

# MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

|                        |                      |
|------------------------|----------------------|
| G.O. No. 1126          | Press<br><u>Mis.</u> |
| 96-109.                |                      |
| Dated 14. 8. 1865 19 . |                      |

13/14

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,*  
14th August 1865.

Read the following papers :—

No. 96. From E. B. FOORD, Esq., Acting Magistrate of Ganjam, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Berhampore, 10th March 1865, No. 31.

With reference to Proceedings of Government, Judicial Department, No. 285, dated 22nd ultimo, I have the honor to state that, as only one case was disposed of under Act XIII of 1859 in this District during the past year, I am not in a position to offer an opinion on the working of Madras Act III of 1863.

No. 97. From T. A. N. CHASE, Esq., Joint Magistrate in charge, Godavery District, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Narsapur, 7th April 1865, No. 87.

With reference to paragraph 2 of the Order of Government of the 22nd

|                                                                                                                                               |                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| * By the Head Assistant Magistrate... .. 6<br>" Deputy Magistrate at Cocanada... .. 2<br>" Deputy Magistrate at Ellore... .. 3<br>.. .. .. 11 | February last, No. 285, I have the honor to report that only 11* cases have been disposed of by the Magistracy during the year 1864, under Act XIII of 1859. |
|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|

2. The fee of 1 Rupee for serving Processes under the Act prescribed in Section 2, Madras Act III of 1863, has always been found adequate, and the amendment of the Act, so far as this District is concerned, is unnecessary.

No. 98. From J. W. B. DYKES, Esq., Magistrate of Nellore, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Dugarazupatnam, 30th March 1865, No. 5.

\* With reference to the Order of Government, Judicial Department, dated 22nd February 1865, No. 285.

I have the honor to report\* on the working of Madras Act III of 1863 during 1864.

2. The operations in this District have been very limited, there being only three cases, in one of which an Inspector of Police was the complainant, and the summons served by the Police; in the second, the Head Signaller of the Telegraph Office equally failed to comply with the conditions of the Act, the defendant being verbally summoned; and in the third, the fees were paid in Kurnool, and executions made here on the complainant volunteering to pay the additional expenses likely to be incurred.

3. The failure to exact the fee when the complaint was made, has prevented any progress being made towards a sinking fund, on which point the requisite orders shall be issued.

4. Had, however, the fees been duly exacted, and the execution of the Kurnool Warrant properly fallen on this District, we should still have been on the wrong side.

5. And as cases involving considerable distances are likely to arise, and it seems scarcely fair that, even if the Sinking Fund did meet such expenditure, a private individual should be enabled "to enforce his private Civil contracts" at the expense of his neighbours, any more than "the public purse," I would recommend that Act III should be amended, and in addition to the usual fee for serving process, complainants should be required to deposit any additional expenditure likely to be incurred, with reference to distance, and that the same be recoverable in the same manner as the usual fee.

No. 99. From H. G. SMITH, Esq., Magistrate of Cuddapah, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Royachoti, 17th March 1865, No. 12.

With reference to paragraph 2 of the Order of Government, dated 22nd February 1865, No. 285, I have the honor to report that as no cases were disposed of in 1864 under Act No. XIII of 1859, I am unable to express my opinion with reference to the working of the Act III of 1863 in this District.

No. 100. From A. HATHAWAY, Esq., Collector of Bellary, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Hospett, 13th April 1865, No. 21.

With reference to the 2nd paragraph of the Government Proceedings, No. 285, dated 22nd February 1865, I have the honor to inform you that no expenses were incurred by Government in serving Processes under Act III of 1863, in the few cases which were disposed of during the past year in this District, under Act XIII of 1859.

2. I would further remark that from the Government Order, No. 1833, dated 26th November 1863, it appears that the rules regarding the service of Processes under Act III of 1863 are applicable only to Wynaad taluq in the District of Malabar.

No. 101. From J. I. MINCHIN, Esq., Magistrate of Kurnool, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Nundial, 20th March 1865, No. 9.

With reference to the Government Order, dated 22nd February 1865, No. 285, I have the honor to state that the working of Act III of 1863 in this District has entailed no expense on the Government.

2. The following Statement shows the receipts and expenditure under the Act for the year 1864, leaving a balance to the credit of Government of Rupees 256.

Statement showing the gross receipts, expenditure, and balance, under Act III of 1863, for the year 1864, in the Kurnool District.

| Amount collected<br>in 1864 under<br>Act III of 1863. | Expenditure. | Balance.  |
|-------------------------------------------------------|--------------|-----------|
| RS. A. P.                                             | RS. A. P.    | RS. A. P. |
| 1,423 8 0                                             | 1,167 8 0    | 256 0 0   |

KURNOOL COLLECTOR'S OFFICE,  
ON CIRCUIT, NUNDIAL,  
20th March 1865.

(Signed) J. I. MINCHIN,  
Collector.

No. 102. From J. D. ROBINSON, Esq., Magistrate of North Arcot, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Arugonda, 29th March 1865, No. 13.

I have the honor, with reference to the Order of Government, dated 22nd ultimo, No. 285, Judicial Department, to state that in the very limited number of

instances in which Act XIII of 1859 has come into operation in this District, the Process Fee prescribed in Section 2, Act III of 1863, has been found to cover all incidental expenses.

2. I speak of results where the operation of the Act has been purely local; but a case has come within my observation, in connection with another District, which leads me to think that some further legislation is called for in this matter. The case was as follows:—

A breach of contract charge came on for trial before the Deputy Magistrate of Bellary, in which the defaulting contractor was reported to have absconded to Tripatty in this District,—a Process was accordingly issued and forwarded to this office for service on the defendant. The execution of the Process was entrusted to a peon specially entertained for the purpose, who after 15 days' search reported that the defaulter was no where to be found. On this, I wrote to the Magistrate of Bellary, requesting him to remit Rupees 2½ as wages for the Process Peon, computed at the very moderate rate of Rupees 5 per mensem. The Magistrate of Bellary replied by remitting Rupee 1, observing that as he read Section 2 it restricted the fee to that amount. The Rupee was accordingly paid to the man who accepted it, doubtless with a secret determination to turn his talents to more profitable account when next they might be put into requisition.

3. If I may form an opinion on a single isolated case, I should advocate the substitution of a daily rate of remuneration, say 3 Annas per diem for the lump payment now presented by the Act. The fee was probably fixed low to facilitate prosecution, but a daily rate such as that just named should not bear heavily on those who have recourse to the Act; and I cannot think that the service of Processes in more distant localities can be conducted under the existing rule without charge to the State.

No. 103. From W. M. CADELL, Esq., Magistrate of Tanjore, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Tanjore, 15th March 1865, No. 81.

With reference to the Order of Government, under date the 22nd February 1865, No. 285, I have the honor to state that in this District, during the past year, the payments made by Government on account of cases tried under Act XIII of 1859 have not exceeded the receipts under Section 2, Act III of 1863.

No. 104. From P. GRANT, Esq., Magistrate of Coimbatore, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Ootacamund, 15th June 1865, No. 64.

With reference to the Order of Government, dated 22nd February last, No. 285, calling for a report upon the expediency of amending Act III of 1863, so far as the rate of fee levied for the service of Process is concerned, I have the honor to state that the reports received from the several subordinate Magistrates in the District, of which a Precis is enclosed, show that in cases in which Process had to be

*Proceedings of the Madras Government, Judicial Department,  
14th August 1865.*

served on parties living at a distance, the fee of one Rupee was insufficient to cover the expenses entailed, and that, therefore, in view to save Government the extra expense likely to be incurred, it will be necessary to have recourse to further legislation to raise the fee, the maximum amount of which should, I think, be fixed at two Rupees.

2. I take this opportunity of forwarding, for the consideration of Government, copy of a letter from Colonel Young, Joint Magistrate of Wellington, recommending the elimination of the words "or verbal" from Section 4, Act XIII of 1859, for reasons stated by him.

**PRECIS.**

Acting Joint Magistrate of Coimbatore, Mr. W. McQuhae,  
15th March 1865.

The payments made by Government on account of Process under Act XIII of 1859, exceeded the receipts under Section 2, Act III of 1863, by Rupees 14-5-11.

Joint Magistrate of Wellington, Lieutenant Colonel Young,  
4th March 1865.

Rupees 41-8-0 were recovered as Process fees from February to December 1864. Had there been a Process server on Rupees 4 a month there would not have been sufficient funds to meet his small pay, however, up to this time no Process server was procurable even on the understanding that his pay would be increased to Rupees 7 should Process fund admit of it, and hence some of the other peons have acted as Process servers, receiving 2 Rupees a month for the extra work. From this it will be seen that it would require about Rupees two to be levied for each Process fee to cover a Process server's pay at Rupees 7 a month, and which would leave no balance for batta to prisoners, or for the transit charges of those brought from a distance by rail.

Major Campbell, Joint Magistrate, Ootacamund, 10th March 1865.

Government has sustained no loss in the investigation of breach of contract cases, under Act III, Section 2 of 1863, in this Division, during the year 1864.

Acting Assistant Magistrate, Mr. Foster, 18th March 1865.

Rupees 37 have been collected, and out of this only Rupees 5-8-0 were paid for the service of Process. This is owing to one case in which there were 28 defendants, and consequently the prosecutor paid Rupees 28, and as the people were almost all in Coimbatore, the expense of serving the summonses was only 1 Rupee.

B. Gooppa Rao, Deputy Magistrate, Coimbatore, 29th May 1865.

The number of persons charged were eight. The fee collected was 8 Rupees, of which Rupees 1-6-0 were disbursed, with reference to distance travelled over by the peons employed in serving the same, the saving being Rupees 6-10-0. In these cases the parties charged lived close at hand, and 2 or 3 in one and the same village, which was the cause of the smallness of the expenditure; if they had proceeded to a distance or left the District altogether, the difficulty and expense in serving the Process would have been considerable, as they were, in some cases, disposed of by other officers. The existing rate of fee is considered inadequate, and it may, without inconvenience, be raised at least to 2 Rupees. The prosecutor obtains immediate redress, and the increased expenses of a Law suit are saved to him.

P. Iyaloo Naidoo, Deputy Magistrate, Northern Division, 11th March 1865.

The expenses incurred in procuring the attendance of parties in cases under Act XIII of 1859 in 1864, or the present year, did not exceed the fees paid by prosecutors under Section 2, Act III of 1863.

(Signed) P. GRANT,  
Magistrate.

*Proceedings of the Madras Government, Judicial Department  
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From Lieutenant Colonel F. YOUNG, Joint Magistrate of Wellington and Coonoor, to P. GRANT, Esq., District Magistrate, Coimbatore; dated Wellington, 13th March 1865, No. 79.

As it is contemplated to alter Act III of 1863, relative to the service of Process under Act XIII of 1859, I have the honor to recommend, for the following reasons, that the words "or verbal" be at the same time expunged from Section 4 of Act XIII of 1859.

*First.*—Verbal agreements often lead to unfounded complaints, and last year, in a complaint of the sort, I had to commit a complainant for trial for perjury.

*Secondly.*—Where the evidence depends upon a verbal agreement, it imposes upon Magistrates extra work in hearing evidence.

*Thirdly.*—In admitting verbal agreements, there is a loss to the State, inasmuch that Act X of 1862 requires all agreements for service or personal employment, &c., to be on stamped paper.

(True Copy).

(Signed) P. GRANT,  
Magistrate.

No. 105. From G. A. BALLARD, Esq., Magistrate of Malabar, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Calicut, 17th May 1865, No. 65.

With reference to the Government Orders noted, I have the honor to submit two Statements, one showing the number and classes of cases disposed of in the year 1864, under Act XIII of 1859, and the other the receipts and disbursements under (Madras) Act III of 1863, since it came into operation.

2. The total number of cases brought up during 1864, under Act XIII of 1859, is 446, viz. :—

|                                                                                                           |     |
|-----------------------------------------------------------------------------------------------------------|-----|
| Cases in which the prosecutor was an employé, or Agent of Government or the Railway or other Company..... | 58  |
| Planters.....                                                                                             | 314 |
| Other European residents.....                                                                             | 16  |
| Natives.....                                                                                              | 58  |
|                                                                                                           | 446 |

|                                                                           |     |
|---------------------------------------------------------------------------|-----|
| Cases in which defendants were artificers or skilled workmen...           | 92  |
| Other workmen, including contractors for the performance of work, &c..... | 36  |
| Laborers or coolies.....                                                  | 318 |
|                                                                           | 446 |

3. It will be observed that the major part of the prosecutors are planters, most of whom are residents of Wynaad, and that of the 446 cases filed during the year, the defendants in 77 were imprisoned, in 75 held to security, and the rest required to perform their contracts or released.

4. The Deputy Magistrate of Wynaad refers to instances in which defendants ordered to fulfil their contracts under Section 2 of the Act,\* abscond† to evade compliance with the order, and the complainants seldom move the Court for a second arrest. He attributes to this

\* No. XIII of 1859.

† Note.—Security can, of course, be demanded for the due performance of the order, under Section 3 of the Act, but the regulation of the Security depends on the request of the complainant, which is not always made, and on the ability of the prisoner to furnish it, which is almost invariably wanting.

cause the comparatively small number of persons entered in the Return as having suffered imprisonment.

5. He suggests, therefore, the desirableness of having Magistrates empowered to sentence the defendants at once to imprisonment, and order them to fulfil their contracts at the expiration of the sentence; in default to a further imprisonment.

6. He further suggests that a clause be added to the present Act, bringing under its provisions breaches of contracts for the *supply* of laborers, as the enactment, as it now stands, applies only to artificers, workmen, and laborers.

There is, he adds, a large number of Duffadars or Maistries, who are in the habit of taking advances and contracting to supply laborers, but never fulfil their contracts, being perfectly aware that they cannot be prosecuted under the Act, and that the only course open against them is a Civil action, which is seldom or never resorted to.

7. From the Statement of receipts and disbursements under Act III of 1863, it will be seen that the amount received as fees since the Act came into operation, is Rupees 1340-12-0, and that the payments made for the service of Processes amount to Rupees 1101-13-1. From the balance, Rupees 238-14-11, remaining on hand, Rupees 233-14-11 must be deducted on account of cases which have been filed, but for which Warrants have not yet been issued. This will leave a balance of Rupees 5 only at credit.

8. By column 7, it will be observed that Rupees 196 have been charged to Government for batta to prisoners, while under examination and imprisonment for one month in the subsidiary jail. To this sum must be added the cost of sending down by the Police prisoners sentenced to 2 and 3 months' imprisonment, to the jails at Tellicherry and Calicut, and the cost of their keep there.

9. Up to a short time ago, Warrants issued against parties who had absconded to Coorg and other Districts, used to be forwarded to the Magistrates of those Districts, who had the persons arrested and sent to Wynaad; but of late the Deputy Magistrate has been called upon to remit not only the Process fee of one Rupee for each Warrant, but also a sufficient sum for batta for the prisoners, as well as the pay of the peons of the District where the prisoners are arrested, who accompany the prisoners from such District to the Court whence the Warrants are issued. This will entail considerable expense on Government, as labor is now being introduced into Wynaad from several Districts on the Eastern coast, viz., Trichinopoly, Madura, Salem, Cuddalore, &c.

10. I take this opportunity of remarking that the Act is not a satisfactory one, at least if it is to be judged by its working in this District. It is considered eminently unsatisfactory by the planters, and indeed it does neither effectually secure their object, nor the ends of justice.

Here the employer does not so much desire to get a laborer punished, as to get the work contracted for performed. If the complainant desires it, the Magistrate must order performance instead of imprisonment.

He does so; but the laborer is a man of straw, cannot give security, and bolts on the first favorable opportunity after getting away from the Court. The employer does not care about taking out Process again, for it would merely be the same thing over again, or imprisonment of the defaulter, which does but little, and that indirect good only to the prosecutor.

If the present Act is to continue, I think it essential that the performance of the contract should not be obviated by sentence of punishment. If employer and laborer both knew that performance was still binding, notwithstanding punishment had been undergone, the one would gain real protection from the Act and the other would only, after punishment for attempt at evasion, be bound to do what he had engaged to do originally. But if such provision is made, I think the law should also provide that the original contract should be entered into before a Magistrate, so that it should be well ascertained that the laborer knew what he was about when contracting.

11. I think Mr. Richardson's remarks quoted in paragraph 6 also deserve attention. Many of the contractors to supply labor that infest the district, are cheats by profession, though it is difficult or impossible to bring them to justice by an ordinary criminal charge.

12. Mature legislation on the subject of labor is certainly much required.

Statement showing the number and classes of Cases under Act XIII of 1859 entered on the files of the Malabar Magistracy, for the year 1864.

| Trade or Profession of Prosecutor.                                                                            | Trade or profession of Defendants.        |                                                   |                                           |                                                                        |                                                   |                                           |                        |                                                   |                                           | Remarks. |  |
|---------------------------------------------------------------------------------------------------------------|-------------------------------------------|---------------------------------------------------|-------------------------------------------|------------------------------------------------------------------------|---------------------------------------------------|-------------------------------------------|------------------------|---------------------------------------------------|-------------------------------------------|----------|--|
|                                                                                                               | Artificers including all skilled workmen. |                                                   |                                           | Other Workmen, including Contractors for the performance of works, &c. |                                                   |                                           | Laborers or Coolies.   |                                                   |                                           |          |  |
|                                                                                                               | Total number of Cases.                    | No. of Cases in which Defendants were imprisoned. | No. of cases in which security was taken. | Total number of cases.                                                 | No. of cases in which Defendants were imprisoned. | No. of cases in which security was taken. | Total number of cases. | No. of cases in which Defendants were imprisoned. | No. of cases in which security was taken. |          |  |
| Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company..... | 47                                        | 39                                                | 1                                         | 2                                                                      | ...                                               | 1                                         | 9                      | ...                                               | 5                                         | 58       |  |
| Planters.....                                                                                                 | 4                                         | ...                                               | ...                                       | 17                                                                     | 1                                                 | ...                                       | 293                    | 34                                                | 50                                        | 314      |  |
| Europeans, merchants, or others, on their own account.....                                                    | 4                                         | ...                                               | ...                                       | 7                                                                      | ...                                               | 1                                         | 5                      | 1                                                 | 1                                         | 16       |  |
| Natives, on their own account....                                                                             | 37                                        | ...                                               | 11                                        | 10                                                                     | 2                                                 | ...                                       | 11                     | ...                                               | 5                                         | 58       |  |
| Total.....                                                                                                    | 92                                        | 39                                                | 12                                        | 36                                                                     | 3                                                 | 2                                         | 318                    | 35                                                | 61                                        | 446      |  |

MALABAR MAGISTRATE'S COURT,  
CALICUT, 17th May 1865.

(Signed) G. A. BALLARD,  
Magistrate.

*Proceedings of the Madras Government, Judicial Department,  
14th August 1865.*

Statement shewing the Receipts and Disbursements under Act III of 1863 up to March 1865.

| By which Magistrate.                                                                                          | Amount received on account of Process fees. |       | Amount paid for the service of Processes. |       | Amount paid for the service of Processes in excess of receipts. |       | Balance in hand. | Balance in hand on account of cases that have been filed, but for which Warrants have not yet been issued. | Batta paid to prisoners at the cost of Government. |
|---------------------------------------------------------------------------------------------------------------|---------------------------------------------|-------|-------------------------------------------|-------|-----------------------------------------------------------------|-------|------------------|------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| 1                                                                                                             | 2                                           | 3     | 4                                         | 5     | 6                                                               | 7     | 8                | 9                                                                                                          | 10                                                 |
|                                                                                                               | RS.                                         | A. P. | RS.                                       | A. P. | RS.                                                             | A. P. | RS.              | A. P.                                                                                                      | RS.                                                |
| Acting Head Assistant Magistrate.....                                                                         | 7                                           | 0     | 0                                         | 7     | 0                                                               | 0     | .....            | .....                                                                                                      | .....                                              |
| Joint Magistrate, Cannanore.....                                                                              | 41                                          | 0     | 0                                         | 36    | 0                                                               | 0     | .....            | 5                                                                                                          | 0                                                  |
| Deputy Magistrate, Wynad.....                                                                                 | 26                                          | 8     | 0                                         | 1     | 0                                                               | 0     | .....            | 25                                                                                                         | 8                                                  |
| Taluq Sub-Magistrate do.....                                                                                  | 337                                         | 0     | 0                                         | 374   | 9                                                               | 11    | 37               | 9                                                                                                          | 11                                                 |
| Sub-Magistrate, Vytiri.....                                                                                   | 467                                         | 0     | 0                                         | 356   | 10                                                              | 5     | .....            | 110                                                                                                        | 5                                                  |
| Do. Gudalur.....                                                                                              | 462                                         | 4     | 0                                         | 326   | 8                                                               | 9     | .....            | 135                                                                                                        | 11                                                 |
| Total.....                                                                                                    | 1340                                        | 12    | 0                                         | 1101  | 13                                                              | 1     | 37               | 9                                                                                                          | 11                                                 |
| Deduct amount paid for the service of Processes in excess of receipts, by the Wynad Taluq Sub-Magistrate..... |                                             |       |                                           |       |                                                                 |       |                  | 37                                                                                                         | 9                                                  |
|                                                                                                               |                                             |       |                                           |       |                                                                 |       |                  | 233                                                                                                        | 14                                                 |

MALABAR MAGISTRATE'S COURT,  
CALICUT, 17th May 1865.

(Signed) G. A. BALLARD,  
Magistrate.

No. 106. From G. L. MORRIS, Esq., Magistrate of South Canara, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Uppinangadi, 18th March 1865, No. 11.

Having, on the 13th January last, submitted my Report on the working of Act XIII of 1859 in this District, during the year 1864, I have now the honor, with reference to the Proceedings of Government, dated 22nd February last, No. 285, to state that no expense has been incurred by Government in any of the cases disposed of under the said Act during that year, the cost of serving Processes, &c., and other incidental charges having, in no case, been in excess of the sums collected under Section 2 of Act III of 1863.

No. 107. From V. H. LEVINGE, Esq., Magistrate of Madura, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madura, 4th April 1865, No. 187.

With reference to the Proceedings of Government, dated 22nd February 1865, No. 285, I have the honor to state that the collections in this District made during the last year under Section 2 of Act III of 1863, amounted to Rupees 13, which covered all the expenses of serving Processes on defendants. Hence the Government incurred no further charge.

*Proceedings of the Madras Government, Judicial Department,  
14th August 1865.*

2. I think Act III of 1863 should be amended, and that Magistrates should have power to demand such an amount of fee as would cover the cost of serving distant Processes, so as to save Government any expense which the party should rightly bear.

No. 108. From G. BANBURY, Esq., Acting Magistrate of Tinnevely, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Palamcottah, 10th March 1865, No. 77.

In reply to Government Proceedings, dated 22nd February 1865, No. 285, I have the honor to state that the expenditure on account of services of Processes has not exceeded the income. There have been so few cases disposed of under the Act in this District, that I am unable to state whether the present fee will prove adequate, but I should be inclined to answer in the affirmative.

No. 109. ORDER THEREON, 14th August 1865, No. 1126.

The general tenor of the replies of the Magistrates to the reference made to them, under date the 22nd February last, as to the sufficiency of the fee authorized by (Madras) Act III of 1863, for the service of Process under Act XIII of 1859, shows that, on the whole, the fee is sufficient.

2. As the Government have it in contemplation to recommend a law somewhat similar in its provisions to the Bengal Acts III of 1863 and VI of 1865, empowering the several Governments to regulate the emigration to, and employment of, laborers in the planting Districts, the Governor in Council does not deem it necessary at present to make any alteration in the existing law, with reference to the service of Processes against persons charged with breaches of contract under Act XIII of 1859.

(True Extract).

A. J. ARBUTHNOT,  
Chief Secretary.

To the Magistrate of

Exd. J. H. Burns.

6  
 Précis of Correspondence  
 relating to the working of  
Act III of 1863.

Pro. of Govt. No. 190-192. 22<sup>d</sup> Feb. 1865.

\* From P. Grant Esq.  
 Maj. of Coimbatore  
 To Hon. & A. Ashurst  
 Chief Sec. to Govt. F. S. Sec.  
 23<sup>d</sup> Jan. 1865  
 # From L. R. F. Young  
 Esq. Maj. Wellington & Coimbatore  
 To P. Grant Esq.  
 Dist. Maj. to Coimbatore  
 11<sup>th</sup> Jan. 1865

In forwarding a copy of a  
 letter\* addressed to him by  
 the Joint Magistrate  
 of Wellington the Magistrate  
 of Coimbatore\* asked for  
 the decision of Government  
 on the following point

"Is a complainant in a  
 "breach of contract case,  
 "under Act XIII of 1859,  
 "required to pay any sum  
 "in excess of the process  
 "fee required by Act III  
 "of 1863?"

On the question being referred  
 for the opinion of the  
 Advocate.

Copy-Opinion

forwarded in a letter from  
Gov<sup>t</sup> Solicitor Madras

To the Hon the Chief Secy<sup>r</sup> Gov<sup>t</sup> Secy<sup>r</sup>  
d/20<sup>th</sup> Feb<sup>r</sup> 1865.

Order of Gov<sup>t</sup> 22<sup>nd</sup> Feb<sup>r</sup> 1865.  
No. 285.

Advocate-General for his  
Opinion, he gives it as his  
view that under the Madras

Act III of 1863 no more  
than the Fee of Rs. 1 (provided  
for in Section 2) can  
be demanded; further,

that Act III of 1863  
appeared to contemplate  
that the Fees of Rs. 1 payable  
by the complainants would  
form a sinking fund  
sufficient to cover the  
all the cost of process  
serving.

Government on receipt  
of the foregoing opinion  
called for reports on  
the working of the Act  
in question, with a view  
to

From

The Magistrate of Madras.

To the Chief Secy<sup>r</sup> Gov<sup>t</sup>  
d/29<sup>th</sup> March 1865

considering the expediency of  
to further legislation, should  
it appear that expense  
is being caused to Gov<sup>t</sup>

The Magistrate of North  
Arcot states that he had  
had few cases under the  
Act; the fee, receivable  
under Section 2 of the Act,  
covered all expenses  
where the operation of the  
the Act was local, but  
arguing from one case  
which has been referred  
from another District  
~~where~~ he would doubt the  
adequacy of the fee to  
cover the cost of process  
serving and suggests a  
daily payment of six annas.

Then

From The Magistrate of Cuddapah  
To The Chief Sec<sup>y</sup> to Govt.  
d/17<sup>th</sup> March 1865.

The Magistrate of Cuddapah  
offers no opinion as no  
cases arose in his district.

From The Magistrate of Ganjam  
To The Chief Sec<sup>y</sup> to Govt.  
d/10<sup>th</sup> Feb<sup>y</sup> 1865.

The Magistrate of Ganjam  
having disposed of only  
one case gives no opinion

From The S<sup>t</sup> Mag<sup>te</sup> in charge of Godavery  
To The Chief Sec<sup>y</sup> to Govt.  
d/7<sup>th</sup> April 1865

The Magistrate of Godavery  
thinks the act unnecessary  
in the District under his  
charge. Seven cases had  
arisen during the year  
and had caused no expense  
to Gov<sup>t</sup>

From The Magistrate of Kurnool  
To The Chief Sec<sup>y</sup> to Govt.  
d/20<sup>th</sup> Mar. 1865.

The Magistrate of Kurnool  
forwards a statement of  
fms received and expenses  
incurred; as follows,

| Income.      | Cost of process<br>arising. | Balance<br>in fav <sup>r</sup> of Gov <sup>t</sup> . |
|--------------|-----------------------------|------------------------------------------------------|
| Rs<br>1423.8 | Rs<br>1167.8                | Rs<br>256                                            |

The

From The Magistrate of Nellore  
To The Chief Sec<sup>y</sup> to Gov<sup>t</sup>  
d/30<sup>th</sup> March 1865.

From The Magistrate of Madurai  
To The Chief Sec<sup>y</sup> to Govt.  
d/4<sup>th</sup> April 1865

The Magistrate of Nellore  
(3 cases), and the Magistrate  
of Madurai (11 cases) found  
the fees cover all expenses  
but recommend that  
Magistrates should be  
empowered to demand  
a fee sufficiently large

From The Magistrate of Tanjore  
To The Chief Sec<sup>y</sup> to Govt.  
d/15<sup>th</sup> March 1865

From The Magistrate of S. Canara  
To The Chief Sec<sup>y</sup> to Govt.  
d/18<sup>th</sup> March 1865.

Tanjore  
The Magistrates of ~~Tanjore~~  
and South Canara  
states that no expense  
was caused to Gov<sup>t</sup> by  
the working of Act III  
of 1863.

From The Magistrate of Bellary  
To The Chief Sec<sup>y</sup> to Govt.  
d/13<sup>th</sup> April 1865.

The Magistrate of Bellary  
was of opinion that Act  
III of 1863 was [by G.O.  
No 1833. 26<sup>th</sup> Nov<sup>r</sup> 1863.] confirmed  
in

From  
The Magistrate of Tinnevely  
To the Chief Secy to Govt.

10<sup>th</sup> March 1865. the working of the Act, but  
thinks the fee, levied under  
Section 2, adequate.

From  
The Magistrate of Coimbatore  
To the Chief Secy to Govt.

15<sup>th</sup> June 1865.

The Magistrate of  
Coimbatore forwards a  
 précis of the reports of  
the magistrates subordinate  
to him, from wh<sup>ch</sup> it appears  
that no actual loss  
has been occasioned to  
Government in respect  
of the operation of the  
act. \* Two however of  
the subordinate Magistrates  
recommended a fee of <sup>Rs</sup> 2  
instead of the existing

\*  
Lt Col Young  
Joint Magistrate of Wellington  
Cooper Row  
Deputy Magistrate

one rupee fee, and  
the Magistrate of Coimbatore  
endorses their opinion,  
stating that while the  
fee may cover the expenses  
incurred in purely local  
cases, where service of  
summons at a distance  
is required, Government  
will be a loser.

The Magt of Coimbatore submits  
for the notice of Government  
a suggestion from Col. Young  
to the effect that it is  
expedient that the words  
"Or Verbal" be expunged  
from Act <sup>XIII of 1859</sup> III of 1863 Section IV  
for the following reasons,  
i Verbal agreements lead  
to unfounded complaints

ii They

ii They impose on a Magistrate extra work in the hearing of evidence. iii They made Act X of 1862 which requires agreements for service to be on stamped paper —

The Magistrate of Malabar states his Receipts under the Act at Rs 1340. 12. 0 Disbursements " 1101. 13. 1

The Balance in favour of Govt., however, is reduced to Rs 5 taking into consideration Cases filed in which no warrant has yet issued —

The \* great majority of Cases arising under the Act in this District are complaints laid by

3

by Planters against laborers or coolies, and the Magistrate remarks that the desideratum is specific performance of contracts rather than the punishment of defaulters; he would recommend that original Contracts should be entered into in presence of a Magistrate and that defaulters should be first imprisoned and then made to perform their Contract under pain of further imprisonment.

At present the Magistrate of Malabar does not think the working of the Act satisfactory —

From the Magistrate of Malabar

To the Chief Secy to Govt.  
417 May 1865.

\* [ 314 out of 446. ]

No returns have been  
furnished by the Magistrates  
of South Arcot, Madras,  
Kistna; & Vizagapatnam.

§.

It seems from the  
letter a case has been  
made out for increasing  
the amount of free  
authorised by the Govt.  
Orders are required.

Cy R.

I don't think any  
case has been made out,  
and if Mr. Bowring &  
Mr. Saunders, showed the  
matter he sent into his  
deputy, will only require  
the young militiamen  
employed as magistrates  
at Kapan & elsewhere,  
to make a point of returning  
complaints to prove  
that it was at their expense  
the runaway coolies were  
brought to the coffee estate,  
before they gave warrants  
under Section 492 of the I. P.  
Code, we shall not expect  
have a repetition from  
Mr. Robinson of the  
complaint he was guilty  
of in making  
when his department was  
received at once, a

#

# Order of 129 warrants  
for execution. As for  
Col. Young's suggestion;  
what he suggests is an  
alteration of an act passed  
by the Supreme Govt. and  
with the Govt. now before  
this Govt., we cannot now send up  
a recommendation of the kind  
required, even if the reasons  
were laid down by

11  
Sobere from Mr.  
Ballant's letter that the  
Magistrates will not  
work the contract breach law  
for the magistracy in our limits,  
unless a good deal more than  
the one rupee is put into their  
hands. Mr. Stirling having  
declared that such a course  
is illegal we cannot imitate  
the practice of Mysore

8

Memorandum  
for the  
Government

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following papers,

|                                  |                                           |       |
|----------------------------------|-------------------------------------------|-------|
| From the J. Magistrate of Ganjam | Here enter 10 <sup>th</sup> February 1865 | N. 21 |
| " " " " " " " " " " " "          | 10 <sup>th</sup> March 1865               | " 77  |
| " " " " " " " " " " " "          | 15 <sup>th</sup> March 1865               | " 81  |
| " " " " " " " " " " " "          | 17 <sup>th</sup> March 1865               | " 12  |
| " " " " " " " " " " " "          | 18 <sup>th</sup> March 1865               | " 11  |
| " " " " " " " " " " " "          | 20 <sup>th</sup> March 1865               | " 9   |
| " " " " " " " " " " " "          | 29 <sup>th</sup> March 1865               | " 13  |
| " " " " " " " " " " " "          | 20 <sup>th</sup> March 1865               | " 5   |
| " " " " " " " " " " " "          | 4 <sup>th</sup> April 1865                | " 187 |
| " " " " " " " " " " " "          | 7 <sup>th</sup> April 1865                | " 87  |
| " " " " " " " " " " " "          | 15 <sup>th</sup> April 1865               | " 21  |
| " " " " " " " " " " " "          | 17 <sup>th</sup> May 1865                 | " 65  |
| " " " " " " " " " " " "          | 15 <sup>th</sup> June 1865                | " 64  |

Order thereon 14<sup>th</sup> August 1865. A. 1126.

The general tenor of  
the replies of the Magistrates  
to the reference made to them  
under date the 22<sup>nd</sup> February  
last as to the sufficiency of  
the fee authorized by (Madras)  
Act III of 1864 for the services  
of

W.D.

C. 17 July.  
R. 21 "  
C. 22 "

13

To the Magistrate of <sup>all the</sup> ~~the~~ District { des/20/8

Let the service of process  
under the Contract Act

15-11-13  
9-6-07  
6-6-22

Proff. Secy  
H. of 1865 Department

No. 1126

PROCEEDINGS OF GOVERNMENT.

7th. 20th. 1865.

Dated 14th August. 1865

Proff. Secy  
H. of 1865 Department

960109.