

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	139-140	Press Mis.
35-37		
Dated	6-2-	1860

Not to be folded or roughly handled

A. PYCROFT,

Secretary.

*Proceedings of the Madras Government, Judicial Department,
for the month of February 1860.*

No. 35. Read the following letter from C. F. CHAMIER, Esq., Register to the Court of Sadr Adalat; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 27th January 1860, No. 11.

1. I am directed by the Judges of the Sadr Adalat to offer the following observations on the Bill to amend Act VIII of 1859, now before the Legislative Council of India.

2. The reduction of the number of Judges forming the Court, from three to two, as provided in Section I of the Bill, is a measure which the Judges advocated in para. 14 of their communication of the 20th August last on the Bill for regulating Criminal procedure. The requisition that three Judges should form the Court on the civil side had no place in the Bill for regulating Civil procedure, but was introduced when this Bill passed into Law. The Court had thus no opportunity of objecting to this requisition as they otherwise would have done.

3. They consider the proposed reduction of the number of Judges forming a Court to two, highly expedient, and in fact necessary in a Court consisting, as that at Madras, of but three members. They moreover prefer such a constitution of a Court irrespective of economic considerations. Two Judges, when in deliberation together on the bench, can consult together better than any two of them can do when there are three Judges with a Judge centrally placed between the other two, cutting these off from close communication with each other, and himself having to attend to these, one on each side of him. Furthermore, in a Court of two Judges the case is apt to be more closely considered when difference of opinion arises, as a third Judge present may hastily agree with an observation of one or other of the dissentient Judges, and so create a majority and cut short the discussion prematurely. And when such third Judge becomes a referee between the other two, he enters upon judgment with the great advantage of having before him the ultimate and deliberate reasons of the two between whom he has to decide. Lastly, where two Judges agree on the bench in judgment, the case is disposed of more promptly than when a third is present.

4. The Judges however do not consider the method proposed in the Bill now under consideration for determining the Appeal, on difference of opinion occurring between the Judges, a satisfactory one. They think it will certainly be the reverse of satisfactory to the Appellant.

5. Such differences, rarely take place in this Court, but when they do, the Judges would prefer that each Judge should record his views, and that these should be placed before a third Judge to determine between them.

6. This has always been the method in respect of criminal trials in this Court, and is the best, it appears to the Judges, that can be adopted under the circumstances. The Judge who is the referee will see the arguments raised upon the case by three different Judges, namely the Judge of first instance and dissentient Judges of Appeal, and he will ordinarily have ample means for arriving at a conclusion. Should he, however, find it necessary to have the case argued before himself, he should be at liberty to demand this.

No. 36. ORDER THEREON, 6th February 1860, No. 139.

Ordered to be communicated to the Member for Madras with the remark that the Government agree in the views set forth in paras. 4 & 5.

(Signed) T. PYCROFT,
Chief Secretary.

No. 37. To H. FORBES, Esq., Member for Madras of the Legislative Council of India; dated Fort Saint George, 6th February 1860, No. 140.

I am directed to transmit to you copy of a letter, 27th ultimo No. 11, in which the Judges of the Sadr Adalat submit their opinions on the changes proposed in the Bill to amend the Civil Procedure Act VIII, 1859.

2. The Government, I have to state, agree in the views set forth in paras. 4 & 5 of the letter.

(Signed) T. PYCROFT,
Secretary.

Exd. F. Cartledge.

over 1000 - 10. 1859
Sh. 8. 1860 Dep. 11

No.

From
The Registrar to the Court
of Sadar Adalat.
to the Chief Secretary to
Government.

Dated 27th }
Read 1 } January 1860.

No 131

No 11.

Offering observations on
the Bill to amend Act
of 1859, now before the
Legislative Council of
Madras.

2nd
With Order &
Letter.

210th Dec 1859 1838 139
The initials
in the letter 5. 11. 1859

No. 139 - 8 February 1860.
Ordered to be communicated to
the Members of Madras with the
remark that the Govt. agree in
the views set forth in paras 4 & 5.

The Sadar Adalat. D. 9th

J.P.

28 June
1860

Supd 9th

N^o 140.

H. E. Forbes Esq^r
Member for Madras of the Legis-
lative Council of India.

Sir.

I am directed to transmit
to you copy of a letter, 27th Ult.
to N^o 11, in which the Judges
of the Sadar Adalat submit
their opinions on the changes
proposed in the Bill to a-
mend the Civil Procedure
Act, VIII-1859.

2. The Govt., I have to state, a-
gree in the views set forth in
paras 4 & 5 of the letter.

W. G. George
5 February 1860

Copy will be
sent to the
Law Secy in
accordance with
the order of the
Govt. of Madras
J. G. [Signature]
[Signature]
[Signature]