Causes, which will be lost under the amended Bill. When a Court has to deal with suits for only simple debt or personalty, its action is so rapid, that one almost certainty exists that cases will be heard and determined on the day Advanced for the hearing, and no delay arises to any of the parties, but when such suits are heard

indiscriminately with those of real property.
It is more than probable that Parties coming
for the decision of a question of simple debt,
may have long wait while difficult questions
of inheritance or adoption are considered
and decided, and will be made to feel the great
inconvenience of the want of that rapid action
to which the Bill, as originally drawn, was
calculated to lead, and which can be had
only when the attention of the Court is not
distracted from a consideration of those simple
cases which properly come within its small Cause
jurisdiction, by the weightier matters which
are often involved in claims to real property.

The Bill as amended will be forwarded
to you when printed, and will be re-published
for two months, when it will probably be recom-
mitted. —

I have the honor to be
Sir
Your most Obedient Servant

[signature]

Members of the Legislature.

C 8th Feby 1859 No 49 to 51

Pro of Govt 31 May

Judl 1839 Dept

From H. Forbes Esqre
Member for Madras
of the Legislative
Council.

Dtd 30
Rd 10th May 1839.

No 783.

Acquainting Govt that
the Bill for the Establt of Courts
of Small Causes beyond the
Local limits of the Supreme
Courts of Judicature as estab-
lished by Royal Charter
passed thro' a Committee of the
whole Council on the 30th Ulto
when certain amendments
were made in it & from it after,
& it was decided that it should
be republished for a period
of two months before it be
read a third time.

With an Order.

No 760.

Communicated to the Judges
of the Sudder Udalut. in refe-
rence to their letter of the 14th
January last No 5. Any observa-
tions relative to the amendments
in the Bill, which the Judges
wish to submit, should be laid
before Govt. at an early date,
that they may reach Mr. Forbes before
the Bill is recommitted.

Fort St George
31st May 1839

The Judges of the Sudder Udalut. Dispd 1st

C 21 May
R 30 "

35-436