5803

Judicial (1895) Department.

ORDINARY PRINTED.

G.O., No 1580-81

Dated 27 July 1895

INDEXED.

[Despatch Abstract.]

HIGH COURT.

Considering that the question of the proposed extension of the Jurisdiction of the City Civil Court is open to insuperable objections ; directing that the Government of India be moved to obtain the sanction of the Right Honourable the Secretary of State for India for the temporary appointment of a Fifth Puisne Judge of the Madras---- for a period of not less than three years; and calling for the views of the Judges on certain points.

N.B.—There are papers connected with this order in the confidential records.

DG 501	95		
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1895.

Judicial (~~1900~~) Department.

ORDINARY PRINTED.

G.O., No. 15 80-81
Confidential No 122A

DATED 27.7.95.

Mr connected with the above Gr.

[Despatch Abstract.]

Rs 6 Mr Judges for the High Court.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following paper :—

Extract from paragraph 4 of G.O., dated 26th September 1894, Nos. 2338, Judicial.

"On the whole it is clear that the reduced High Court coped successfully with the business coming before it except in regard to civil suits. The decrease in the number of disposals under this head is very marked, and it would doubtless have been greater but for the lightness of the Sessions and the presence of a fifth Puisne Judge for three months. At the end of the year the arrears of suits stood at 331—a figure which, though lower than those for the three preceding years, is certainly unduly high, for it denotes that the High Court is a full year in arrear of its work. In paragraph 42 of the report it is observed that forty per cent. of the work of the Original Side consists of suits between Rs. 2,500 and Rs. 5,000 in value, and it is suggested that great relief would have been afforded to the High Court if the jurisdiction of the City Civil Court had included suits up to Rs. 5,000 in value. Relief appears so necessary that the Government will be prepared to take into consideration the question of raising the jurisdiction of the City Civil Court if the High Court is in favour of such a step."

READ—also the following papers :—

From H. W. FOSTER, Esq., Registrar of the High Court of Judicature, Appellate Side, to the Acting Chief Secretary to Government, dated Madras, 18th January 1895, No. 102.

In its review of the report on the administration of civil justice in the year 1893, the Government, observing upon the pressure of work in the High Court and the arrears pending, remarks that, for the purpose of affording relief, it will be prepared to take into consideration the question of raising the pecuniary limit of the jurisdiction of the City Civil Court to Rs. 5,000. The Honourable the Judges have had this suggestion under consideration, and I am directed to submit the following observations.

2. At the end of 1892, the High Court, in communicating its opinion that the court should be maintained at its then strength of six judges, pointed out that the pending cases were at the time sufficient to furnish a full year's work for that number. In view of the establishment of the City Court, however, the Secretary of State declined to sanction the continuance of the 6th judge and since April 1893 the court has had a strength of five judges only.

3. With this reduced number, the court has done its best to cope with the work coming before it. The appended statement gives the number of cases under different heads received, disposed of and pending for the three years 1892, 1893 and 1894. It will be observed that there is a steady growth in the files of first and second appeals. The number of cases disposed of, however, has not greatly decreased,

notwithstanding the reduction in the strength of the court. In fact, except in the case of original suits, the amount of work done in 1894 is fully up to the level reached in 1892. A large increase in the filing of miscellaneous petitions (which includes revision petitions) has led to a special accumulation of arrears under that head, and this is particularly to be regretted inasmuch as these are cases which arise principally out of small cause suits and execution proceedings and ought, in the opinion of the judges, to be disposed of with especial promptitude. Against this increase may be set off the reduction in number of original suits, of which only 290 are now pending, so that, on the whole, there has been no great increase in the arrears of work. I am to say, however, that the judges have accomplished this result only by great personal exertions and almost total sacrifice of leisure, which cannot be indefinitely maintained and which must, in the long run, be detrimental to the public interests.

4. The contrast between the quantity of work done by the Madras judges and that done in the other high courts is as striking now as when it was first pointed out by Mr. Justice Innes in 1882. For instance, judge for judge, it was over 50 per cent. greater in 1893 than in Calcutta as is shown by the subjoined statement of the cases disposed of in that year:—

—	Calcutta, thirteen judges.	Madras, five judges.	Cases per judge. Calcutta.	Cases per judge. Madras
Civil.				
Original suits	766	253	59	50
Insolvency cases	135	196	10	39
First appeals	376	259	29	52
Second appeals	2,150	1,953	166	390
Miscellaneous appeals	378	101	29	20
Criminal.				
Sessions cases	47	46	4	9
Criminal appeals	1,019	584	78	117
Referred trials	44	59	3½	12
Criminal revision cases	1,084	686	82	137

5. It is clear therefore that, in justice to the public as well as to the judges, some relief ought to be granted and if, for financial or other reasons, the Secretary of State is still not prepared to sanction the appointment of a 6th judge, the only plan appears to be an enhancement of the jurisdiction of the City Court.

6. The High Court has already pointed out in its administration report that the increase of the City Court's jurisdiction to Rs. 5,000 would have effected the substantial reduction of 40 per cent. in the work of the Original Side in 1893, and has referred to the small proportion of appeals from the City Court (4·13 per cent. of appealable cases, 14 per cent. being the average in case of District Munsifs' courts in the mufassal) as showing the confidence and satisfaction with which its decisions are accepted. In both these respects the figures for 1894 are in close correspondence with those of the previous year. Out of 290 suits filed in the High Court, 121 or 40 per cent. were below Rs. 5,000 in value and of a nature triable by the City Court, and though that court passed 294 appealable decrees in 1894 only 9 appeals were filed or 3·7 per cent.

7. The judges do not suppose that at present the proposed increase of jurisdiction would necessitate any addition to the strength or cost of the court. The whole additional number of suits would be not more than 125, making up a total annual file of under 500, which may not be beyond the capacity of a single judge who has no small causes to try in addition.

8. It is objected in some quarters that pressure of work in the High Court is not an adequate or proper reason for transferring part of its jurisdiction to another tribunal and the fear has been expressed that, if the propriety of this expedient be

once admitted, there will be no finality to its use and there can be no guarantee that it will not be resorted to again and again as the High Court's work grows until it leads to the total abolition of the Original Side. These objections are insisted on by Mr. Justice Shephard. His view is that Rs. 2,500, the extent of the present pecuniary jurisdiction, may, in a sense, be regarded as a definite limit, inasmuch as it corresponds with the jurisdiction of a District Munsif's court, the lowest court of original civil jurisdiction in the presidency, and is besides the limit of value at which the City Court under the Court Fees Act is a cheaper tribunal than the High Court, and he apprehends that, as any higher figure must be fixed altogether arbitrarily, to consent to this proposed increase is to abandon the principle of the necessity of maintaining an original jurisdiction in the High Court.

9. I am to say that the other Honourable the Judges do not share these apprehensions. It is true that under the scale now in force on the Original Side of the High Court, the total sum levied in court fees on suits over Rs. 2,500 in value is on the average lower than it would be in the City Court under the Court Fees Act, but, acting on the suggestion of the Government, the judges now have under consideration a revision of the High Court scale. A majority of the court considers that some enhancement is desirable and the Government will be separately addressed on the subject. As to the other reason for not going beyond Rs. 2,500, I am to point out that the City Court differs from a District Munsif's court in this important respect that an appeal on the facts lies direct from it to the High Court, and not merely a second appeal on points of law only. Moreover, Rs. 5,000 was the limit originally suggested by the Secretary of State in his despatch to the Government of India, No. 1, dated 7th January 1892, Legislative, and the lower figure of Rs. 2,500 was adopted mainly in deference to the opinions of the judges who considered it advisable to commence at a low limit till the quantity of work received and the general success of the measure could be gauged by experience.

10. The result of the two years' experience is to place beyond doubt that the court may safely be entrusted with the higher powers, and to grant it these powers will afford a very substantial relief to the High Court without any immediate increase of expenditure. Mr. Justice Shephard and Mr. Justice Best have recorded their views in separate minutes which are forwarded herewith. The rest of the court is agreed in considering that, under the circumstances stated above, if the Secretary of State still adheres to his decision not to sanction the appointment of a 6th judge, it would be unjustifiable and contrary to the public interests to neglect this alternative measure of relief.

11. The change may be viewed with disfavour by the commercial community on the ground that the range of value from Rs. 2,500 to Rs. 5,000 will include some mercantile suits of an important character for which the High Court is the most suitable tribunal. It is to be remembered, however, that the High Court has concurrent jurisdiction with the City Court, and it would be unreasonable to suppose that any suit involving a substantial question of commercial law, if filed in the High Court, would be remitted to the City Court for trial; but it may still be objected that even in such a suit the plaintiff runs a risk of incurring the penalties regarding costs provided in section 16 (1) of the City Court Act, and to meet this objection the legislature might be invited to consider the advisability of introducing a clause excepting commercial causes from the operation of those provisions regarding costs. I am to mention that such a distinction has recently been recognized by the High Court of Justice in England, where special benches, known as "Commercial Courts," have been appointed for the trial of commercial causes alone.

12. With these remarks I am to express the hope that steps may be taken to introduce the necessary legislation for enhancing the jurisdiction without delay.

P.S.—By the desire of Mr. Justice Best, a further minute, written by him subsequent to the preparation of this letter, is also forwarded herewith.

ENCLOSURES.

STATEMENT showing the number of cases received, disposed of and pending in the High Court during the years 1892–94.

—	On the Appellate Side.									On the Original Side.					
	Civil.					Criminal.				Civil.					Criminal.
	Appeals.	Second appeals.	Appeals against orders and appellate orders.	Miscellaneous petitions.	Referred cases.	Referred trials.	Appeals.	Revision cases.	Miscellaneous petitions.	Suits.	References to chambers.	Execution petitions.	Insolvency cases.	Miscellaneous cases.	Sessions cases.
Filed in—															
1892	252	1,691	256	1,978	45	52	658	740	151	425	10	222	131	2,932	64
1893	264	1,793	221	2,204	140	57	690	656	171	242	5	160	233	2,530	46
1894	320	1,805	145	3,195	38	64	644	668	167	290	7	184	255	*2,364	55
Disposed of in—															
1892	299	1,747	192	1,782	46	57	650	719	154	541	28	180	129	2,922	65
1893	255	1,877	209	1,979	10	59	646	686	168	253	13	115	190	2,535	46
1894	290	1,772	297	1,910	19	65	641	620	152	330	6	185	258	*2,373	55
Pending at the end of—															
1892	222	1,831	279	822	6	8	90	85	6	342	23	354	85	198	..
1893	232	1,747	291	1,047	134	6	114	56	9	331	15	366	122	193	..
1894	270	1,779	141	2,342	154	5	117	104	14	291	16	365	119	*184	..

* These figures do not include miscellaneous applications in the Insolvency Court.

Minutes.

Mr. Justice Shephard.—I agree with the Chief Justice and the other judges in thinking that the work of the court imperatively requires a 6th judge. In my judgment, the court ought to consist of at least six judges, so that ordinarily two benches of two judges each may be formed and two judges may sit alone. I doubt whether the proposed enhancement of the City Court's jurisdiction will relieve the High Court to such an extent as to enable it to despatch the business that comes before it with the promptitude which the public are entitled to expect.

2. I am unable, however, to approve of the proposal to lighten the work of the court by transferring part of it to an inferior court, for I still maintain the opinion expressed by myself and other judges in 1890 and 1891, and I think that the reasons for that opinion which are stated in the Registrar's letter of 3rd September 1890, No. 2115, and in the minute submitted with letter, dated 8th September 1891, No. 2204, signed by the Chief Justice, Mr. Justice Handley and myself still hold good. I desire to direct the attention of Government to that letter and to the minute. If, in order to save the time of the court, legislation is to be called in aid, I would prefer an amendment of the law which would give relief to the court by empowering single judges to dispose finally of trivial appeals, and other measures of relief might be suggested, for instance, the relegation to the Registrar on the Original Side of most of the work now done by a judge in references to take accounts and the like.

3. In my opinion, we have not yet had sufficient experience of the working of the City Civil Court to say whether the experiment is altogether a success and whether one judge with the present establishment can cope with the work. So far as concerns the number of suits, it was inevitable that the court should be a success. Suitors have practically no choice in the matter and it was fully anticipated that a large class of small suits would be brought into existence by the institution of a new and (for them) a cheaper court. What was not anticipated is the comparatively small number of appeals. To what circumstances, other than the merits of the presiding judge, this may be due we do not yet know. Nor can it be said with any assurance that the present fortunate state of things will continue. Still less can it be foretold how far the proposed extension of the jurisdiction may increase the number of appeals. In the view I take, the existence of the City Court does not affect the question raised by us in the letter already mentioned. In that letter it was allowed that the institution of a new court might be desirable. That was the only argument in favour of change which we admitted to be forcible. The demand for cheaper justice having been satisfied and further change being now suggested, it appears to me that the question whether it is intended to abolish the ordinary original jurisdiction of the High Court must be faced. The proposal now is practically to take away its jurisdiction in cases

involving sums between Rs. 2,500 and Rs. 5,000. The sum of Rs. 2,500 which, in the opinion of the Select Committee expressed in their report on the Bill, ought not to be exceeded was supposed to represent the point up to which suitors would be advantaged by the institution of the new court. It is also the limit of the jurisdiction of a district munsif. The figure 5,000 represents no ascertained principle. Except on the ground that the measure is a tentative one, it is difficult to see why that figure, rather than 10,000, should be suggested; nor is there any reason why by successive changes, induced by the increasing pressure of work in the High Court, the ordinary jurisdiction should not in the end be abolished altogether. It seems plain that this must be the consequence if now it is conceded that the proper way of relieving the High Court is to make a jettison of some of its causes.

4. I still retain the opinion that the conversion of the court into a mere court of appeal would be most prejudicial to public interests. The idea seems to prevail that the work of a judge of first instance is comparatively unimportant and easy, and that a complete indemnity against his shortcomings can be afforded by an appeal to a more competent tribunal. This idea appears to me mistaken. It seems to me that a High Court judge is no less worthily employed when he is trying an original cause of the value of Rs 3,000 than when hearing second appeals, the majority of which are unarguable. I think it would be a great loss to the judges themselves never to have the experience of trying original causes, and although it is true that the subordinate judges are, as a rule, very competent judges, I cannot say that they have yet shown any aptitude for the class of cases of a commercial character which are frequent in the presidency town. It may be said that here in the City Court they would have the advantage of help from a stronger bar. This rejoinder would have more force if the legal profession could practise in the City Court under the conditions which prevail in the High Court. But that is not the case; not only is there in the City Court the *ad valorem* court-fee which, in the long run, must affect the remuneration which parties will give to their lawyers, there is also in the City Court the system of paying the practitioner by an *ad valorem* fee. The result is that the City Court is practically closed to the barrister and solicitor. Not only must this be a great inconvenience to those of the community who are in the habit of employing English practitioners, but if the jurisdiction of the City Court is from time to time extended, the consequence must be that the two English branches of the profession must cease to exist. This is a serious matter alike for the court, the Government and the public, whatever difference of opinion there may be as to the wisdom of the English system of solicitor and counsel. No doubt this danger is not an immediate one; but the inconvenience to the suitor whose claim being between Rs. 2,500 and Rs. 5,000 is transferred for trial to the City Court will be immediately felt. The transfer will mean to him, under existing conditions, the payment of larger fees to Government. In that respect it will necessarily be a more expensive court. Further, in cases which are important and the trial of which lasts for several days, he will probably incur an additional loss owing to the fact that the fees paid to his lawyer exceed what he can recover from his adversary.

5. In making the above observations, I assume that the Court Fees Act is not to be extended to the High Court. In my opinion there are strong reasons against the proposed extension of that Act. That matter however, I understand, will form the subject of a separate communication.

Mr. Justice Best.—To the proposal to give enhanced jurisdiction to the City Court for the trial of suits up to Rs. 5,000 in value, I see no objection, *provided* it does not involve the necessity of appointing an additional judge for that court *unless and until it is certain* that the work remaining to be done by the High Court will not be more than enough for five judges.

It is admitted that there is at present "too much work for five judges," but (it is added) "hardly enough for six," and it is argued that "our case for asking for a 6th judge is not good as when the request was last refused," and therefore the "only way to relieve the court is by a transfer of some portion of its work." Supposing this transfer to be made, and it is found a year or two hence that, owing to the continuous growth of the appellate work of the High Court, the work is again "too much for five judges and hardly enough for six," what will be the remedy? It seems to me that if once an additional judge is appointed to the City Court, the chance of getting a 6th judge for the High Court will be greatly diminished and the consequence will be a hopeless state of chronic congestion—unless a portion of the Appellate Side work is also transferred to the City Court!

But is it a fact that the work of this court is not enough for six judges? Mr. Justice Parker is careful to say "hardly enough," which seems to imply that even in his opinion it does not fall far short of being quite enough. On referring to the "Memorandum showing the state of the files on the Appellate Side" at the end of last month, I find an increase in the numbers pending when compared with those at the beginning of the year (as shown below) in (*a*) first appeals from the mufassal, (*b*) letters patent appeals, (*c*) revision petitions, (*d*) miscellaneous petitions and (*e*) referred cases, as also in (*f*) criminal appeals and (*g*) criminal revision cases. All the *appeals* here mentioned and referred cases require a bench of two judges for their disposal. The Chief Justice's allowance of "three days a week" for the work to be done on the Original Side will certainly be found to be altogether insufficient.

—	Civil.					Criminal.	
	First appeals from mufassal.	Letters patent appeals.	Revision petitions.	Miscellaneous petitions.	Referred cases.	Appeals.	Revision cases.
Pending on 1st January 1894	189	15	873	174	134	114	56
Do. 31st October 1894	209	30	1,012	259	152	117	85

No doubt the proposed transfer will afford immediate relief to the High Court, but I think we should also keep the future in view, and take care not to commit ourselves to any measure that may cause difficulties hereafter.

I would therefore, instead of giving the City Court jurisdiction in all suits up to Rs. 5,000 in value, give that court *power to try* suits between Rs. 2,500 and Rs. 5,000 that may be *referred to it by the High Court*, which court should at the same time be given power to make such transfers. The High Court will thus be in a position to relieve itself by supplying work for the City Court judge when required, without being deprived of all prospect of an addition to the number of its judges, when such shall be found to be a necessity.

As to the substitution of *ad valorem* fees for those now charged in the High Court, I quite agree with those who think that the system of levying court fees in Madras and in the mufassal should be assimilated as far as possible, but it seems to me that of the two systems now in existence, the one in Madras is the more rational. As pointed out by Sir Richard Garth in his minute of 24th December 1883—an extract from which forms an enclosure to G.O., No. 1775, dated 18th July 1884—the imposition of a large institution fee not only operates frequently as a denial of justice, but also tends, when a suit is instituted, to the unnecessary prolongation of litigation, in consequence of there being no inducement for the parties to compromise, as the plaintiff has already paid all that can be required of him and defendant knows that, even if he fails and has to pay the opponent's costs, the amount will not be affected by his fighting out the case to its bitter end. Whereas the High Court's system, which is also that which prevails in the courts in England, has a contrary tendency, by holding out inducements to the parties to come to a settlement before the heaviest portions of the fees have to be paid. The High Court system has also the advantage of enabling costs to be apportioned with regard to the issues on which the parties have gone to trial.

In the Government order referred to above, opinions were called for as to a proposed modification of the system prevailing in the mufassal, so that the *ad valorem* fee might be collected at different stages of the suit. If the Court Fees Act had been modified accordingly, there might have been less objection to its being allowed (with further modifications) to supersede the system now in force in the High Courts; but even then, as pointed out in paragraph 11 of Mr. Fitzpatrick's letter (printed as part of the above-mentioned Government order), "having regard to the conditions under which litigation is conducted on the Original Side of the Presidency Town High Courts and to the heavy expenses necessarily attending such litigation, it would be generally admitted that any attempt to put the High Court fees on a level approaching that of the mufassal fees would be impracticable."

I am therefore unable to support the proposition to apply to the High Court the Court Fees Act as it is, in place of the fees now collected at different stages of the suit.

Any change to be made should be on the lines suggested in paragraph 11 of this court's letter to Government, dated 23rd September 1884, No. 2782, namely, that in lieu of the present institution fee of Rs. 30, "one-fourth of the fee levied under the Court Fees Act be imposed on the institution of a suit and one-fourth at the hearing; and that in all appeals from the Original Side, the fee should be half that charged on appeals from the mufassal courts," *all other fees now levied being retained.*

The system of refunds is open to abuse and should not be revived.

As to the re-organization of the establishment on the Original Side, it appears from Mr. Justice Parker's minute that Government has already been addressed by the Chief Justice. So I take it that no expression of our views is required. I must, however, express my concurrence in Mr. Justice Shephard's suggestion that the Registrar be appointed a Commissioner for taking accounts. Such an official is very much required even now and the necessity for him will be still greater if the time to be allowed for disposal of original suits is to be only "three days a week."

———

Further minute.

Mr. Justice Best.—I understand it to be admitted on all hands that an additional judge for the High Court is necessary and that the proposal to enhance the jurisdiction of the City Court is only made because of a feeling that the Secretary of State has made up his mind not to give a

6th judge to the High Court. I am unable to concur in the above feeling. I cannot think that if matters are properly placed before him, the Secretary of State will obstinately turn a deaf ear to an application for an additional judge to this court, especially if at the same time we indicate a means of meeting the greater part, if not the whole, of the additional cost that will be involved by the appointment. The application to the Original Side of a modified system of the Court Fees Act, as considered at the meeting of the judges held this afternoon (15th January 1895), will supply the additional funds required; and if we do not avail ourselves of this opportunity of asking for the additional judge, we shall certainly be blameworthy and open to the imputation of designedly pushing the City Court at the expense and to the detriment of the High Court.

As the City Court judge has already quite as much work as he can get through, the only reason alleged for now suggesting an enhancement of his jurisdiction is to avoid the accumulation of arrears in the High Court. This can be equally well avoided by increasing the strength of the High Court—an arrangement which will assist also in the disposal of arrears on the Appellate Side—work which cannot under any circumstances be transferred to the City Court.

There is every reason to believe that it is the Original Side of the High Court that contributes mostly, if not altogether, the profit derived from the working of the court Such is the case in Bombay and will, I suspect, be found to be the case here also if inquiry is made. Such being the case, I see no justification whatever for increasing the institution fees for suits by substituting the present system (even in a modified form) of the Court Fees Act unless the object is to provide funds for the additional judge who is admittedly required to cope with the work to be done in this court.

I can therefore only support the proposed alteration if an additional judge for the High Court is to be appointed, and I see no necessity whatever for enhancing at present the pecuniary jurisdiction of the City Court.

From what is said above, it is apparent that the questions (1) of enhancing the jurisdiction of the City Court and (2) of altering the system of institution fees in the High Court are closely connected; and I am of opinion that the answers to both these questions should be sent to Government simultaneously, instead of, as is suggested, Government being now addressed on the subject of enhancement of the jurisdiction of the City Court alone, the question of the change in the system of collecting institution fees in the High Court being reserved for a future communication.

If the majority of the judges adhere to the contrary opinion, I must ask that a copy of this minute of mine be also submitted to Government.

———

From H. W. FOSTER, Esq., Registrar of the High Court of Judicature, Appellate Side, to the Chief Secretary to Government, dated Madras, 1st February 1895, No. 260.

In continuation of my letter No. 102, dated the 18th ultimo, regarding the enhancement of the pecuniary jurisdiction of the City Civil Court to Rs. 5,000, I am directed to forward a statement (two copies are enclosed) which the Chief Justice has had prepared for the purpose of showing in detail the effect to be anticipated from the enhancement. The statement is a list of all suits filed in the High Court in the years 1893 and 1894 showing the names of the parties, the value of the subject-matter of the suit and the nature of the claim. All cases which would have been cognizable by the City Court had the jurisdiction been fixed at Rs. 5,000 are indicated by being underscored in red.

2. The whole number of those suits would not necessarily have been instituted in the City Court, for it must be remembered that the High Court has concurrent jurisdiction in suits of all values, but if this fact be borne in mind, a consideration of the statements will place the Government in a position not only to ascertain the amount of relief the High Court will obtain from the enhancement of jurisdiction, but also to judge whether there are reasonable grounds for apprehending that the suggested change may bring before the City Court any considerable number of important suits involving questions of commercial law or other difficult questions with which that tribunal is not fully competent to deal.

From the Hon'ble Mr. G. G. ARBUTHNOT, Chairman, Chamber of Commerce, Madras, to the Private Secretary to His Excellency the Governor, dated Madras, 23rd January 1895.

I have the honour to request that you will be good enough to inform His Excellency the Governor that a Special General Meeting of the Chamber of Commerce was held on the 18th instant for the purpose of considering the change which the Chamber understands it is proposed to introduce on the Original Side of the Madras High Court, and the proposed extension of the jurisdiction of the City Civil Court.

The Meeting, which was largely attended, was unanimously of opinion that the proposed changes would be inimical to the interests both of suitors and of the mercantile community and public at large, and that no good reason existed for placing the Madras High Court on an exceptional footing as compared with those of Bombay and Bengal.

The subject was fully discussed and the following Resolutions were unanimously adopted :—

1. That inasmuch as the High Court on the Original Side is admittedly unable to cope with the Civil Suits coming before it, and is a full year in arrear of its work, the Chamber is of opinion that the permanent appointment of a fifth Puisne Judge is imperatively necessary.

2. That, in view of the circumstances mentioned in the last Resolution, it is inexpedient to effect, on financial grounds, any changes which might tend to weaken the establishment of the Original Side of the Court, diminish its efficiency and further prolong and delay the disposal of suits and the issue and execution of decrees.

3. That the City Civil Court being a tribunal constituted for the express purpose of providing a measure of relief to the poorer class of suitors to whom the expenses of a trial in the High Court were alleged to be prohibitory, should be confined to the object for which it was created, viz., the trial of petty cases, and the Chamber is of opinion that any extension of its jurisdiction would be undesirable and is for many reasons to be deprecated.

4. That, in the opinion of the Chamber, the substitution of fees calculated in accordance with the Court Fees Act for the scale of fees now leviable in the High Court on its Original Side would be most disadvantageous to suitors, and that there are no circumstances which justify such additional taxation on litigants as would be involved in the introduction of the Act in question into the High Court.

5. That, in the opinion of the Chamber, no good reason exists for placing the High Court of Madras on an exceptional footing as compared with those of Bengal and Bombay.

I beg to enclose copies of two memoranda which the Chamber has prepared dealing with the proposed changes.

ENCLOSURES.

I.—In a former memorandum it was pointed out to the Chamber that the Government had asked for the opinion of the Judges on three proposals affecting the High Court, viz. :—

(*a*) to increase the jurisdiction of the City Civil Court to suits of 5,000 rupees in value ;
(*b*) to substitute fees, calculated in accordance with the Court Fees Act, 1870, for the scale of fees now leviable in the High Court ;
(*c*) to re-organise the establishment on the Original Side of the High Court with a view of saving money.

And the attention of the Chamber was directed to proposal (*a*). In the present memorandum, proposals (*b*) and (*c*) are dealt with.

II.—In the G.O., dated 26th September 1894, No. 2338, reviewing the report on the Administration of Civil Justice in the Madras Presidency, 1893, proposal (*b*) is referred to in the following words :—"*His Excellency in Council would be glad to know if the Honourable the Judges would be opposed to the substitution of fees calculated in accordance with the Court Fees Act, 1870, for the scale of fees now leviable in the High Court ; the Government is disposed to think that the change would be advantageous on many grounds.*"

III.—The first question that suggests itself is to whom will the change be advantageous ? Not to the suitor certainly, for, as will be shown, the effect will be to burden him with heavier taxation than that to which he is at present subject.

IV.—In order that the Chamber may clearly understand the position, it will be necessary to compare the fees now leviable in the High Court with the scale of fees calculated in accordance with the Court Fees Act, 1870, which it is proposed to introduce into the High Court and which is now in force in the mofussil.

In the joint minute of the Honourable the Chief Justice, Mr. Justice Shephard and Mr. Justice Handley on the Bill forwarded to the Chamber on the 3rd August 1891, intituled "a Bill to extend the jurisdiction of the Court of Small Causes," the Judges state :—

"*The heaviest fee levied in the High Court is the fee on presentation of plaint fixed at* 30 *rupees and there is little doubt that the amount of that fee has the effect of keeping out of the Court a considerable number of petty disputes about land. In addition to this, there are process, hearing, and other fees ; but in an ordinary undefended case with one defendant, the whole Court Fees up to and including decree do not exceed* 60 *rupees*"

In the same minute, the Honourable the Judges give the following information regarding the Court Fees leviable in a defended suit in the High Court :—

"*Take a case of a contested suit lasting two days, in which twelve witnesses are called and twenty documents filed on both sides, which, we think, is a fairly typical case. In the High Court, the Court fees chargeable would be follows :—*

	Rs.
"*Fee on presentation of plaint*	30
"*Summons to defendant*	2
"*Sheriff's fee for service of plaint*	2
"*Settlement of issues*	10
"*Summons to witnesses*	24
"*Exhibits*	40
"*Hearing fees*	30
"*Taxation of costs*	10
Total	148

V.—The Chamber will see from the foregoing extracts, that the fees now leviable in the High Court are ordinarily, whatever the value of the suit may be,

in undefended cases 60 rupees.
in typical defended cases 148 rupees.

VI.—The following table shows the fees which the Government contemplate imposing on High Court suitors under the Court Fees Act, 1870, in lieu of those now leviable ; which change the Government is disposed to think "would be advantageous on many grounds." The table only shows the fees leviable on suits, the value of which does not exceed 20,000 rupees ; in suits above that value, the *ad calorem* principle is the same, but no suitor can be charged more than a fee of 3,000 rupees, whatever the value of his claim may be.

Value of suit	Fees payable under Court Fees Act, 1870.
RS.	RS.
3,000	175
4,000	225
5,000	275
6,000	315
7,000	355
8,000	395
9,000	435
10,000	475
11,000	505
12,000	535
13,000	565
14,000	595
15,000	625
16,000	655
17,000	685
18,000	715
19,000	745
20,000	775

VII.—If the fees in the foregoing table are compared with the fees now chargeable in the High Court, viz., Rs. 60 in an undefended suit, and Rs. 148 in a typical defended suit it will be seen that, in the event of the Court Fees Act, 1870, being made applicable to the High Court, the present tax leviable upon suitors will be greatly enhanced. For instance, the fee in a suit

for 19,000 or 20,000 Rs. leviable under the Court Fees Act, 1870, would amount to more than twelve times the sum chargeable under the High Court scale if the suit was undefended, and if it was defended to more than five times. The following table will show the effect of the proposed change in cases where the claim is between 3,000 Rs. and 20,000 Rs. :—

In suits of the value of	If undefended.	If defended.
RS.		
20,000	12½	5 3/4 6
19,000	12 5/8	5 7/4 6
18,000	11½	4 1/4 6
17,000	11 5/8	4 3/4 6
16,000	10½	4 3/4 6
15,000	10 5/8	4 3/4 6
14,000	9½	4 3/4 6
13,000	9 5/8	3 1/4 6
12,000	8½	3 3/4 6
11,000	8 5/8	3 3/4 6
10,000	7½	3 3/4 6
9,000	7¼	2 1/4 6
8,000	6 7/8	2 1/4 6
7,000	5½	2 1/4 6
6,000	5¼	2 1/4 6
5,000	4 7/8	1 1/4 6
4,000	3¾	1 7/4 6
3,000	2½	1 3/4 6

It is clear therefore that the advantage to be derived from imposing fees calculated in accordance with the Court Fees Act, 1870, is not with the suitor, for, as has been shown, an additional burden will be imposed upon him.

VIII.—It may be, and we believe is, urged that it is not equitable that the litigant who resides within the jurisdiction of the High Court should be taxed at a lower rate than the litigant who resides in the mofussil and outside the jurisdiction of the High Court, and that all litigants should be taxed alike, whether they reside within or without the toll bar.

It becomes unnecessary for the Chamber to consider this contention if (as is the case) it can be satisfactorily shown that the tax imposed by the Court Fees Act, 1870, now obtaining in the mofussil, is onerous, unjust and quite out of proportion to the expense which it is intended to meet, and that the fees levied under that Act ought, in justice to the mofussil suitor, to be considerably reduced and modified on the system at present adopted in the High Courts in India and by the Courts of Justice in England, by which every step in the course of a suit is charged for and no more, for then, it is submitted, this argument for extending the Court Fees Act, 1870, to the High Court and thus enhancing the Presidency suitors' fees falls to the ground.

IX —That the tax imposed on a litigant by the Court Fees Act, 1870, is quite out of proportion to the expense which it is intended to meet, is amply proved by the fact that in the year 1893, the net surplus of receipts over charges in the administration of Civil Justice in the whole Presidency amounted to Rs. 14,54,448, one-third of the total receipts for the year, and that during the last ten years the Government has made a surplus on Civil litigation amounting to the enormous sum of Rs. 1,02,64,401, as the following figures, extracted from the Administration Reports on Civil Justice in the Madras Presidency, will show :—

TABLE showing receipts, charges and surplus on Administration of Civil Justice in Madras Presidency since 1883.

Year.	Receipts.	Charges.	Surplus.
	RS.	RS.	RS.
1883	30,60,580	24,36,725	6,23,855
1884	30,32,493	24,67,478	5,65,015
1885	32,54,651	24,97,709	7,56,942
1886	33,27,656	24,97,351	8,30,305
1887	33,40,461	25,14,882	8,25,579
1888	33,41,403	25,48,204	7,93,199
1889	35,59,104	25,60,185	9,98,919
1890	36,49,385	26,26,666	10,22,719
1891	36,17,856	26,35,182	9,82,674
1892	40,72,359	26,61,613	14,10,746
1893	41,50,111	26,95,663	14,54,448
Total surplus ..	..	..	1,02,64,401

X.—In addition to the foregoing facts, and in order further to assist the Chamber in arriving at a conclusion as to the justice of the tax imposed on suitors by the Court Fees Act, 1870, it is thought desirable to refer to a Minute penned in December 1883 by Sir Richard Garth on the Act in question.

Sir Richard Garth was at the time Chief Justice of Bengal. The views and opinion of a man of his position, independent of the Indian Government, and with an intimate practical knowledge of the subject he was writing about, deserve careful and thoughtful consideration. Sir Richard Garth, after stating that he had written some years before to Mr. Whitley Stokes explaining how heavily the large amount of Court fees pressed upon Civil suitors, and how desirable it was that the existing system should be modified, proceeds as follows :—

"*Our countrymen in England would hardly believe that before a man can bring a suit in India upon a bond for Rs. 10,000 he has to pay a tax to the Revenue of no less than Rs. 475. If the value of the suit is as much as Rs. 4,10,000, the stamp fee is Rs. 3,000 ; but this is the maximum duty ever charged.*

"*I suppose the only ground upon which a tax of this kind can be reasonably justified, and which as I shall presently show, was the professed ground for imposing it in this country is, that civil suitors ought to pay some portion of the cost of the machinery which is necessary to dispose of their suits, and that a tax of this kind is probably the most convenient mode of providing a fund for that purpose. But assuming this to be so, the amount of the tax ought surely to be proportionate to the expense which it is intended to meet ; whereas in Bengal the tax now imposed exceeds that expense by the enormous sum of upwards of 32 lakhs of rupees.*

"*I believe that in any other country such a burthen upon suitors would be considered intolerable. It is well known that in England there has always existed a very strong feeling against the Revenue making anything like a profit out of a tax of this kind ; and when the amount of the stamp fees in Civil Courts was lately under the consideration of the English Judges in framing the new rules under the Judicature Act, I have ascertained that especial care was taken that the amount of the tax should be rather under than over the estimated expense of the Civil Courts establishments.*

"*This system of taxing civil suitors has always appeared to me so unjust, that I have on more than one occasion drawn public attention to the subject ; and I have now before advising the Government on the present Bill, been endeavouring to ascertain why and when the system was introduced, and how far the present state of things is in accordance with the professed intentions of the Government.*"

Sir Richard exhaustively reviews the various legislative enactments which imposed fees upon Civil suitors in this country since the year 1795 and summarises matters thus :—

1*stly*—"*That the professed object originally of imposing a tax upon suitors was to put a check upon frivolous and unnecessary litigation.*"

2*ndly*—"*That the tax was imposed in the first instance to some extent upon criminal, as well as civil proceedings.*"

3*rdly*—"*That it was not imposed at that time in the shape of an institution fee only, but distributed, as it is in England, and on the Original Side of the High Court, over the various proceedings in the suit.*"

4*thly*—"*That so lately as the year* 1867, *the tax had not amounted to more than* ½*th of the expenditure and*"

5*thly*—"*That it was not the intention of the Government when the present system was introduced, and that in fact the Government did not consider it just, that suitors should pay anything like the whole of the cost of the Court establishments.*"

"*And yet within* 15 *years from the passing of that Act, and without any declared change of policy or principle on the part of the Government, we find a stamp fee tax now imposed upon suitors in Bengal which amounts to nearly double the Civil Courts expenditure.*"

"*Now it seems to me, that this is a manifest injustice, and one that falls with peculiar severity upon the poorer class of litigants. To the rich, the payment of so large a fee is often a very serious matter ; but in the case of the poor, it absolutely bars the door of justice. Poor suitors are often utterly unable to raise the necessary sum to enable them to enforce their just rights ; and it constantly happens for this reason that suits in this country both by rich and poor, are carried on, not by the claimants in whose names they are brought, but by suit brokers and money lenders, who undertake the case and pay the necessary expenses, upon the terms of getting a share of the property, if the suit should prove successful.*"

"*This mischievous system, which is known in England by the name of Champerty and Maintenance is there considered illegal, as being contrary to public policy and tending to encourage strife and litigation ; but it has been tolerated by the Courts of this country, for no better reason, I fear, than because without it many unfortunate claimants would be wholly without any means of redress.*

"*The Governor-General in Council may be well assured, that there exists a very strong feeling against this tax, and that it would only be doing an act of justice to mitigate its severity . . .*

"*I have already endeavoured to show that the imposition of a large institution fee too frequently operates as a denial of justice, and gives rise to very objectionable practices. But this is by no means the only or most ordinary mischief of the system. Its effect, with the generality of suitors is to prevent suits being settled out of Court, and to prolong litigation unnecessarily.*"

"When a plaintiff has once paid a large institution fee, he considers not unnaturally that he has purchased from the Government the right and the means of pressing his claim to the utmost. He knows that if he goes to trial he will not have to pay any further fees, and he thinks that he may as well take his chance of screwing the last pice out of his opponent. On the other hand, a defendant, who would be otherwise disposed to come to a reasonable settlement, is tempted to go to trial, and to set up some false or shadowy defence, because he knows that whether he goes to trial or settles the claim amicably, he will still have to repay the plaintiff, over and above his claim, the heavy institution fee; and that he will at least gain time by resisting as long as he can."

"Now the English system, which is adopted in the High Court, is calculated not only to avoid this evil, but directly tends to prevent a suit being unnecessarily prolonged, on the Original Side of the Court, a small fee, only Rs. 12, is paid on the filing of the plaint, and further fees are imposed as the suit proceeds, in such a way as to deter both parties from carrying on the suit beyond what is really necessary. So much is charged upon every affidavit, so much upon every application, so much upon every witness summoned or document produced, and so much (the largest fee of all) upon the trial.

"This is manifestly just, because the heaviest fee is thus charged at those stages of the proceedings, which cause the Government most trouble and expense. The filing of the plaint is an inexpensive matter, and must needs be the first step in every cause. No unnecessary obstacle should therefore be placed in the way of that. But the going to trial or the use of a multitude of affidavits, or witnesses or applications, may or may not be necessary; and to impose a fee upon each of these commensurate with the degree of extra trouble which they cause, or time which they involve, is only a wholesome check upon needless proceedings.

"If a plaintiff or a defendant can save the Court fees and other expenses of a trial by settling the matter amicably, here is a direct inducement to do so; or if the production of each witness or document costs so much in stamp fees, besides the other ordinary expenses of bringing them into Court, a prudent man will think twice before he incurs that cost.

"By thus distributing the fees over the various proceedings in the suit, the Government will only be reverting to the system, which prevailed in this country for many years, and which so far as I can ascertain was only discontinued because the levy of the one institution fee relieved the Courts of a certain amount of trouble."

If the views of the former Chief Justice of Bengal, as expressed in his minute, are correct, and if the arguments adduced by him in 1883 against the Act are sound, then with how much greater force do they tell in the year 1893, when we find the profits on the Administration of Civil Justice in this Presidency have risen from Rs. 6,23,885 in the year 1883 to Rs. 14,54,448 in the year 1893.

XI.—It has been demonstrated above :—

(1) that the introduction of the Court Fees Act 1870 into the High Court would not be advantageous to the suitor;

(2) that the Act in question has been condemned as unjust and impolitic by the highest authority.

XII.—It is now intended to show, leaving the special character of the Act in question out of account, that no good ground exists for the imposition of a heavier burden on litigants, and that it should rather be the aim of Government to lessen the cost of obtaining justice than to increase the already enormous surplus of revenue derived, as above stated, from the Law Courts.

In September 1869, when the late Mr. F. R. Cockerell moved for leave to introduce into the Supreme Council a Bill to provide for the better regulation of Court Fees, Sir Henry Sumner Maine, then Mr. Maine, on behalf of Government, dealt with the principle on which litigants should be taxed in the following manner :—*"He had been desirous of explaining away two misapprehensions, one much more important than the other, which were disclosed by the paper which he and his honourable friend had examined. One of these was the mistaken idea that the Government of India had ever started or encouraged the doctrine that the taxation of the administration of justice was a justifiable mode of recruiting the general finances of the empire."* In the same speech Sir Henry Sumner Maine said: *"But assuredly the last thing which could be attributed to . . . . the Government was a policy of taxing litigants as a separate class for the benefit of the general finances."* . . . .

"The other misapprehension was of very much less importance. It seemed to be supposed that he himself had at sometime or other elaborately justified the policy of filling the Treasury by taxing litigants. He might be permitted to say he had never done anything of the kind." . . . .

"The true doctrine was that the litigants and the general tax-payers should each contribute something. No body denied that the litigants benefited by the Courts, and no body would deny that the rest of the community derived some advantage from the solution even of such questions as those raised by this Bengali gentleman's will (Sir Henry Sumner Maine was referring to the case of Tajore v. Tajore, 9 Bengal Law Reports, 395), what the proportion paid by each should be was a question not of theory but of experience to be equitably settled by the Government as trustee for all."

Sir John Strachey, G.C.S.I., in his work entitled "India" referring to the Courts of Justice says: *"They are also too expensive. Heavy stamp duties still exist; they were originally imposed partly as a means of revenue to meet the expenses of the Courts, and partly under the unfortunate notion, not yet altogether exploded, that needless litigation is encouraged by making recourse to the Courts cheap and easy."*

In the able Memorandum on the Progress of the Madras Presidency, during the last forty years of British administration compiled by S. Srinivasa Raghavaiyangar, B.A., Dewan Bahadur, C.I.E., the author, in the chapter on the costliness of justice in this country, quotes a despatch from Lord Kimberley, when Secretary of State for India, wherein His Lordship remarks *"notwithstanding the immense improvement which has of late years been effected in the efficiency and integrity of the administration of Civil Justice generally, much remains to be done towards making it cheap and speedy, everything which adds to the expense, delay and difficulty of recovering just debts increases the price at which the money-lender gives his help to the land-owner."*

XIII.—It follows that the introduction of the Court Fees Act 1870 into the High Court would not only be immediately disadvantageous to the Madras suitor but would also be a retrograde step, contrary to a well recognized principle of taxation supported by high authority, that its effect would, as shown by the late Chief Justice of Bengal, contribute to prevent suits from being settled out of Court and to prolong litigation, and that it would add to the expense, delay and difficulty of recovering debts and generally of enforcing rights, and thus tend to defeat in fact the objects for which Courts of Justice exist.

XIV.—We now pass on to consider the third and last proposal of Government, viz., to re-organize the establishment on the Original Side of the High Court with a view of saving money.

XV.—This is a subject upon which there appears to have been a difference of opinion in the year 1890, between the Government, which is chiefly concerned with the financial aspect of the question, on the one side, and the Honorable the Judges, who are chiefly concerned in maintaining the efficiency of the establishment, on the other side. Hitherto the litigating public of Madras has, like the Judges, deprecated any proposal to diminish the establishment, and has even protested that the delay frequently occurring in the issue of orders, decrees, and the like points to the conclusion that the establishment is undermanned than otherwise. It seems therefore desirable that the attention of the Chamber should be called to the following facts and considerations bearing upon the proposal of Government mentioned in the last preceding paragraph.

XVI.—The first point which suggests itself is, that if reductions are now made without sufficient experience of their feasibility, and they are found afterwards not to be justified by the result, it will be very difficult to obtain the necessary sanction from Government for funds to enable the establishment to be restored to its requisite strength. The Chamber is aware how greatly the efficiency of any Court of Justice is diminished by an undermanned establishment and how essential it is, in the interests of justice, that orders, judgments, decrees and processes should be issued promptly.

XVII.—It is desirable, while on this point, to direct the attention of the Chamber to the opinion of the Honourable the Judges regarding the reduction of the establishment of the Original Side of the High Court, expressed in their letter to Government, before referred to, dated 3rd September 1890, No. 2115, when commenting on the Bill for giving effect to the scheme for affording relief to the Madras High Court by enlarging the jurisdiction of the Madras Presidency Court, which measure was to have raised the jurisdiction of the Small Cause Court to Rs. 2,500 and simultaneously with the passing of which Act it was contemplated to reduce the establishment of the High Court, Original Side, with a view to consequent savings.

"The Judges of the High Court think it very probable that the work on the Original Side will not be decreased materially by the introduction of the new scheme. It has been found by experience that if intending suitors are aware that their causes can be tried without delay many suits are brought, which, under other circumstances, would never be proceeded with and it may well be that although the Original Side may be relieved of a certain number of causes of comparatively small value, yet their place will be supplied by an increase in suits of a larger value and more intricate character. It will probably therefore be eventually found impossible to carry on the work of the Original Side, even after the transfer of jurisdiction with any smaller establishment than that hitherto entertained, and, this being so, it would be very inadvisable to put into effect the reductions proposed simultaneously with the passing of the Act, as the Secretary of State suggests."

"In the opinion of the majority of the Judges, the best plan would probably be to defer the introduction of all the changes in the establishment till some experience of the effect of the new Act shows whether they are really feasible, and I am to suggest that the fairest way of dealing with the present Registrar of the Original Side would be to postpone any change in his office till it becomes vacant."

The Chamber might ascertain whether there has been, since the date of that letter (3rd September 1890), any such change of circumstances as to deprive the well considered opinion of the Honourable the Judges of any of its force, and whether they consider that sufficient experience has yet been gained of the effect of the City Civil Court to show that the reductions, they then deprecated in the High Court, are now feasible.

XVIII.—The question of the re-organization of establishment is referred to in the Government order of the 26th September 1894, No. 2388, as follows:—

"*In view of the decrease of work on the Original Side of the High Court which is due to the creation of the City Civil Court, the Government would be glad to be favoured with the opinion of the Honourable the Judges as to the possibility of a re-organization of the establishment and consequent savings. In the present financial condition of the country the latter is an object of great importance.*"

XIX.—It will be seen from the foregoing extract that the re-organization is suggested, not with a view to the more active and efficient discharge of the business of the Court, but with the sole object of saving money. The Government, not content with its surplus of Rs. 14,54,448, wishes to still further recruit its finances from the tax imposed upon litigants by appropriating funds levied from them ostensibly to meet the expenses incurred in the administration of Civil Justice, to purposes other than those for which they are so levied.

XX.—There was, it appears, a decrease in the number of suits filed on the Original Side of the High Court in the year 1893, occasioned, no doubt, in some measure, to the institution of the City Civil Court, but is it possible to say, with any degree of certainty, that this decrease will be maintained? As a matter of fact there has been already an increase, for the Chamber is informed that in the present year 290 suits have been filed as against 242 in 1893. It appears unwise for the Government to suggest such an important step as the reduction of the High Court establishment on the basis of the working of the Court for one year only. Take the figures which appear in the administration report regarding the work in the Madras Court of Small Causes: in 1892 there were 25,361 suits filed, whilst in 1893 the number only reached 22,985 and yet no one would advocate a reduction of that establishment simply because the file of the Court happens to show, on one year's working, a decrease of 2,376 suits. In the report on the administration of justice the matter is thus commented on: "*The falling off in the number of Small Causes is very remarkable, the figure recorded this year being the lowest in the last decade. The cause of the decrease cannot be stated with any degree of certainty, but it has been suggested that the depression in trade in Madras, owing to the fall in exchange, may be to some extent accountable.*" Why should not this reason also hold good to some extent with regard to the falling off in the number of suits filed on the Original Side of the High Court? At all events the working of the Court for one year appears quite inadequate for the purpose of ascertaining whether the business of the Court admits of any reduction of establishment.

XXI.—Leaving out of consideration, for a moment, the opinion of the Honorable the Judges quoted above, and apart from the subject just dealt with (as to the alleged decrease of work on the Original Side of the High Court), there remains the question whether the present is an appropriate time for giving effect to the proposal of Government, regard being had to the facts admitted in the Government order on the last administration report, viz.:—

(*a*) that the High Court is unable to cope successfully with the Civil suits coming before it;

(*b*) that the decrease in the disposals of Civil suits would doubtless have been greater in 1893 but for the lightness of the sessions and the presence of a fifth Puisne Judge for three months;

(*c*) that the High Court on the Original Side is a full year in arrear of its work.

XXII.—A further and important factor in the situation, in addition to those above referred to, is to be found in the circumstance adverted to at length in paragraph IX that the Government has made, and is in fact making, a large financial profit on the administration of Civil Justice, the actual net surplus for last year amounting to 14,54,448 rupees.

XXIII.—What form the Government desire the re-organization to take does not appear from the order. The Chamber will remember that when it was proposed in 1890 to raise the jurisdiction of the Small Cause Court to Rs. 2,500 and with the previous sanction of the Government of India from Rs. 2,500 to any value that might be thought advisable, certain changes were then recommended by the Government of India in the establishment of the High Court which the Government decided to adopt, with the sanction of the Secretary of State, as soon as the transfer of jurisdiction had been effected.

XXIV.—The changes then proposed are to be found in the despatch from the Government of India, Department of Finance and Commerce (Salaries and Establishments), Law and Justice, to Her Majesty's Secretary of State for India, dated Simla, 15th October 1889, No. 324, and were as follows:—

"*In the event of your Lordship approving the scheme for the enlargement of the jurisdiction of the Presidency Small Cause Court at Madras. . . . . We may observe that, on a consideration of the proposals made by the Finance Committee in connection with the cost of the Madras High Court and of the recommendations of the Madras Government in regard to them, we have decided to adopt the following changes, subject to your Lordship's sanction, as soon as the transfer of jurisdiction has been effected,* viz.:—

(1) "*that the post of Registrar on the Original Side (pay Rs.* 1,500 *a month) should be abolished, and that a Deputy Registrarship, to be held by a professional lawyer, should be created for that side on a pay of Rs.* 1,000 *a month;*"

(2) "*that the pay of the post of the Registrar on the Appellate Side, who will supervise the work on both sides of the Court, and who is now in receipt of a salary of Rs.* 1,600 *a month, should be a progressive one, rising from Rs.* 1,450 *to Rs.* 1,800 *a month by annual increments of Rs.* 70;

(3) "*that in the case of the Deputy Registrar on the Appellate Side—a post which affords an opportunity of useful judicial training to a junior Civilian—the pay should also be made progressive beginning at Rs.* 700 (*which is the existing rate*) *and rising to Rs.* 1,000 *a month by annual increments of Rs.* 60;

(4) "*that the office of Clerk of the Crown, the pay of which is Rs.* 300 *a month, should be abolished as a separate office, and the duties appertaining thereto entrusted to the Deputy Registrar on the Original Side.*

"*These changes will result in an ultimate saving of Rs.* 516–10–8 *a month as shown in the margin. The permanent additional expenditure involved in our proposal to create an additional judgeship for the Small Cause Court at Madras on Rs.* 1,200 *a month, will therefore be Rs.* 683–5–4 *a month and this amount may be further reduced if, as seems eventually possible one of the Assistant Registrarships on the Original Side is abolished. We trust that the proposed arrangement will receive your Lordship's sanction.*"

Present scale.	*Per mensem.*
Registar, Original Side	1,500
Do. Appellate Side ..	1,600
Deputy Registrar	700
Clerk of the Crown	300
Total ..	4,100

Proposed Scale.	
One Registrar Rs.	1,450
rising to Rs.	1,800
mean Rs.	1,683–5–4
Deputy Registrar, Appellat Side, Rs. 700 rising to Rs. 1,000, mean Rs.	900–0–0
Deputy Registrar, Original Side	Rs. 1,000–0–0
Total ..	3,583–5–4

XXV.—Upon these proposed changes the Honourable the Judges of the High Court in their letter of the 3rd September 1890, No. 2115, before referred to, wrote as follows:—

"*I am now to state the views of the Honorable the Judges on certain changes in the Establishment of the High Court which, with the approval of the Secretary of State, it is proposed to introduce simultaneously with the creation of the new jurisdiction.*

"*It is proposed to make the Registrar on the Appellate Side, Registrar of both sides of the Court and to substitute for the Registrar on the Original Side a Deputy Registrar on the pay of Rs.* 1,000.

"*A majority of the High Court, as at present constituted, is greatly averse to the proposed subordination of the Chief Officer of the Court on the Original Side and consider it would be a mistake to abolish the office of Registrar on that side of the Court. Objections to the proposal were well stated in a letter written by the late Chief Justice, Sir Colley Scotland, at the time when, on the creation of the High Court, this subject was once before discussed. Referring to the work of the Registrar of the Original Side, he writes: "It has become very considerable and it is in every respect dissimilar from that of the Registrar on the Appellate Side and requires special qualification and training. For the discharge of these duties the Registrar should, in my judgment, continue the Chief Officer in civil and ecclesiastical matters on the Original Side with independent ministerial responsibility, and the Registrar on the Appellate Side the same in matters of appeal. The distinction to be retained in this instance is accompanied by, as I have said, a very material difference in the duties and qualifications of the two officers, and in my opinion the suggested present change in designation would tend, without any advantage, rather to weaken the strictness with which the Judges regard the responsibility of each Chief Officer and to impede the active and efficient discharge of the business of the Court (letter, dated 21st March 1863). There has since that time been no such change of circumstances as to deprive his opinion of any of its force, and Sir Colley Scotland's reasons would hold good even if a large percentage of the original suits were withdrawn from the High Court. It must be remembered that, as stated before, the remaining suits, the number of which may become much larger than the present figures indicate, are far the most important, and must give proportionately more work to the Registrar. The business of taxing costs in suits in which solicitors are engaged would still be very considerable. Assuming that a competent man could be found amongst the solicitors to accept the post at a salary of Rs. 1,000, it is not clear to the Judges that any advantage would be gained by making him subordinate to the Registrar whose work would be chiefly on the Appellate Side. Practically the latter, who is usually a Covenanted civilian holding his office for a short time only, having no technical knowledge, and having his time fully occupied with his own special work would exercise no control over the Chief Officer on the Original Side. It is very doubtful whether for a salary of Rs. 1,000 it would be possible to find a solicitor competent to do the work now required of the Registrar of the Original Side and other quasi-judicial work which may be delegated to him and the difficulty would certainly be increased by making its holder subordinate to the other Registrar.*"

XXVI.—These changes were not carried out, and if those now contemplated by Government are the same, then unless there has been a change of circumstances, since that letter was written, to deprive their opinion of any of its force, the views of the Honourable the Judges ought, in the interests of the public, to be supported by the Chamber; but as has been already pointed out, the Chamber has not before it particulars of the changes now proposed by Government, and it can therefore, without details, only express generally its strong disapproval of any reductions in the face of the present state of business on the Original Side of the High Court.

XXVII.—The Chamber is informed that the cost of the Regular Establishment on the Original Side, which comprises the establishment in the office of the Registrar, the Interpreters, the Chief clerk in Insolvency and the Judges' clerk is small, and that the establishment itself is insufficient to cope with the present work, if this be so, then no reductions should be countenanced. Reliable and independent information, as to the sufficiency of the establishment on the Original Side of the High Court, might be obtained from the Bar and the Attorneys and Vakils' Associations, the members of the latter associations being specially qualified to give a practical opinion on this question.

XXVIII.—There is also another matter upon which the Chamber should obtain information, which will no doubt be given by the Honourable the Judges if application is made to them, viz., what proportion of the total receipts of the High Court are contributed by the Original Side. It will be observed on page LX of the report on the administration of civil justice in this Presidency that a statement marked K is given showing the judicial receipts and charges of Civil Courts for 1893; from the statement it appears that the total receipts of the Appellate Side and the Original Side of the High Court for the year amounted to Rs. 2,45,440. It is generally believed that the receipts from the Original Side of the High Court exceed the receipts from the Appellate Side, whilst the cost of the regular establishment of the Appellate Side of the High Court is roughly speaking about seven times the cost of the regular establishment on the Original Side.

It is not for a moment suggested that the regular establishment on the Appellate Side is too large or should be reduced, but if these figures are correct and if it is the fact that the present regular establishment on the Original Side is inadequate to cope with its work, the Chamber should consider the advisability of respectfully requesting the Honourable the Judges, in the interests of the public, to apply to Government to increase the establishment with a view to greater efficiency and not to reduce it with a view to consequent savings.

It will be within the recollection of the Chamber that towards the end of the month of January 1889, a paper bearing date the 12th January 1889, No. 22, from the Secretary to the Government of India, Home Department, was communicated to the Chamber with a request that it would favour the Government with its opinion on the proposed enlargement of the jurisdiction of the Madras Court of Small Causes.

That paper contained the following proposals:—

(1) to afford relief to the High Court at Madras by enlarging the Jurisdiction of the Presidency Small Cause Court;

(2) to add a Judge and a regular side to the Court of Small Causes;

(3) that all cases not of a Small Cause nature and not exceeding Rs. 2,500 in value should be instituted in the Court of Small Causes instead of the High Court;

(4) the right of appeal in all such cases to the High Court;

(5) a similar right of appeal in all Small Causes ranging from Rs. 1,000 to 2,000 now tried summarily.

The paper further stated that "*the High Court will of course be competent to call up cases to their own file and it is understood that they will readily exercise this power in all cases involving questions of mercantile law.*"

With regard to the proposals contained in this paper, attention should be given to the inducements held out to the mercantile community to accept them, viz.:—

(*a*) the right of appeal to the High Court;

(*b*) that the High Court would readily exercise the power conferred upon it of calling up all cases involving questions of mercantile law and usage.

Inducement (*b*) was most indignantly repudiated by the High Court as will be shown later on.

On the 8th March 1889, the Chamber in its letter of that date to Government, approved of the proposals provided "*the services of a sixth Judge of the High Court are not dispensed with until it is satisfactorily established that the relief afforded by the proposed change will reduce the work of that Court to dimensions that can be efficiently dealt with by a smaller number of Judges than six.*"

In consequence of rumours as to the scope of the Bill which the Chamber heard was about to be introduced into the Viceregal Legislative Council, the Chamber on the 8th May 1890, wrote to the Government of Madras stating that since it had conditionally approved of the proposals contained in the paper of the 12th January 1889, it had been led to believe that had it seen the official correspondence on the subject, it might have formed a different opinion to that which it had already expressed, and requesting that ample time would be afforded for the consideration of the Bill in Madras and that full information would be given to the objects that the Government of India had in view.

On the 12th May 1890, the first day of the High Court vacation, the Government submitted to the High Court Judges "a draft of a Bill for giving effect to the scheme for affording relief to the Madras High Court by enlarging the jurisdiction of the Presidency Small Cause Court."

The important features in this Bill were—

(*a*) that it was to come into force on 1st July 1890;

(*b*) that it was proposed to confer upon the Local Government the power of raising, with the previous sanction of the Government of India, the pecuniary limit of the new jurisdiction of the Small Cause Court from Rs. 2,500 to any value that might be thought desirable.

With regard to (*a*) considering the vacation commenced on the 12th May and extended to the 12th July and that therefore the Judges would be away, there was no time for them to consider the Bill. It was afterwards stated that this date was inserted in error. With regard to (*b*) it is to be observed that the proposal is entirely different to the one to which the Chamber accorded a conditional approval by its letter of the 8th March 1889.

The Chamber at this time had no copy of the proposed Bill and on the 20th May 1890 it wrote to Government expressing a hope that it might be favored with a copy of the Bill and deprecating the quite unnecessary haste which was being displayed to rush the Bill into law.

On or about the 5th July 1890, the draft Bill was sent to the Chamber.

The Chamber did not at the time address Government on this Bill, as there was a universal outcry against it not only in Madras but in Calcutta and Bombay and the Chamber believed it had been abandoned.

It is important to consider the views of the Judges of the Madras High Court as expressed in a letter written by the Registrar of the Court to Government on this Bill, because it is difficult to see what has occurred between the date of this letter, 30th September 1890, and the present time, to detract from the arguments the Judges then adduced against curtailing the jurisdiction of the Original Side of the High Court, which is at this present moment again contemplated by Government.

In paragraph 2 of the letter in question they say "*in fact, the measure appears to have been designed with a purely financial object, simply and solely to relieve the High Court of a portion of its work and thereby enable the Government to avoid appointing permanently a fifth puisne Judge in the High Court. If this is, in fact, the sole object which the Government has in view, the High Court is constrained to record its emphatic opinion that the mere possibility of effecting some small reductions of expenditure is not an adequate reason, in fact, constitutes in itself no reason, for interfering with any portion of the system of administration of justice in this country, and must protest against the adoption of considerations of economy as the sole ground for proposing changes in the Jurisdiction of the High Court.*"

In paragraph 3, regarding the desirability of a cheaper forum for suitors with claims of small value which would not bear the expense of a High Court suit, they say—

"*In the first place, the High Court has always felt the necessity for creating some tribunal which might afford relief to suitors whose claims relating to land, and being of small value, will not bear the expense of a High Court suit. Under the existing system of Judicial Administration in the Presidency Town, the High Court is the only forum before which disputes relating to matters not cognizable by the Court of Small Causes can be brought, and owing to the comparative costliness of litigation before that tribunal, justice is practically denied to a not insignificant portion of the inhabitants of the city. On the assumption therefore that the suits under the new jurisdiction will as regards levy of Court fees be brought under the provisions of the Court Fees Acts, the measure so far as its effect is to provide a new and cheaper machinery for the benefit of small suitors, has the support of the High Court.*"

As to the alleged unanimity of local opinion in favour of the Bill which it was alleged existed, the understanding that the High Court would call up cases to their own file, and that the measure would obviate the necessity of continuing permanently a sixth Judge, they say in paragraphs 9, 10 and 11—

"(9) *I am here to refer to a matter regarding which some misapprehension appears to have arisen. In laying before the Secretary of State an outline of the measure under discussion, the Government of India, in paragraph 5 of its Despatch No. 324, dated 15th October 1889, laid great stress on the unanimity of local opinion in its favour. The High Court believes that the Government of India is mistaken on this point. It does not appear that the Judges of the Small Cause Court, the Bar, the Attorneys or the Native Mercantile Community were consulted on the proposed changes, and the generally favorable opinions recorded by the Chamber of Commerce and by the Trades Association, seem to have been based on a misunderstanding. These bodies were informed, in the letter of reference, that the High Court will of course be competent to call up cases to their own file, and it is understood that they will readily exercise this power in all cases involving questions of mercantile law and usage.*

"(10) *The High Court desires emphatically to repudiate any such understanding as one for which they are in no way responsible, and which in point of law must be wholly inoperative. It is impossible, however, to say what weight may have been attached to this supposed understanding by the bodies consulted, nor can their approbation of the measure which was described to them be said to raise any inference in favour of the present measure, inasmuch as the two measures differ in several important*

respects. Moreover, the High Court learns that the Chamber of Commerce approved of the measure only provided the services of a sixth Judge of the High Court are not dispensed with until it is satisfactorily established that the relief afforded by the proposed change will reduce the work of that Court to dimensions that can be efficiently dealt with by a small number of Judges than six.

"(11) *This leads to a consideration of the effect the introduction of the scheme will have on the work of the High Court. In this connection I am to premise that the Honourable the Judges view with favour the design of economising the Judicial Power of the High Court by constituting an inferior and cheaper tribunal for the determination of suits of low value and comparatively smaller intricacy and importance, but their Lordships are firmly convinced that the measure must fail to realise the hope of the Government of India, not it is true, very sanguinely expressed, that the necessity of continuing permanently the appointment of a sixth Judge may be avoided by its means. As this is apparently the sole aspect of the measure which has received attention at the hands of the Government, the High Court considers it desirable to examine it in detail.*"

"In paragraph 23 of the letter, the Judges say with regard to the necessity of maintaining a sixth Puisne Judge for the proper performance of the work of the High Court."

"*I am to remind the Government that a great increase of Civil litigation is the natural and inevitable result of the extensive development of the country in material resources and of the advance in education and civilization of the community which have marked the last three decades, while, the additions which as a direct result of the improvement in education, have been made annually of late years to the number of highly trained legal practitioners throughout the country, tend in the same direction. It is not reasonably to be expected therefore that a High Court of the numerical strength which was found sufficient in 1862 can suffice for the greatly increased requirements of the present day. The time for considering such a measure as the present Bill as an expedient for postponing the permanent addition of one Judge to the strength of the Court has long passed. The particulars given above of the growth of the Court's work make this abundantly clear, and in considering the financial effects of this measure, the Government must regard it as an established necessity that six Judges at least are essential for the proper performance of the High Court's work.*"

In paragraph 25, exception is taken to placing the Courts of Madras on an exceptional footing as compared with Calcutta and Bombay.

"(25) *Turning to the detailed provisions of the Bill—I am to state at the outset that the—High Court as at present constituted takes a strong exception to the application of peculiar legislation on this subject to Madras. It impairs the uniformity and symmetry of the system of legislation for the Presidency Towns.*"

As to the virtual abolition of the jurisdiction of the High Court by the increased jurisdiction being given to the Small Cause Court, the Judges in paragraph 28 observe—

"(28) *But passing from the legal question to the question of policy, the Judges are at a loss to understand for what reason it is proposed to incorporate a provision of so sweeping a character in the Act. At no period during the discussion on the subject of the enlargement of the Small Cause Court's jurisdiction, ranging over the last twenty years, has the present proposal been hinted at or foreshadowed and the Judges are not aware of any circumstances since the date of the abolition of the Supreme Court which should make it expedient in the interests of the public that the High Court, in so far as it is a successor of the Supreme Court, should also be abolished. On the other hand, they are convinced that a radical change in the constitution of the Court which would be destructive of the two English branches of the legal profession, would be most prejudicial to public interests.*"

As to the power of Government to curtail the jurisdiction of the High Court the Judges in paragraph 32 say—

"(32) *The observations above made apply in a great measure to the provision of section 4. It is proposed that the High Court should be absolutely deprived of its jurisdiction in cases below a certain value, and it is not certain that the jurisdiction of the High Court conferred by the letters patent can legally be curtailed in this way except by an Act of Parliament. So far as the Judges are aware, there is no precedent for such legislation with reference to a superior court either in this country or in England and on the contrary the provision here made in the Civil Procedure Code requiring suitors to institute their suits in the Court of lowest jurisdiction is so framed as not to exclude the jurisdiction of the Courts of higher jurisdiction. The provision with regard to costs contained in the present Small Cause Courts Act has been found amply sufficient to deter suitors who might resort to the Small Cause Court from resorting to the High Court and the Judges believe that no further precaution is required.*"

In paragraph 36, the Judges give their approval to the Bill so far only as it creates a cheaper forum for petty suits in the following words—

"(36) *The views of the High Court expressed above may be summarised as follows :— First the Honourable the Judges are disposed to approve of the measure so far as its effect will be to create a cheaper forum for certain class of actions which will not endure the expense entailed on suitors under the present system, but they would point out to the Government that the consequences of providing such a tribunal are likely to be more far reaching and serious than seems to have been anticipated.*"

This letter was forwarded to the Secretary to the Government of India, Home Department, Judicial, by the Madras Government on 11th November 1890, No 1771, Judicial. It is not proposed to discuss this despatch, on some points Government agreed with the judges on others they did not, but the most important point on which Government agreed with the High Court was, that the retention of a fifth Puisne Judge was indispensable and that the then present strength (*i.e.*, five Puisne Judges) of the High Court would never admit of reduction.

This is what Government say,—

"*It will be seen that the High Court looks upon the retention of a fifth Puisne Judge as indispensable and I am to state that His Excellency the Governor-in-Council is in full accord with the High Court on this point.*

"*The relief afforded by the present Bill will be small and may be largely counteracted by a growth of litigation and as the existing staff of judges is hardly capable of coping with the work which now comes before it, it is the decided opinion of the Government that the present strength of the High Court will never admit of reduction.*"

Notwithstanding this decided opinion since the fifth Puisne Judge Mr. Justice Handley retired on the 4th April 1893, the Secretary of State has declined, in view of the institution of the City Civil Court, to appoint another Judge in his place, so that the strength of the High Court has been reduced.

After the very scathing criticisms, on this Bill by the High Court, it was dropped.

It is instructing at this stage, when it was solemnly proposed by the Government of India to raise the pecuniary jurisdiction of the Madras Court of Small Causes to Rs 2,500 and with the sanction of the Government of India to any value that might be thought advisable, to find that the Government were actually at this very time recommending that the pecuniary limit of the Presidency Small Cause Courts, which then stood at Rs. 2,000, should be altered, and the limit laid down by Act XXVI of 1864, viz., Rs. 1,000 should be reverted to.

Such, however, was the case, the suggestion was contained in a letter from the Secretary to the Government of India to the Government of Madras, No. 445, dated 28th March 1891, and forwarded to the Chamber for its opinion. In that letter, however, the Secretary to the Government of India says :— "*I am to explain that this revision of jurisdiction would merely affect cases which would be tried as small cases and will in no way touch the proposal that the Small Cause Court in Madras should be empowered to try under the procedure applicable to regular suits, such cases of over Rs.* 1,000 *in value as may be withdrawn from the jurisdiction of the Madras High Court.*"

So that Judges of the Calcutta and Bombay Small Cause Courts were only to try cases the value of which did not exceed Rs. 1,000 whilst the Judges of the Madras Small Cause Court were to try cases up to any value, one lakh if necessary.

It may be here mentioned that a Bill to carry out this proposal to reduce the value of Small Cause Suits to Rs. 1,000 is now actually before the Supereme Government.

The Chamber on the 18th July 1891, in a letter of that date to Government, approved of the Small Cause Court Jurisdiction being limited to Rs. 1,000.

In that letter the Chamber, also refer to the draft Bill submitted to it on the 5th July 1890, which it believed had been abandoned and say "*that though in March* 1889, *it did approve conditionally of the proposal to extend the jurisdiction to all causes not of a Small Cause nature and not exceeding Rs.* 2,500 *in value it now doubts the efficacy of the proposed extended jurisdiction and disapproves of it.*"

Sir P. P. Hutchins was in no way daunted by the utter collapse of this sweeping measure, which, as the Judges pointed out, practically abolished the original jurisdiction of the High Court, for, on the 3rd August 1891, the Government forward the Chamber a copy of another Bill intituled "A Bill to extend the jurisdiction of the Court of Small Causes at Madras," with a statement of objects and reasons.

"*The object of this Bill was to constitute what may be called a Regular Side of the Madras Court of Small Causes for the trial* (1) *of suits of the nature of Small Causes but of a value exceeding the limit of Rs.* 2,000 *fixed by section* 18 *of the Presidency Small Cause Court Act,* 1882, *and* (2) *of suits not of the nature of Small Causes. At present all such suits have to be instituted in the High Court and the result has been found to be not only a great waste of judicial power but also a practical denial of justice to suitors who are unable to bear the expenses of a trial in the High Court.*"

The poor suitor is now brought on the scene for the first time in a most ingenious way; it will be remembered that the High Court, in its letter of the 3rd September 1890, say,—

"*In the first place the High Court has always felt the necessity for creating some tribunal which might afford relief to suitors whose claims relating to land and being of small value will not bear the expense of a High Court Suit. Under the existing system of judicial administration in the Presidency Town, the High Court is the only forum before which suits relating to matters not cognizable by the Court of Small Causes can be brought and owing to the comparative costliness of litigation before that tribunal, justice is practically denied to a not insignificant portion of the inhabitants of the city.*"

Sir P. P. Hutchins' adroitly turns this portion of the Judge's letter to his own account and makes the relief to the poor suitor one of the objects of the new Bill; there is apparently no question of relieving the High Court, but the interests of the poor suitor are now what he is anxious about.

The Bill nevertheless proposed to extend the Small Cause Court jurisdiction to Rs. 5,000 and by Government notification, if necessary, to Rs. 10,000. Poor suitors' claims do not extend to Rs. 5,000 and Rs. 10,000. This Bill was in reality another deliberate attempt to oust the jurisdiction of the High Court and to prevent the continuation of the fifth Puisne Judge.

In introducing this Bill to the Supreme Government, Sir P. P. Hutchins said—

"Power is reserved to the Local Government to extend the pecuniary limit of this regular jurisdiction (Small Cause Court) from Rs. 5,000 to any sum not exceeding Rs. 10,000; and it is intended that they should exercise this power with reference to the number of Judges who can be made available, in the High Court and Small Cause Court, respectively, and the business which has to be distributed between them. In other words, without going so far as to establish a District Court with fixed powers, which shall oust the jurisdiction of the High Court, and the Judge of which might not have enough work or might have too much, we shall make use of machinery which already exists and apply it under conditions so elastic that it will be in the power of the Local Government to assign to the inferior court just so much work as may fully occupy the one, one-and-a half, two, or even three Judges whom it is prepared to employ over and above those required for Small Cause work proper, and to reserve for the High Court so much of the more important original civil business as with the Criminal Sessions and Insolvency work will occupy the one Judge, or it may be one-and-a half, who can be spared from the Appellate Side of the High Court, my own view of the situation is that in all probability one Judge ought to be ample for the whole of the original work which deserves to be retained in the High Court.

"Whether a single Judge will be enough for the regular side of the Small Cause Court must depend on the effect which this legislation may have on the petty litigation of the city. It has been all along recognised that it is likely to cause a considerable increase in the number of suits, and it may well be that the work will be beyond the powers of a single Judge, even with the occasional aid of a colleague not at the time required for the Small Cause work. Should this prove to be the case, the Local Government can at once apply an effectual remedy by appointing a temporary additional Judge, or by enlarging the jurisdiction to such extent as many seem desirable and giving another permanent Judge. This elasticity of the scheme is to my mind one of its chief recommendations. I need hardly remind any one conversant with the work of the Madras High Court in the last decade or two, how extremely difficult it is to get an additional Judge appointed to the High Court by Letters Patent. Justice Innes' long and ineffectual struggle for the appointment of a fifth Puisne Judge must be well remembered in Madras; and, although in 1883, I had the advantage of entering into his labours, I might never have succeeded but for the fact of my having in 1886 become a Member of the Government, and for a further happy concatenation of circumstances of which I was able to take advantage to overcome the very reasonable objections entertained by the Secretary of State. But now it may be asked, indeed, it has been asked even granted that the scheme is a good one, why press it at the present time? There is a fifth Puisne Judge at last, and if he is confirmed, the High Court will probably be able to get through the work which will come before it for some years to come—why not get him confirmed and have done with it? The simple answer is that this puts the case on an entirely false issue. I am surprised and sorry to find this put forward as the only real issue in some of the newspapers which had no full knowledge of the facts; but I still more regret that the High Court itself, as constituted last September, should have ventured to say that the measure appears to have been designed with a purely financial object, simply and solely to relieve the High Court of a portion of its work and thereby enable the Government to avoid appointing permanently a fifth Puisne Judge." If this were the sole, or even the main object in view, I should still think that the measure is one which deserves to be carried into effect, first, in order that we may ascertain whether, after all the fifth Puisne Judge is really necessary, and secondly, because in a few years time we may have a sixth Judge proposed, and exactly the same trouble over again. But so far is this from being the main object in view that the Local Government in its last letter, while expressing a decided opinion that the present strength of the High Court will never admit of reduction is equally decided that the Bill is necessary in order to provide a tribunal both less expensive and less dilatory than a High Court."

We have here an admission of Mr. Justice Innes' long and ineffectual struggle to get an additional Judge appointed to the High Court, of Sir P. P. Hutchins' assistance to Mr. Justice Innes in his labours, of the ultimate success of their combined efforts and an indignant protest against the suggestion that the measure then under consideration was to obviate appointing permanently a fifth Puisne Judge.

Can the Chamber in view of what had already taken place, and what is now taking place doubt as to what was the real object of this Bill notwithstanding Sir P. P. Hutchins' indignant protest?

The Chamber will mark the skilful way Sir P. P. Hutchins in the same speech endeavours to make out that the poor suitor is the person to be considered quite apart from the question whether the sixth Judge should be retained.

"I may say then that the objects and reasons of this Bill are two-fold. The first is to remove that practical denial of justice to a not insignificant portion of the inhabitants of the city which the High Court admits to exist, and to be inevitable under the present system of judicial administration in the Presidency Town. And the second is to obviate the lamentable waste of judicial power involved in that system, which requires every petty dispute, not technically a small cause, to be fully investigated by so highly paid an officer as a Judge, or perhaps even a Chief Justice, of the High Court. This waste is more marked in Madras than in Bombay or Calcutta because the litigation is pettier, and because the original jurisdiction of the Court extends over a far wider area, and one much less distinguishable from the outer Mofussil. It includes a large number of suburban hamlets, and there is no conceivable reason why a petty dispute arising in one of these hamlets should occupy the attention of a High Court Judge on Rs. 3,750, with all his paraphernalia, when a similar dispute outside the toll-bar would be adequately dealt with by a Munsif drawing perhaps no more than Rs. 200, I say then that, quite apart from the question whether the fifth Puisne Judge should be retained permanently or not, there are the strongest possible reasons for amending the existing state of things in Madras."

That Sir P. P. Hutchins was quite prepared to interfere with the jurisdiction of all the Presidency High Courts, commencing with the Madras High Court, is also clear from the following passage in the same speech:—

"All that can truly be laid to my charge is that I do not regard the original civil jurisdiction of the High Court as a fetish which it would be sacrilegious to interfere with in the smallest degree, and that I consider that the interests of the Bar must give way when they come into conflict with the interests of the suitor and the public tax-payer. The Bar, however, is but slightly affected by the Bill now in question, as may be gathered from the letter of 1885, which I have quoted almost in full. All the pettier suits of the Original Side are already conducted by vakils, and by far the best paying work is connected with Mofussil litigation. In this respect, as well as in other local peculiarities which I have already mentioned, Madras differs essentially from Calcutta and Bombay. Many good authorities are of opinion that some similar measure of reform is demanded for the other Presidency towns also, but Madras has advantages which enable her to take the lead, whether her sisters will be inclined to follow when they see how easily the proposed transfer of jurisdiction can be effected, and the good results which follow, is a question which we may well leave it to time to solve."

This Bill was circulated to the Judges of the Madras High Court and the following extract from the joint minute of the Chief Justice, Mr. Justice Shephard and Mr. Justice Handley, which deals with the question as to the minimum value of suits to be tried by the High Court, fixes as will be seen the limit, at Rs. 2,000 or at the utmost Rs. 2,500:—

"The other reason propounded in the statement is that under the present system, there is in the High Court a great waste of judicial power. We are not concerned to deny that suits of a trivial character do come before the High Court as indeed they do before all courts in all contries, or that it is desirable to exclude them as far as is possible consistently with the principle that the suitor should not be more heavily taxed than he has been heretofore; but the question is whether in order to achieve that end it is necessary to fix so high a standard as Rs 5,000 for the minimum value of suits to be tried by the High Court? In our opinion, Rs. 5,000, which in this country represents a very considerable property, is far too high a figure for the purpose. The adoption of that figure would involve the transfer to the Small Cause Court of cases, the majority of which fully deserve the attention of a Superior Court. So far as a pecuniary test can be effective in excluding cases of a trivial nature, we think that a limit of Rs. 2,000, or at the utmost Rs. 2,500, would sufficiently relieve the High Court of cases which it may be thought that it ought not to be called upon to try. We are, of course, assuming that the High Court is to remain as a Court having ordinary civil jurisdiction in matters arising within the limits of the Presidency Town, and we do not therefore propose to notice the arguments derived from the analogy of the Mofussil system. To carry those arguments—the purport of which is that what is good enough for the Mofussil is good enough for the Presidency town—to their logical conclusion would involve the entire abolition of the original jurisdiction of the High Court. We only desire to record our dissent from the opinion entertained in some quarters that the work done on the Original Side is of any less importance than that done by the Court as a Court of Appeal, considering this reason for the Bill alone and apart from the other reason previously discussed, we think no case can be made for giving the Small Cause Court extended jurisdiction in suits beyond Rs. 2,000, or at the outside Rs. 2,500 in value."

Justice Sir T. Muttusamy Aiyar, K.C.I.E., on the same subject in his minute says:—

"I am not in favour of doing more than what is necessary to relieve the High Court of minor suits. I have always considered that any change of original jurisdiction now vested in the High Court, should be gradual, and should rather follow tried efficacy than assume and anticipate it, especially as in the Presidency Town, large mercantile interests have to be protected, and the public have always been accustomed to have their regular suits tried by one of Her Majesty's judges.

"Having regard to the history of the correspondence which has resulted in the introduction of the present Bill. I observe that the transfer of jurisdiction to a certain extent to the Small Cause Court was first suggested as a measure of financial relief. At a latter period, the creation of a cheaper tribunal was referred to as an additional argument in favour of the proposed transfer of jurisdiction. When a Bill was first sketched, a third principle was adopted, viz., the creation of a New Court of limited Original Jurisdiction and power in the Local Government to make the new jurisdiction unlimited

and to practically abolish the Original Side of the High Court. A doubt was then felt as to whether it was legal to abolish the original jurisdiction of the High Court altogether and the present Bill is the result. It purports to obviate the difficulty by limiting the jurisdiction of the Small Cause Court in the first instance to Rs. 5,000 and giving power to the local Government to raise it to Rs. 10,000. The object in view appears to me to substitute practically a new Court of Original Jurisdiction for the trial of all suits not exceeding Rs. 10,000 and to abolish the Original Side of the High Court to that extent by making the Plaintiff who resorts to it, forfeit his costs whether he succeeds in his suit or not. I have always considered and do still think that it is the interest of suitors to relieve the High Court of petty litigation, to transfer it to a cheaper tribunal and to make the Small Cause Court a really cheap tribunal. Any other change which has for its object to substitute a fresh Court of Original Jurisdiction or the higher classes of suits in the place of the High Court appears to me to be an experiment of a sweeping character which it is not expedient to introduce until the Small Cause Court is first tried as a regular tribunal for dealing with minor regular suits (not exceeding Rs. 2,500) and found to exercise the limited jurisdiction to the satisfaction of the public and the legal profession."

Mr. Justice Parker in his minute says :—"*Bearing in mind that the avowed object of the Bill is to relieve the High Court of petty litigation only, I think the suggestion to give the Small Cause Court a regular jurisdiction up to Rs. 10,000 is of too sweeping a character. The High Court may not unfairly ask to be relieved of the work of a District Munsif but suits between Rs. 5,000 and Rs. 10,000 can hardly be described as petty litigation and I would therefore restrict the new jurisdiction to suits not exceeding Rs. 2,500 in value.*"

But Mr. Justice Parker adds :—"*I should have no special objection to power being granted to the Executive Government to raise that jurisdiction to suits not exceeding Rs. 5,000 in value on the recommendation of the High Court for which course a precedent in legislation may be found in section 5, Act XXI of 1885, amending the Madras Civil Courts' Act with reference to the Small Cause Powers of District Munsifs, but it may be advisable to leave such further extension of jurisdiction entirely to the legislature.*"

Mr. Justice Parker's views, as expressed in the above minute with regard to their being no special objection to leave being granted to the Executive Government to raise the jurisdiction, no doubt account for the suggestion on page 12 of the report on the administration of civil justice in the Madras Presidency, 1893, viz. "*Had the jurisdiction of the City Court been fixed as originally proposed by the Secretary of State at Rs. 5,000 the relief to the file of the High Court would have been much greater and would have enabled five judges to cope with the work without undue pressure.*"

On the 27th August 1891 the Chamber expressed its views on the Bill in its letter of that date to Government.

On the 28th August and 4th September 1891 a meeting of the citizens of Madras was held protesting against the Bill and a petition sent to the Viceroy.

The Bill was then withdrawn and the City Civil Court Bill introduced in its place.

The primary object of the City Civil Court was to provide a measure of relief to the poorer classes of suitors to whom the expense of a trial in the High Court was alleged to be prohibitory, and it is desirable here to call attention to the report of the Members of the Select Committee to whom the Bill was referred when introduced by Sir P. P. Hutchins.

The report of the following members of the Committee, viz. :—

1. SIR P. P. HUTCHINS.
2. The Honourable A. E. MILLER.
3. The Honourable RASHBEARY GHOUSE.
4. The Honourable P. CHENTSAL ROW.

contained (*inter alia*) the following expressions of opinion (*vide Fort St. George Gazette Supplement*, April, 5th 1892) :—

(1) We are strongly of opinion that the limit prescribed by the Bill, viz., Rs. 2,500 should not be exceeded.

(I) It is not certain that the Indian legislature is competent to abolish any part of the original jurisdiction of a chartered High Court.

(3) We are of opinion that the new Court should be confined to the trial of petty cases and should not be a District Court.

The Honourable Mr. Bliss, another Member of the Select Committee, in a separate minute said "*It is not satisfactorily established that any new Court is needed in the City of Madras, Judges should be Advocates of High Court, without such a provision the establishment of a new Court will, in my judgment, tend to the further decadence of the Madras Bar to the serious injury both of private interests and of the public weal. By private interests I mean the interests of private suitors not those of individual members.*"

The Honourable Mr. Evans in his minute said—

"*The necessity for the legislation (if it is necessary) must depend on the peculiar circumstances of Madras, as such a measure would in my opinion be wholly out of question for Calcutta, the position of Madras as regards the original jurisdiction of the High Court appears to be very peculiar.*"

With regard to the opinion expressed by the Honourable Mr. Evans, viz., that such a measure would be wholly out of question in Calcutta: It may be asked, what is the difference between Calcutta and Madras which made this bill suitable to Madras but wholly out of the question in Calcutta, and why is a Madras suitor to be placed on a different footing to a Calcutta or Bombay suitor.

As to the position of Madras, as regards the Original jurisdiction, appearing, to quote the words of the Honourable Mr. Evans, "to be very peculiar":

Residents of Madras are not aware of any peculiarity, the Honourable Mr. Evans who is a stranger to Madras was evidently led away by Sir P. P. Hutchins, who in the year 1891, when introducing that memorable bill of his before referred to, viz., the bill to extend the jurisdiction of the Court of Small Causes of Madras, which it will be remembered was to give the Small Cause Court jurisdiction up to Rs. 10,000, said "*that one of the objects and reasons of the measure was to obviate the lamentable waste of Judicial power involved in that system which requires every petty dispute not technically a small cause to be fully investigated by so highly paid an officer as a Judge, or perhaps even a Chief Justice of the High Court. This waste is more marked in Madras than in Bombay or Calcutta, because the litigation is pettier and because the Original jurisdiction of the Court extends over a far wider area and one much less distinguishable from the outer mofussil. It includes a large number of suburban hamlets and there is no conceivable reason why a petty dispute arising in one of these hamlets should occupy the attention of a High Court Judge on Rs. 3,750 with all his paraphernalia when a similar dispute outside the toll bar would be adequately dealt with by a Munsiff drawing perhaps no more than Rs. 200. I say then that, quite apart from the question whether the fifth Puisne Judge should be retained permanently or not, there are the strongest possible reasons for amending the existing state of things in Madras.*"

It would take up too much time to set out at length the many inaccurate and misleading statements made by Sir P. P. Hutchins in introducing that bill. The Chamber in its letter of the 27th August 1891, showed how he misrepresented its views, but it will be sufficient here to show how unfounded was the insinuation that the Judges of the High Court of Madras were occuppied on the Original Side of the High Court in trying petty disputes arising in the large number of suburban hamlets and that the litigation was pettier than in Calcutta or Bombay, which apparently were the reasons which made the Original jurisdiction of the Madras High Court appear to the Honourable Mr. Evans to be very peculiar.

In the Report on the Administration of Civil Justice in the Madras Presidency (1893), the Judges point out that, in the preceding six years, the High Court received only *seven* suits, of which the subject matter did not exceed Rs. 100 in value, and during the same period only 140 suits of which the subject matter did not exceed Rs. 500 in value.

As to the litigation being pettier than Calcutta or Bombay, the average value of the suits filed in the Madras High Court for the last five years is as follows :—

	RS.
1889	13,779
1890	17,319
1891	11,128
1892	9,475
1893	13,346

These averages are, it is submitted, very high, it is believed as high, if not higher than the average value of suits filed either in the Calcutta or Bombay High Court.

May it not then be fairly stated, that the "petty litigation" and "the peculiarity of Madras" did not in reality exist, that they were cries raised for the purpose of diverting the attention of the public from the real aim and intention of Government, which was to curtail the jurisdiction of the High Court and to avoid giving the Madras suitors six Judges, this being the least number stated, by the Judges and by Government, to be essential for the proper performance of the High Court work.

A reference to the Administration Report on Civil Justice in the Madras Presidency (1893) and the Government Order thereon, will show that the Government desire to curtail the jurisdiction of the High Court still more and to again avoid appointing a sixth Judge.

If the Report on the Administration of Civil Justice in the Madras Presidency (1893) is turned to, on page 10 the following passage will be found :—

"*It will be remembered that one of the objects and reasons for the constitution of the City Civil Court was to provide a measure of relief to the poorer classes of suitors to whom the expenses of a trial in the High Court is prohibitory; viewed in this aspect the City Court has already justified its creation . . . . the City Court has given relief in a class of cases which the expense of litigation in the High Court has hitherto practically excluded, even in suits between Rs. 500 and 1,000 the advantage to the suitor seems to be altogether with the City Court; and so far as it is safe to judge upon the statistics for one year, it is to be inferred from the practical equality of this year's figures with the average (77) of the last six years that the higher institution fees under the Court Fees Act have had no deterrent effect on the filing of suits of the highest values, namely those between Rs. 1,000 and 2,500.*"

With reference to latter portion of this statement, it should be pointed out that, of suits above Rs. 1,000 and not exceeding Rs. 2,500, there were 24 less filed in the City Civil Court than in the High Court in the previous year ; no doubt if the average of the last six years is taken there is a practical equality of this year's figures with those of the last six years ; but, inasmuch as there has been a progressive increase in the number of suits instituted on the Original Side of the Court it would be safer to campare the last year, viz., 1892, with the year now under consideration and it will then be seen that there is a falling off of 24 suits of this value.

The report on page 12 calls attention to "*the large number of suits (97) between Rs. 2,500 and Rs. 5,000 in value representing forty per cent. of the whole work of the Original Side. Had the jurisdiction of the City Court been fixed as originally proposed by the Secretary of State at Rs. 5,000, the relief to the file of the High Court would have been much greater and would have enabled five judges to cope with the work without undue pressure.*"

In the G.O., 26th September 1894, No. 2338, reviewing this report the Government on page 2 observe –

"*There is no doubt that the establishment of the City Civil Court has removed a serious defect from the system of the administration of civil justice,*" and at page 8 the following passage occurs which demands particular attention :—

"*On the whole it is clear that the reduced High Court coped successfully with the business coming before it except in regard to Civil suits. The decrease in the number of disposals under this head is very marked and it would doubtless have been greater but for the lightness of the Sessions and the presence of a fifth Puisne Judge for three months. At the end of the year the arrears of suits stood at 331, a figure which, though lower than those for the three preceding years, is certainly unduly high, for it denotes that the High Court is a full year in arrear of its work. In paragraph 42 of the report it is observed that forty per cent. of the work of the Original Side consists of suits between Rs. 2,500 and Rs. 5,000 in value and it is suggested that great relief would have been afforded to the High Court if the jurisdiction of the City Civil Court had included suits up to Rs. 5,000 in value. Relief appears so necessary that the Government will be prepared to take into consideration the question of raising the jurisdiction of the City Civil Court, if the High Court is in favour of such step. In view of the decrease of work on the Original Side of the High Court which is due to the creation of the City Civil Court, the Government would be glad to be favoured with the opinion of the Honourable the Judges as to the possibility of a re-organization of the establishment and consequent savings. In the present financial condition of the country the latter is an object of great importance. With regard to the reference in paragraph 38 of the report to the higher institution fees leviable in certain cases in the City Civil Court, His Excellency in Council would be glad to know if the Honourable the Judges would be opposed to the substitution of fees calculated in accordance with the Court Fees Act, 1870, for the scale of fees now leviable in the High Court, the Government is disposed to think that the change would be advantageous on many grounds.*"

It is clear from the foregoing extract that the Government is prepared, subject to the sanction of the High Court—

(*a*) To raise the jurisdiction of the City Civil Court to Rs. 5,000 in value.

(*b*) To substitute institution fees calculated in accordance with the Court Fees Act of 1870 for the scale of fees leviable in the High Court.

(*c*) To re-organize the establishment on the Original Side of the High Court with a view to saving money.

The question to be considered is whether it is in the interests of the public that these steps should be taken.

With reference to the desirability of raising the jurisdiction of the City Civil Court to Rs. 5,000 :

The primary object of the City Civil Court was, as has been before pointed out, to give relief to poorer classes of suitors.

This, according to the High Court, has been effected.

Then, what reason is there for extending the jurisdiction to Rs. 5,000? Suits of this value would not be launched by the poorer class of suitor and cannot be called "petty cases."

The reason is to be found in the foregoing G.O., 26th September 1894, viz., that "*great relief would have been afforded to the High Court if the jurisdiction had included suits up to Rs. 5,000 in value. Relief appears so necessary that Government will be prepared to take into consideration the question of raising the jurisdiction.*"

No doubt relief would be afforded to the High Court on the Original Side, if the jurisdiction of the City Civil Court was increased to Rs. 5,000 in value, but is that a good reason why the jurisdiction should be so increased ?

The relief should be afforded, not by increasing the jurisdiction of the City Civil Court and thus taking away the jurisdiction of the Chartered High Court, but by appointing a fifth Puisne Judge.

The City Civil Court was established by Government for the poor suitor who it was alleged was denied justice. This Court has been working about a year when we find the old story repeated again,—relief to the High Court. The poor suitor's cry is at an end, the Government admit that the High Court is unable to cope successfully with its civil suits, notwithstanding the City Civil Court, and but for the lightness of the Sessions and the presence of a fifth Puisne Judge for three months, the Court would doubtless have been still less successful ; they admit that the High Court on the Original Side is a full year in arrear of its work and they ought, in justice to the citizens of Madras, to appoint another Judge ; this they declined to do and are apparently prepared to revive the policy of Sir P. P. Hutchins, which was to oust the jurisdiction of the Chartered High Court of Madras and give the public an inferior and more expensive tribunal.

To summarise matters :

1. For years past there have not been sufficient Judges to cope with the work of the High Court.

2. That, notwithstanding the fact that ; in November 1890, the Judges of the High Court and the Government of Madras informed the Supreme Government that the retention of a fifth Puisne Judge was indispensable and that it was their decided opinion that the present strength of the High Court would never admit of reduction, the High Court has, from the 4th April 1893 (the date of Mr. Justice Handley's retirement) had a strength of four Puisne Judges only, the Secretary of State having declined to appoint a fifth Puisne Judge.

3. That the result of the action of the Secretary of State is that many would-be litigants have declined and do still decline to file suits in the High Court, owing to the delay in the administration of justice, whilst those who are compelled to have recourse to it have to wait months before their suits are adjudicated upon, the High Court being a full year in arrear of its work.

4. That, in order to avoid appointing a sufficient number of High Court Judges, the Government has from time to time attempted to foist on the citizens of Madras an inferior tribunal and to transfer to that tribunal work, which ought to be done by the High Court Judges and which is now being done by High Court Judges in the sister Presidencies.

5. That the Government has endeavoured to co-erce the Judges of the High Court at Madras into acquiescing in an inferior tribunal. by imposing upon them more work than they can reasonably be expected to do.

6. That, notwithstanding the report of the Select Committee on the City Civil Court Bill to the effect that the pecuniary jurisdiction should not exceed Rs. 2,500, and that the Court should be confined to the disposal of "petty cases," it is now proposed to increase the jurisdiction to Rs. 5,000, and thus curtail the jurisdiction of the High Court and give the public an inferior and more expensive tribunal.

From the Honourable Mr. G. G. ARBUTHNOT, Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, dated 23rd January 1895.

I have the honour to inform you that a special general meeting of the Chamber of Commerce was held on the 18th instant for the purpose of considering the changes which the Chamber understands it is proposed to introduce on the Original Side of the Madras High Court, and the proposed extension of the jurisdiction of the City Civil Court.

The meeting which was largely attended, unanimously adopted the following resolutions :—

1. That, inasmuch as the High Court on the Original Side is admittedly unable to cope with the Civil suits coming before it, and is a full year in arrear of its work, the Chamber is of opinion that the permanent appointment of a fifth Puisne Judge is imperatively necessary.

2. That, in view of the circumstances mentioned in the last resolution, it is inexpedient to effect, on financial grounds, any changes which might tend to weaken the establishment of the Original Side of the Court, diminish its efficiency and further prolong and delay the disposal of suits and the issue and execution of decrees.

3. That the City Civil Court being a tribunal constituted for the express purpose of providing a measure of relief to the poorer class of suitors to whom the expenses of a trial in the High Court were alleged to be prohibitory, should be confined to the object for which it was created, viz., the trial of petty cases, and the Chamber is of opinion that any extension of its jurisdiction would be undesirable and is for many reasons to be deprecated.

4. That in the opinion of the Chamber the substitution of fees calculated in accordance with the Court Fees Act for the scale of fees now leviable in the High Court on its Original Side

would be most disadvantageous to suitors and that there are no circumstances which justify such additional taxation on litigants as would be involved in the introduction of the Act in question into the High Court.

5. That in the opinion of the Chamber no good reason exists for placing the High Court of Madras on an exceptional footing as compared with those of Bengal and Bombay.

I have the honour to enclose a copy of this letter and to request that it may be forwarded to the Government of India at an early date.

From the Honourable Mr. G.G. ARBUTHNOT, Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, dated Madras, 28th January 1895.

I have the honour to request that the Chamber may be favoured with a copy of the communication addressed to the Madras Government by the Judges of the High Court and referred to by the Honourable Mr. Bliss in his reply to the questions put by the Honor able Mr. G. G. Arbuthnot at the meeting of the Legislative Council on the 22nd instant.

If the Government is unable to favour the Chamber with a complete copy of the communication, I am to request that such portions as may, in the opinion of Government, be desirable may be communicated. I may mention that in 1891 the Chamber applied to Government for, and was favored with a copy of, the Judge's letter to the Madras Government, dated the 3rd September 1890, in connection with the proposal to enlarge the jurisdiction of the Presidency Court of Small Causes at Madras.

I am also desired to express the hope that the Government will be pleased to place before the Chamber a copy of the Judge's reply to the reference from the Government as to the expediency of substituting the scale of fees prescribed in the Court Fees Act for the scale now in force in the High Court.

From C. SETON, Esq., Chairman, Madras Trades' Association, to the Chief Secretary to Government, dated Madras, 22nd February 1895.

In their review of the Report on the Administration of Civil Justice, the Madras Government has shown its desire to introduce two changes that would, in the opinion of the Madras Trades' Association, be unjustifiable. It expresses the opinion—a very tentative opinion the Association is glad to note—that the *ad valorem* scale of fees calculated in accordance with the Court Fees Act should be substituted for the scale of fees now leviable in the High Court; and it also expresses its readiness to entertain proposals for raising the jurisdiction of the City Civil Court. The Association so strongly disapproves of both these suggestions that it proposes, before any further steps are taken, to lay before Government some of the objections to these contemplated changes.

The only advantage that the Association perceives in the extension to the High Court of the mofussil scale of fees is a slightly increased revenue to Government. Nearly half the litigation left to the High Court by the establishment of the City Civil Court consists of suits ranging in value from Rs. 2,500 to Rs. 5,000. If the Court Fees Act be made applicable to the High Court, the fees chargeable on suits of this value would be higher than those now leviable in the High Court; those chargeable on suits of the value of Rs. 2,500 would be slightly higher, while those chargeable on suits of the value of Rs. 5,000 would be nearly double the fees now levied in the High Court. This increased taxation would be a burden to the suitor, and it would bring in a comparatively small measure of revenue.

But whatever the income the proposed change of fees might bring in, it ought not to be adopted, because the mofussil scale of fees is on principle much too high. The principle on which Court fees should be levied was thus stated by Sir Henry Maine when legal Member of Council:—

"The true doctrine, Mr. Maine submitted, was that the litigant and the general tax-payers should each contribute something (*i.e.*, to the maintenance of Courts of Justice). Nobody denied that litigants benefited by the courts, and nobody would deny that the rest of the community

derived some advantage from the solution even of such questions as those raised by the Bengali gentleman's will (referring to the Tagore case). What the proportion paid by each should be was a question not of theory, but of experience to be settled by the Government as trustee for all."

Now, so far from the general community contributing anything to the upkeep of the courts, under the mofussil scale of fees, the litigants not only pay for the courts, but also make a very handsome contribution, in this Presidency alone, of 14½ lakhs towards the general revenues.

But not only is the mofussil scale thus distinctly opposed to principle; it is such as the Government is bound to reduce at the very earliest opportunity, because, as Sir Henry Maine declared, speaking on behalf of Government, that he repudiated emphatically the "policy of taxing litigants as a separate class for the benefit of the general finances." The Association consider that enough has been said to show that so far from there being any ground for extending the mofussil scale of fees, there is a very strong case for considerably reducing it in the mofussil, but it will be as well to call the attention of Government to the view taken of the Court Fees Act by the Financial Member, Sir John Strachey, when it was being debated in the Legislative Council. It will be remembered that the Act of 1870 was passed in order, amongst other things, to reduce the fees leviable under the Act of 1867 on suits under Rs. 1,000 in value. In reference to the Act of 1867, Mr. Strachey said—

"The fact was that there had hardly ever been an Act passed by the Indian Legislature to which he more strongly objected, and the disappearance of which from the Statute Book he would see with greater satisfaction. He had always believed that of all bad taxes that existed, there were none worse than high taxes on the Administration of Justice: and the taxes imposed under the existing law were simply enormous . . . . Mr. Strachey did not pretend to say that in his opinion the present Bill (that is the Act now in force) afforded a really adequate measure of relief . . . . but while he certainly hoped that the time would come when we should see a much larger measure of relief than the present, this Bill was, he thought, a decided step in the right direction."

Here again it will be noticed that Sir John Strachey, even before experience had proved that under the Court Fees Act the litigants would be taxed as a separate class, looked forward to a remission of the onerous duties levied under it.

The proposal to raise the jurisdiction of the City Civil Court is based on the necessity of affording relief to the High Court. That the High Court is in need of relief is a fact universally admitted, and, as far as the Association knows, no one concerned in litigation has the smallest doubt that the only proper way of affording the necessary relief is by giving Madras a sixth High Court Judge, an opinion the Association does not now propose to discuss although one of pressing importance. It will for the present content itself with showing that the proposal of the Government is inconsistent with the objects for which the City Civil Court was established. On the 25th March 1892 Sir Philip Hutchins, in presenting the report of the Select Committee referring to the City Civil Court, said it—

"after all is only another Court for determination of what are really small cases though not within the technical definition of the term Small Causes."

Again on the 11th August—

"The effect of the Bill will be to establish what may be briefly described as a District Munsif's Court in the City of Madras."

It is true that one of the objects of the Bill was to afford relief to the High Court, but it was never intended to relieve the High Court by taking away other than petty litigation. But further Sir Philip Hutchins tells us on the 25th March—

"In Madras every District Munsif has jurisdiction up to Rs. 2,500, and in the Report (of the Select Committee) will be found a strong recommendation that no attempt should be made to go beyond that limit."

It appears to the Association, therefore, that since the Civil Court was established only for petty litigation, and since the Select Committee strongly recommended that the jurisdiction should remain at Rs. 2,500, it is not now open to this Government to take in hand the raising of the Civil Court's jurisdiction. In suggesting the

extension of the mofussil scale of fees to the High Court, it seems to the Association that the Government has forgotten that principle of assessing the Court fees which, not this Association merely, but the Government of India itself adopts as the true principle. And the Government has not been less forgetful in expressing its willingness to take into consideration the question of raising the jurisdiction of the City Civil Court. Not only has it apparently forgotten that the City Civil Court was expressly designed for the trial of such small cases only as would in the mofussil go before a District Munsif, but it has forgotten that the Committee appointed to report on the Bill that became the City Civil Court Act presented a strong recommendation that no attempt should be made to go beyond the limit of Rs. 2,500, discretion not being left to Government to extend the jurisdiction.

The Association, therefore, desires to express the hope that the Government will refrain from proceeding further with the contemplated proposals herein referred to, and to remind Government that under financial stress Governments, like individuals, are apt not only to exaggerate promised relief, but also to lose sight of other considerations more important than money.

The Association, in conclusion, desires to express its complete accord with the views recently submitted by the Madras Chamber of Commerce in this matter, and trusts, if Government intend to take action in the directions indicated, that ample time will be afforded to the Association for submitting detailed and exhaustive representation on a subject of such undeniable importance.

Order—dated 27th July 1895, No. 1580, Judicial.

The papers read above deal with four subjects, viz.—

(1) the re-organization of the establishment of the High Court;
(2) the application to the Original Side of the High Court of a scale of fees based on the Court Fees Act, 1870;
(3) the enhancement of the jurisdiction of the City Civil Court; and
(4) the appointment of a fifth Puisne Judge of the High Court.

The first of these questions has already been disposed of, so far as this Government is concerned, in G.O., dated 3rd June 1895, No. 1191. The second cannot at present be discussed inasmuch as the Hon'ble the Judges of the High Court have not yet favoured the Government with their views regarding the matter as requested in paragraph 5 of G.O., dated 26th September 1894, No. 2338, Judicial. It is thus only the third and fourth of the subjects mentioned which now require consideration.

2. These relate to alternative proposals for affording relief to the High Court Before discussing their comparative advantages, it is necessary to shew that the High Court is in real and pressing need of relief. The appendix to this proceedings contains statistics of the amount of work received and disposed of by the High Court in the years 1884–1893. The figures—which are based on the Civil and Criminal Justice Reports—are not quite complete, but they contain sufficient information upon which to base a fairly accurate estimate of the work which can reasonably be expected of the Court. In the first four of the years shewn—1884–1887—the Court consisted of five judges; afterwards, up to April 1893, the number of judges was six. The following statement exhibits the average work of the whole Court during these two periods, the last three columns showing the actual arrears at the close of 1892, 1893 and 1894:—

Class of work.	1884—1887. 4 years—5 Judges. Average number of			January 1888—April 1893 inclusive. 5·4 years—6 Judges. Average num'er of			Arrears at the close of 1892 as shown in Civil Justice Report.	Arrears at the close of 1893 as shown in Civil Justice Report.	Arrears at the close of 1894 as shown in the Registrar's letter.
	Institutions.	Disposals.		Institutions.	Disposals.				
		Total.	Per Judge.		Total.	Per Judge.			
1	2	3	4	5	6	7	8	9	10
Civil Appellate.									
1. First appeals ..	185·00	156·50	31·3	254·92	266·59	44·43	257	283	270
2. Second appeals..	1222·25	1088·00	217·6	1778·77	1675·22	279·2	1,919	1,827	1,779
3. Appeals against orders ..	235·50	226·50	45·3	151·70	101·09	16·83	138	141	141
4. Revision petitions	379·25	395·75	79·15	527 37	414·29	69·05	631	870	2,342
5. Miscellaneous cases	768·50	754·50	150·9	1255·85	1262·37	210·39	180	202	
Criminal Appellate.									
6. Referred cases..	67·33	65·33	13·06	76·55	76·14	12·69	10	8	5
7. Appeals.. ..	536·25	488·50	97·70	602·59	517·52	86·25	80	102	117
8. Revision cases..	726·00	730·25	146·05	677·40	678·04	113·0	86	55	104
9. Miscellaneous petitions ..	..	..	..	150·24	149·06	24·84	5	10	14
Civil Original.									
10. Suits	327·50	331·50	66·3	367·18	359·66	59·94	342	331	291
11. Insolvency cases	182·00	184·25	36·85	152·07	151·74	25·29	85	122	119
12. Execution petitions	183·25	119·50	23·9	221·85	127·96	21·33	354	366	365
Criminal Original.									
13. Sessions cases ..	65·25	64·75	12·95	50·81	51·55	8·59	*Nil.*	*Nil.*	*Nil.*
Total ..	4861·25	4589·00	917·80	6211·89	5775·96	962·66	4,087	4,317	5,547

3. A comparison of the totals of columns 3 and 10 shews that the arrears on the file of the High Court at the commencement of the present year considerably exceed the amount of work which it has been possible for five judges to get through in one year. These arrears include a large mass of miscellaneous appellate civil petitions—a class of work which particularly requires prompt disposal; and though some slight reduction in the number of pending original suits has taken place, it is to be noticed that the Honourable the Judges speak of this result as having been accomplished "only by great personal exertions and almost total sacrifice of leisure, which cannot be indefinitely maintained and which must, in the long run, be detrimental to the public interests." How great their personal exertions have been is evident from the comparison instituted in paragraph 4 of the Registrar's letter of 18th January 1895 between the average work of a judge in the Madras High Court and that of one in the Calcutta Court. Great though the mass of arrears already is, there can be no doubt that it would have been far greater by this time but for the fortunate circumstance that the judges have been able continuously to work at high pressure. This, however, is a state of things which cannot be indefinitely prolonged and the sudden illness of any one judge cannot but be followed by an immediate fall in the amount of work performed by the Court. So far, therefore, as the judges themselves are concerned, there is unquestionably pressing need of relief.

4. But this is not the only reason. It is pointed out by the Chamber of Commerce that the accumulation of arrears and the consequent delay in disposal of suits deters many litigants from having recourse to the High Court for the settlement of their differences. Not only is it impossible, in the existing circumstances, to comply with the reasonable demand of the public for the prompt disposal of judicial business, but there are grounds for the apprehension that the strain to which the judges are now

put may ultimately cause a deterioration in the quality of their work. Such a result would seriously affect the administration of justice throughout the Presidency as well as the confidence of the public in the High Court itself.

5. The foregoing considerations shew that the interests of the public, no less than those of the judges themselves, imperatively demand that steps should be taken to reduce the arrears on the file of the Court and to ensure more speedy disposal of business in the future.

6. It now remains to discuss the two schemes which have been proposed with a view to afford relief to the Court. The first is that the limit of jurisdiction of the City Civil Court should be raised from Rs. 2,500 to Rs. 5,000. Three of the five judges express approval of this measure, but it is to be noted that they qualify their approval by the explicit statement that it is only contingent on the Secretary of State's continued refusal to appoint a sixth judge. It is pointed out that the increase in jurisdiction would effect a substantial reduction in the work of the Original Side of the High Court, that there would be no corresponding increase on the Appellate Side owing to the confidence and satisfaction with which the decrees of the City Civil Court are accepted and to the consequent low proportion of appeals to the High Court. Further it is represented that the proposed transfer of work would not necessitate any immediate addition to the strength or cost of the City Civil Court. On the other hand, the enhancement of its jurisdiction is open to the following objections:—

(i) The City Civil Court has not yet been established for three years, and it is undesirable at so early a date to moot the question of amending Act VII of 1892.

(ii) Though the present judge is perhaps not overworked, it is impossible to say that his work will not receive a considerable addition in the future and it by no means follows that his successor will be equally able and hard-working. An extension of the jurisdiction of the Court might thus result in the judge's being unable to cope with the work, upon which the public would lose confidence in the Court and the number of appeals to the High Court would rise.

(iii) The extension in jurisdiction would seriously prejudice the efficiency of the Bar.

Mr. Justice Shephard alludes to this objection and the Government is disposed to attach considerable importance to it. The Madras Bar has already been considerably weakened by the operation of the orders of the High Court permitting Vakils to practise on the Original Side. The rule probably did not interfere with the professional gains of the Barristers who were practising when it was first introduced; nor do the ability and number of the body of Vakils and the low cost at which the services of many of them can be procured so much prevent established Barristers from making a living in fair accord with their professional merits and industry as close the door to the entry of junior Barristers who would be willing to begin with small fees in occasional petty suits in the hope of ultimately securing a more extensive practice and more adequate remuneration. The competition of the Vakils leaves, however, no opening for them and the consequence is that the Madras Bar promises in a few years to cease to exist. The more business is transferred from the High Court to the City Civil Court, the more imminent is this catastrophe and the more complete is it likely to be. The maintenance of a strong and independent Bar is, in the opinion of the Government, an object of the first public importance and any measure which tends to weaken it is to be deprecated.

(iv) As the memorials from the Chamber of Commerce and Madras Trades Association show, the enhancement of the jurisdiction of the City Civil Court will certainly create considerable popular dissatisfaction which it is desirable to avoid unless the change is imperatively required.

7. These considerations alone are sufficient to render the Government indisposed to support an extension of the powers of the City Civil Court unless it could be shown that the relief to the High Court afforded by such a measure would be so great as to out-weigh its disadvantages. But from paragraph 7 of Mr. Foster's letter, dated 18th January 1895, No. 102, it appears that the only reduction in work to be expected is that which would result from the transfer of some 125 original suits *per annum* from the file of the High Court. This reduction is so trifling as compared with the existing accumulation of arrears in the Court and with the mass of work which has to be got through during each year that the Government has no hesitation in definitely pronouncing against the scheme. The reduction in work would, as it appears to Government, afford so little relief to the judges that for all practical purposes and for at least several years to come the need for additional aid would be quite as pressing as it is now.

8. Having thus definitely decided that the proposed extension of the jurisdiction of the City Civil Court is open to insuperable objections, the Government has now to consider the alternative scheme, viz., the appointment of a fifth Puisne Judge. The Hon'ble the Judges consider this addition to the strength of the High Court necessary; it is advocated in the memorials of the Chamber of Commerce and the Madras Trades Association and in the opinion of the Government the existing accumulation of arrears amply justifies it. Since the removal of the sixth Judge in April 1893, the Court has been working at high pressure, but arrears have been continuously increasing in spite of the fact that each judge disposes on the average of far more work than a judge of the Calcutta High Court. In the interests of the public and in justice to the judges, it is consequently essential that substantial relief should be afforded without delay, and the only method by which this can be done is the appointment of a fifth Puisne Judge. The arrears at the beginning of the current year were sufficient to occupy the whole time of the full Court for at least a year; for the disposal of these alone the services of an extra judge will be required for several years to come, while the statistics of the past decade go to show that five judges cannot keep pace with the current work of the Court. For these reasons His Excellency the Governor in Council is strongly of opinion that nothing short of the permanent appointment of a sixth judge will meet the needs of the case. In deference, however, to the views of the Secretary of State as formerly expressed, the Government will for the present merely urge the temporary appointment of an additional judge for three years on the understanding that the question of his retention, for a further term or as a permanent measure, shall be considered at the expiry of that period. The Government of India will be addressed accordingly.

9. The Government notes that Mr. Justice Shephard considers that if legislation must be resorted to for the relief of the Court, it is preferable that it should take the form of an amendment of the law empowering a single judge to dispose finally of trivial appeals; he further suggests that the Registrar should be appointed a Commissioner for taking accounts. The Government is averse to having recourse to legislation, but would be glad to be favoured with the opinions of the other judges regarding both these recommendations.

10. A copy of the letter received from the Chairman of the Chamber of Commerce, dated 23rd January 1895, will be forwarded to the Government of India as requested.

[Here enter No. 1581, dated 27th July 1895.]

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Honourable the Chief Justice, with C.L.
" Chairman, Chamber of Commerce.
" Chairman, Madras Trades Association.
" Accountant-General.

Exd. A Raitt.

	1884.		1885.		1886.		1887.		1888.		1889.		1890.		1891.		1892.		1893.	
	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.
Civil Appellate.																				
First Appeals	145	228	187	141	181	119	227	138	273	251	242	297	264	272	269	264	225	252	284	259
Second ,, ...	1,041	1,293	1,115	1,054	1,352	906	1,381	1,099	1,894	1,619	1,720	1,781	1,408	1,548	2,082	1,601	1,759	1,816	1,886	1,953
Appeals against orders	181	229	268	201	246	246	248	230	186	153	101	113	132	83	138	75	209	81	133	101
Revision petitions	523	530	347	441	368	263	289	849	345	324	420	310	464	365	601	418	751	549	942	703
Miscellaneous cases	687	710	658	628	832	800	897	880	1,324	1,463	1,365	1,208	1,199	1,122	1,179	1,297	1,909	1,226	1,264	1,252
Criminal Appellate.																				
Cases submitted under sections 307 and 374, Code of Criminal Procedure	..	..	..	..	..	..	..	69	69	71	82	79	80	76	77	76	75	78	76	78
Appeals	516	522	622	532	570	499	437	401	620	521	590	484	565	498	645	485	658	573	690	584
Revision cases	800	811	732	695	787	766	585	650	741	747	645	625	646	655	625	663	739	717	655	686
Miscellaneous petitions	..	..	..	..	..	..	..	..	..	..	..	..	149	145	144	143	149	152	172	167
Civil Original.																				
Suits	361	438	348	370	292	271	309	247	320	464	371	348	374	309	402	313	419	417	242	253
Insolvency cases	199	209	187	186	152	169	190	173	156	167	134	152	163	150	144	143	131	129	233	196
Miscellaneous cases	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
References to Chambers	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Execution petitions	204	145	256	187	155	82	139	64	182	93	230	104	280	215	220	127	222	106	160	115
Criminal Original.																				
Sessions cases	74	73	67	68	56	51	64	67	45	48	33	33	49	51	65	63	64	65	46	46
Total ..	4,731	5,188	4,849	4,572	5,031	4,229	4,834	4,367	6,156	5,811	5,933	5,534	5,753	5,459	6,391	5,668	6,810	6,161	6,7[illegible]	6,393

* *Note.*—The information available is so incomplete as to be useless; the columns are accordingly left blank against these items.

JUDICIAL DEPARTMENT.

LETTER—from

THE CHIEF SECRETARY TO THE GOVERNMENT OF FORT ST. GEORGE,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA, HOME DEPARTMENT.

SIR,

I am directed to request that the Government of India will be pleased to obtain the sanction of the Right Hon'ble the Secretary of State for the temporary appointment of a fifth Puisne Judge of the Madras High Court for a period of not less than three years. I am to say that this application is based upon the imperative necessity of affording immediate and substantial relief to the High Court and upon the impracticability of securing such relief by any other means than an addition to the strength of the Court.

2. The necessity for assistance is clearly indicated by the figures given in the following table :—

Class of work.	1884—1887. 4 years—5 Judges. Average number of			January 1888—April 1893 inclusive. 5·4 years—6 Judges. Average number of.			Arrears at the close of 1892 as shown in Civil Justice Report.	Arrears at the close of 1893 as shown in Civil Justice Report.	Arrears at the close of 1894 as shown in the Registrar's letter.
	Institutions.	Disposals. Total.	Disposals. Per Judge.	Institutions.	Disposals. Total.	Disposals. Per Judge.			
1	2	3	4	5	6	7	8	9	10
Civil Appellate.									
1. First appeals ..	185·00	156·50	31·3	254·92	266·59	44·43	257	283	270
2. Second appeals.	1222·25	1088·00	217·16	1778·77	1675·22	279·2	1,919	1,827	1,779
3. Appeals against orders.. ..	235·50	226·50	45·3	151·70	101·00	16·83	138	141	141
4. Revision petitions	379·25	395·75	79·15	527·37	414·29	69·05	631	870	2,342
5. Miscellaneous cases	768·50	754·50	150·9	1255·85	1262·37	210·39	180	202	
Criminal Appellate.									
6. Referred cases ..	67·33	65·33	13·06	76·55	76·14	12·69	10	8	5
7. Appeals ..	536·25	488·50	97·70	602·59	517·52	86·25	80	102	117
8. Revision cases ..	726·00	730·25	146·05	677·40	678·04	113·0	86	55	104
9. Miscellaneous petitions ..	..	..	..	150·24	149·06	24·84	5	10	14
Civil Original.									
10. Suits	327·50	331·50	66·3	367·18	359·66	59·94	342	331	291
11. Insolvency cases.	182·00	184·25	36·85	152·07	151·74	25·29	85	122	119
12. Execution petitions	183·25	119·50	23·9	221·85	127·96	21·33	354	366	365
Criminal Original.									
13. Sessions cases ..	65·25	64·75	12·95	50·81	51·55	8·59	*Nil.*	*Nil.*	*Nil.*
Total ..	4861·25	4589·00	917·80	6211·89	5775·96	962·66	4,087	4,317	5,547

3. It will be seen that there has been a sustained increase in the arrears during the last three years. In 1893 the increase was comparatively trifling owing to the fact that for four months in that year the Court had the benefit of the services of six judges, but in 1894 arrears have accumulated at such a rate that it may confidently be affirmed that the pending cases alone would afford sufficient work to occupy the whole time of the Court for more than a full year.

4. It will be seen that there has been a special accumulation of arrears under the head of miscellaneous civil appellate petitions—a class of work which particularly requires prompt disposal. Further, though there has been a slight reduction in the number of pending original suits, it is to be observed that the Hon'ble the Judges write of this result as having been accomplished "only by great personal exertions and almost total sacrifice of leisure, which cannot be indefinitely maintained and which must, in the long run, be detrimental to the public interests." How great the exertions of the judges have been may be inferred from the following figures, which show how the quantity of work which they performed during the year 1893 compared with that of the judges in the Calcutta High Court :—

—	Calcutta, thirteen Judges.	Madras, five Judges.	Cases per Judge.	
			Calcutta.	Madras.
Civil.				
Original suits	766	253	59	50
Insolvency cases	135	196	10	39
First appeals	376	259	29	52
Second appeals	2,150	1,953	166	390
Miscellaneous appeals	378	101	29	20
Criminal.				
Sessions cases	47	46	4	9
Criminal appeals	1,019	584	78	117
Referred trials	44	59	3½	12
Criminal revision cases	1,084	686	82	137

The Hon'ble the Judges in instituting this comparison do not take into account the fact that for four months in the year 1893 the number of Madras judges was six, not five; but, even if allowance be made for this, the contrast between the work of the two Courts is sufficiently striking.

5. Great though the mass of arrears already is, there can be no doubt that the number of pending cases would be far higher than it now is but for the fortunate circumstance that the judges have been able continuously to work at high pressure. This is a state of things which cannot be indefinitely prolonged without causing risk of deterioration in the quality of the work or grave injury to their health. The sudden illness of any one of the judges, as a recent instance has made evident, must necessarily cause a serious increase in the accumulation of arrears, besides creating a temporary block in certain classes of work, owing to the impossibility of having two benches sitting simultaneously.

6. Apart from these considerations, an additional and cogent reason for the recommendation now made is to be found in the fact stated by the Chamber of Commerce that many litigants are deterred from having recourse to the High Court for the settlement of their differences owing to the impossibility of obtaining a speedy decision upon them.

7. On these grounds it appears to His Excellency the Governor in Council beyond doubt that, in justice to the judges and in order to satisfy the reasonable demand of the public for the prompt and equitable disposal of their legal business, some means of affording substantial relief to the High Court is imperatively demanded. It has been suggested that this should take the form of a partial transfer of original civil jurisdiction from the High Court to the City Civil Court and the proposal has been made that the limit of jurisdiction of the latter Court should be raised from Rs. 2,500 to Rs. 5,000. It is unnecessary here to recapitulate the various objections to which

this proposal is open. They are set out at length in the accompanying proceedings of this Government of this date. It will suffice to remark here that the proposed enhancement of jurisdiction is a measure of doubtful expediency on the ground of principle and that the relief which it would afford to the High Court is so trifling that it would be futile to expect it to have any material effect in reducing the rate at which arrears are now accumulating in the Court. His Excellency the Governor in Council therefore considers this measure to be inexpedient and altogether inadequate and in his opinion the only alternative is an addition to the strength of the High Court.

8. As has already been remarked, the arrears at beginning of the current year were more than sufficient to occupy the whole time of a Court of five judges for a full year and for this reason alone it is evident that there is ample work for a sixth judge for at least some years to come. It is further to be noticed that the statistics of the past decade go to show that five judges cannot keep pace with the current work of the Court. These two considerations taken together have convinced the Government that nothing short of a permanent addition to the number of the judges will meet the exigencies of the case. In view of the Secretary of State's recent refusal to sanction a similar proposal, His Excellency the Governor in Council would, however, be satisfied with the temporary appointment of a sixth judge for a period of three years, on the understanding that the question of his retention for a further term of years or as a permanent increase shall be considered at the expiration of that period. His Excellency in Council trusts that the Government of India will be able to forward this modified proposal with its full support.

9. As on previous occasions, a copy of this letter is being sent direct to the Secretary of State, and I am to request that the decision of that authority may be communicated to this Government by telegram in view of the urgency of the need for relief to the High Court.

10. In conclusion, I am to enclose, at the request of the Chamber of Commerce, a copy of a letter received from the Chairman of that body which embodies five resolutions recently adopted by it. The first and third of these are germane to the subject of this letter and it is unnecessary to discuss them as the view taken by the Chamber of Commerce is similar to that which has already been set forth above. The second resolution has been dealt with in my letter, dated 3rd June 1895, No. 1192, the fourth relates to a subject not now under the consideration of Government, and the fifth calls for no remarks.

I have the honour to be,
Sir,
Your most obedient servant,

Ootacamund,
27*th July* 1895.

Chief Secretary.

Exd. A. Raitt.

Regr. No.

HOME 1895 DEPT.

[ ]

From the Government of
Fort St. George.

Letter, 27th July 1895, No. 1581.

JULY.

High Court.

Requesting the Government of India to obtain the sanction of the Right Hon'ble the Secretary of State for India for the temporary appointment of a fifth Puisne Judge of the Madras — for a period of not less than three years.

12 August 1895, No. 6, Judicial.

JUDICIAL DEPARTMENT.

Letter—to

The Right Honourable the SECRETARY of STATE for INDIA.

My Lord,

We have the honour to forward, for your Lordship's information, copy of a letter which we have addressed to the Government of India on the subject of the temporary appointment of an additional Puisne Judge in the Madras High Court. We request that, upon your Lordship's disposal of the communication of the Government of India on the subject, your orders may be communicated to that Government by telegram.

We have the honour to be,
My Lord,
Your Lordship's most obedient, humble servants,

(Signed) Wenlock
(") H. W. Bliss
(") J. Grose

Ootacamund,
12 *August* 1895.

Exd. A. Raitt.

GOVT. OF FORT ST. GEORGE.

JUDICIAL (1895) *DEPT.*

LETTER to the Right Honourable the Secretary of State for India.

Dated 12 August,

No. 6 of 1895.

Forwarding for information copy of a letter addressed to the Government of India regarding the temporary appointment of an additional Puisne Judge in the Madras High Court and requesting that the orders on the subject may be communicated to that Government by telegram.

Judicial {1895.} Department.

No.

The Registrar of the High Court
of Judicature, Appellate Side,
Madras.

Dated 18th January } 1895.
Received 19th }

No. 102
Encs. 3.

Submitting observations on the question of raising the pecuniary limit of the jurisdiction of the City civil Court (Rs 5000 to Rs 10000).

Go 5655/94
Go 2338/9: 26 Sep 94 Secy
Go 1788: 24 9 92 Judl
1188/9: 27.6.92 Sec
749: 18.7.92 Judl
394/5: 2.3.92 Secy
244: 6.2.92 Judl
2039/40: 8 Oct 91
1770/1: 11 Nov 1892
Go 912: 25.3.93 Judl Go 2267: 9.12.92 Judl
634: 24.3.93
279/80: 7.2.93 Judl
286 Gen
City civil Court papers
Pecuniary jurisdiction

Go 1775: 18.VII.84

Statement showing the No of cases disposed of during the years 1892-94.

In the Appellate Side.

| | | Original Civil | | |

Enclosure No. I to letter from the
High Court of Judicature, Appellate Side, Madras,
dated 18th Jany/95 No. 102.

Statement Showing the number of Cases received, disposed of and pending in the High Court during the years 1892—94 Jud.

212

Minutes.

24

Hon. Justice Shephard:- I agree with the Chief Justice and the other Judges in thinking that the work of the Court imperatively requires a sixth Judge. In my judgment, the Court ought to consist of at least six Judges so that ordinarily two Benches of two Judges each may be formed and two Judges may sit alone. I doubt whether the proposed enhancement of the City Court's jurisdiction will relieve the High Court to such an extent as to enable it to despatch the business that comes before it with the promptitude which the public are entitled to expect.

2. I am unable however to approve of the proposal to lighten the work of the Court by transferring part of it to an inferior Court, for I still maintain the opinion expressed by myself and other Judges in 1890 and 1891, and I think that the reasons for that opinion which are stated in the Registrar's letter of 3rd September 1890, No. 2115, and in the minute submitted with letter, dated 8th September 1891, No. 2204, signed by the Chief Justice, Hon. Justice Handley and myself still hold good. I desire to direct the attention of Government to that letter

So 4 Nov 1890 No 1701.

So 8 Sep 91 No 2039/40

ascertained principle. Except on the ground that the measure is a tentative one, it is difficult to see why that figure, rather than 10,000, should be suggested; nor is there any reason why, by successive changes, induced by the increasing pressure of work in the High Court, the ordinary jurisdiction should not in the end be abolished altogether. It seems plain that this must be the consequence if now it is conceded that the proper way of relieving the High Court is to make a jettison of some of its causes.

4. I still retain the opinion that the conversion of the Court into a mere Court of appeal would be most prejudicial to public interests. The idea seems to prevail that the work of a Judge of first instance is comparatively unimportant and easy, and that a complete indemnity against his shortcomings can be afforded by an appeal to a more competent tribunal. This idea appears to me mistaken. It seems to me that a High Court judge is no less worthily employed when he is trying an original cause of the value of Rs. 3000 than when hearing second appeals the majority of which are unarguable. I think it would be a great loss to the Judges themselves never to have

the experience of trying original causes; and although it is true that the Subordinate Judges are, as a rule, very competent persons, I cannot say that they have yet shown any aptitude for the class of cases of a commercial character which are frequent in the Presidency Town. It may be said that if they had the advantage of help from a stronger bar. This reinforcement would have more force, if the legal procedure which prevail in the City Court were the conditions which prevail in the High Court. But that is not the case - not only is there in the City Court the ad valorem Court fee which, in the long run, must affect the remuneration which parties will give to their lawyers. There is also in the City Court the system of paying the practitioner by an ad valorem fee. The result is that the City Court is practically closed to the Barrister and Solicitor. Not only must this be a great inconvenience to those of the community who are in the habit of employing English practitioners; but if the jurisdiction of the City Court is from time to time extended, the consequence must be that the two English branches of the profession

must cease to exist. This is a serious matter alike for the Court, the Government and the public, whatever difference of opinion there may be as to the wisdom of the English system of Solicitor and Counsel. No doubt this danger is not an immediate one. But the inconvenience to the suitor whose claim being between Rs. 2,500 and Rs. 5,000 is transferred for trial to the City Court will be immediately felt. The transfer will mean to him, under existing conditions, the payment of larger fees to Government. In that respect, it will necessarily be a more expensive Court. Further, in cases which are important and the trial of which lasts for several days, he will probably incur an additional loss owing to the fact that the fees paid to his lawyer exceed what he can recover from his adversary.

3. In making the above observations I assume that the Court Fees Act is not to be extended to the High Court. In my opinion there are strong reasons against the proposed extension of that Act. That matter, however, I understand, will form the subject of a separate communication.

M.V.

Hon. Justice Best:- To the proposal to give enhanced jurisdiction to the City Court for the trial of suits up to Rs. 5,000 in value, I see no objection; provided it does not involve the necessity of appointing an additional judge for that Court unless and until it is certain that the work remaining to be done by the High Court will not be more than enough for five judges.

It is admitted that there is at present "too much work for five judges" but (it is added) "hardly enough for six; and it is argued that "our case for asking for a sixth judge is not so good as when the request was last refused" and therefore the "only way to relieve the Court is by a transfer of some portion

portion of its work." Supposing this transfer to be made, and it is found a year or two hence that owing to the continuous growth of the appellate work of the High Court, the work is again too much for five judges and hardly enough for six," what will be the remedy? It seems to me that if once an additional judge is appointed to the City Court, the chance of getting a sixth judge for the High Court will be greatly diminished and the consequence will be a hopeless state of chronic congestion unless a portion of the appellate side work is also transferred to the City Court!

"But is it a fact that the work of this Court is not enough for six judges?" Mr. Justice Parker is careful to say "hardly enough" which seems to imply that even in his opinion it does not fall far short of being quite enough. On referring to the Memorandum showing the state of the files on the Appellate side at the end of last month, I find an increase in the numbers pending when compared with those at the beginning of the year (as shown in the margin) in (a) First appeals from the Original, (b) Letters Patent appeals, (c) Revision Petitions, (d) Miscellaneous Petitions and (e) Referred Cases — as also in (f) Criminal appeals and (g) Criminal Revision Cases.

		Pendency on 1st January 1894	Pendency on 31st October 1894
Original	Civil — Letters Patent appeals	25	30
	Civil — Civil Revision Petitions	873	1012
	Civil — Miscellaneous Petitions	174	254
	Civil — Referred Cases	1334	1552
	Criminal — Appeals	114	117
	Criminal — Criminal Revision Cases	85	95
Appellate	First appeals from Original Decrees	184	209

All

All the appeals here mentioned and Referred cases require a bench of two Judges for their disposal. The Chief Justice's allowance of three days a week for the work to be done on the Original Side will certainly be found to be altogether insufficient.

No doubt the proposed transfer will afford immediate relief to the High Court, but I think we should also keep the future in view, and take care not to commit ourselves to any measure that may cause difficulties hereafter.

I would therefore, instead of giving the City Court jurisdiction in all suits up to Rs. 5000 in value, give that Court power to try suits

between

between Rs. 2,500 and Rs. 5,000 that may be referred to it by the High Court, which Court should at the same time be given power to make such transfers. The High Court will thus be in a position to relieve itself by supplying work for the City Court Judge when required, without being deprived of all prospect of an addition to the number of its Judges, when such shall be found to be a necessity.

As to the substitution of ad valorem fees for those now charged in the High Court, I quite agree with those who think that the system of levying Court fees in Madras and in the Mofussil should be assimilated as far as possible, but

that it seems to one that of the
three systems now in existence, the
one in Madras is the more rational.
As pointed out by Sir Richard Garth
in his minute of 24th December 1883 -
an extract from which forms an
enclosure to G. O. No. 1775 dated
18th July 1884 - the imposition of
a large institution fee not only
operates frequently as a denial
of justice, but also tends, when
a suit is instituted, to the unnecess-
ary prolongation of litigation, in
consequence of there being no induce-
ment for the parties to compromise,
as the Plaintiff has already paid
all that can be required of him
and Defendant knows that, even
if he fails and has to pay the
opponents

opponents costs, the amount will
not be affected by his fighting
out the case to its bitter end. -
Whereas the High Court system,
which is also that which prevails
in the Courts in England, has a con-
trary tendency, by holding out -
inducements to the parties to come
to a settlement before the heaviest
portions of the fees have to be paid.
The High Court system has also -
the advantage of enabling costs to
be apportioned with regard to the
issues on which the parties have
gone to trial.

In the G. O. referred to above,
opinions were called for as to a
proposed modification of the system
prevailing in the mofussil, so
that the ad valorem fee might
be

be collected at different stages of the suit. If the Court Fees Act had been modified accordingly so there might have been less objection to its being allowed (with further modifications) to supersede the system now in force in the High Courts. But even then, as pointed out in paragraph 11 of Mr. Fitz Patrick's letter (printed as part of the abovementioned G. O.) "having regard to the conditions under which litigation is conducted on the Original Side of the Presidency Town High Courts and to the heavy expenses necessarily attending such litigation, it would be generally admitted that any attempt to put the High Court fees on a level approaching that of the Mofussil fees would be impracticable."

2

"I am therefore unable to support the proposition to apply to the High Court the Court Fees Act as it is in place of the fees now collected at different stages of the suit.

Any change to be made should be on the lines suggested in paragraph 11 of this Court's letter to Government dated 23rd September 1884, No. 2782, namely, that in lieu of the present institution fee of Rs. 30, one-fourth (1/4) of the fee levied under the Court Fees Act be imposed on the institution of a suit, and one-fourth at the hearing; and that in all appeals from the Original Side, the fee should be (1/2) half that charged on appeals from

1.03/10/84
21.2545

from the Mofussil Courts", all other fees now levied being retained.

The system of pefinado is open to abuse and should not be revived.

As to the reorganization of the establishment on the Original side, it appears from Mr. Justice Parker's minute that Government has already been addressed by the Chief Justice. So I take it that no expression of our views is required. I must however express my concurrence in Mr. Justice Shephard's suggestion that the Registrar be appointed a Commissioner for taking accounts. Such an officer is very much required.

required even now and the necessity for him will be still greater if the time to be allowed for disposal of original suits is to be only "three days a week".

(True copy.)

H Parker

Registrar.

Enclosure No. II to letter from the
High Court of Judicature, Appellate Side, Madras,
dated 18th January 1895 No. 102.

Minutes recorded by
Justices Shephard and
Best.

Jud
2
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Further Minute.

Hon. Justice Best:- I understand it to be admitted on all hands that an additional Judge for the High Court is necessary and that the proposal to enhance the jurisdiction of the City Court is only made because of a feeling that the Secretary of State has made up his mind not to give a sixth Judge to the High Court. I am unable to concur in the above feeling. I cannot think that if matters are properly placed before him, the Secretary of State will obstinately turn a deaf ear to an application for an additional Judge to this Court - especially if at the same time we indicate a means of meeting the greater part, if not the whole, of the additional cost that will be involved by the appointment. The application to the Original Side of a modified system of the Court Fees Act, as considered at the meeting of the Judges held this* afternoon, will supply the additional funds required, and if we do not avail ourselves of this

*15th January 1895.

opportunity

opportunity of asking for the additional judge, we shall certainly be blameworthy and open to the imputation of designedly pushing the City Court at the expense and to the detriment of the High Court.

As the City Court Judge has already quite as much work as he can get through, the only reason alleged for now suggesting an enhancement of his jurisdiction is to avoid the accumulation of arrears in the High Court. This can be equally well avoided by increasing the strength of the High Court - an arrangement which will assist also in the disposal of arrears on the Appellate Side - work - which cannot under any circumstances be transferred to the City Court.

There is every reason to believe that it is the Original Side of the High Court that contributes mostly, if not altogether, the profit derived from the working of the Court. Such is the case in Bombay and will, I

Suspect

suspect, be found to be the case here also if enquiry is made. Such being the case, I see no justification whatever for increasing the institution fees for suits by substituting the present a system (even in a modified form) of the Court Fees Act unless the object is to provide funds for the additional Judge who is admittedly required to cope with the work to be done in this Court.

I can therefore only support the proposed alteration if an additional Judge for the High Court is to be appointed - and I see no necessity whatever for enhancing at present the pecuniary jurisdiction of the City Court.

From what is said above, it is apparent that the questions (1) of enhancing the jurisdiction of the City Court and (2) of altering the system of institution fees in the High Court, are closely connected; and I am

of opinion that the answers to both these questions should be sent to Govern-ment simultaneously, instead of - as is suggested - Government being now addressed on the subject of enhance-ment of the jurisdiction of the City Court alone - the question of the change in the system of collecting institution fees in the High Court being reserved for a future communication.

If the majority of the Judges adhere to the contrary opinion, I must ask that a copy of this minute of mine be also submitted to Govern-ment.

(True copy.)

H Ahli
Registrar.

Enclosure No. III to letter from the
High Court of Judicature, Appellate Side, Madras,
dated 18th Jany/95 No. 102.

Further minute recorded
by Hon Justice Best.

1895 Jan 3
Enclos. No.
To 22
G. No.

No. 102. 212

High Court of Judicature,
Madras, 18th January 1895.

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From

H. W. Foster Esquire,
Registrar of the High Court of Judicature,
Appellate Side, Madras.

To

The Honorable E. Gibson,
Acting Chief Secretary
to Government,
Fort St. George.

Honorable Sir,

In its Review of the Report on the administration of Civil Justice in the year 1893, the Government, observing upon the pressure of work in the High Court and the arrears pending, remarks that, for the purpose of affording relief, it will be prepared to take into consideration the question of raising the pecuniary limit of the jurisdiction of the City Civil Court to Rs. 5,000. The Honorable the Judges have had this suggestion under consideration, and

I am directed to submit the following observations:-

2. At the end of 1892, the High Court, in communicating its opinion that the Court should be maintained at its then strength of six Judges, pointed out that the pending cases were at the time sufficient to furnish a full year's work for that number. In view of the establishment of the City Court, however, the Secretary of State declined to sanction the continuance of the sixth Judge and, since April 1893, the Court has had a strength of five Judges only.

3. With this reduced number, the Court has done its best to cope with the work coming before it. The appended statement gives the number of cases under different heads received, disposed of and pending for the three years 1892, 1893 and 1894. It will be observed that there is a steady growth in the files of 1st and 2nd appeals. The number of cases disposed of however has not greatly decreased, notwithstanding the reduction in the strength of the Court. In fact,

except in the case of original Suits, the amount of work done in 1894 is fully up to the level reached in 1892. A large increase in the filing of Miscellaneous Petitions (which includes Revision Petitions) has led to a special accumulation of arrears under that head, and this is particularly to be regretted inasmuch as these are cases which arise principally out of Small Cause Suits and execution proceedings and ought, in the opinion of the Judges, to be disposed of with especial promptitude. Against this increase may be set off the reduction in the number of original suits of which only 290 are now pending, so that, on the whole, there has been no great increase in the arrears of work. I am to say however that the Judges have accomplished this result only by great personal exertions and almost total sacrifice of leisure, which cannot be indefinitely maintained and which must, in the long run, be detrimental to the public interests.

4.

4. The contrast between the quantity of work done by the Madras Judges and that done in the other High Courts is as striking now as when it was first pointed out by Hon. Justice Innes in 1882. For instance, Judge for Judge, it was over 50 per cent. greater in 1893 than in Calcutta, as is shown by the subjoined statement of the cases disposed of in that year.

		Calcutta 13 Judges	Madras 5 Judges	Cases per Judge	
				Calcutta	Madras
Civil.	Original Suits	766	253	59	50
	Insolvency Cases	135	196	10	39
	First appeals	376	259	29	52
	Second "	2150	1953	166	390
	Miscellaneous appeals	378	101	29	20
Criminal.	Sessions Cases	47	46	4	9
	Criminal appeals	1019	584	78	117
	Referred Trials	44	59	3½	12
	Criminal Revision Cases	1084	686	82	137

5. It is clear therefore that, in justice to the public as well as to the Judges, some relief ought to be granted and if, for financial or other reasons, the Secretary of State is still not prepared to sanction the appointment of a sixth Judge, the only plan appears to be an enhancement of the jurisdiction of the City Court.

6. The High Court has already pointed out in its Administration Report that the increase of the City Court's jurisdiction to Rs. 5,000 would have effected the substantial reduction of 40 per cent. in the work of the Original Side in 1893, and has referred to the small proportion of appeals from the City Court (4·13 per cent. of appealable cases, 14 per cent. being the average in case of District Munsifs' Courts in the mufassil) as showing the confidence and satisfaction with which its decisions are accepted. In both these respects, the figures for 1893 are in close correspondence with those of the previous year. Out of 290 suits filed in the High Court, 121 or 40 per cent. were below Rs. 5,000 in value and of a nature triable by the City Court, and though that Court passed 294 appealable decrees in 1894, only 9 appeals were filed or 3.7 per cent.

7. The Judges do not suppose that, at present, the proposed increase of jurisdiction would necessitate any addition

to the strength or cost of the Court. The whole additional number of suits would be not more than 125, making up a total annual file of under 500 which may not be beyond the capacity of a single Judge who has no small causes to try in addition.

8. It is objected in some quarters that pressure of work in the High Court is not an adequate or proper reason for transferring part of its jurisdiction to another tribunal and the fear has been expressed that if the propriety of this expedient be once admitted, there will be no finality to its use and there can be no guarantee that it will not be resorted to again and again as the High Court's work grows until it leads to the total abolition of the Original Side. These objections are insisted on by Hr. Justice Shephard. His view is that Rs. 2,500, the extent of the present pecuniary jurisdiction, may, in a sense, be regarded as a definite limit inasmuch as it corresponds with the jurisdiction of a District Munsif's Court, the lowest Court of original Civil jurisdiction in

the Presidency, and is besides the limit of value at which the City Court under the Court Fees Act is a cheaper tribunal than the High Court - and he apprehends that, as any higher figure must be fixed altogether arbitrarily, to consent to this proposed increase is to abandon the principle of the necessity of maintaining an original jurisdiction in the High Court.

9. I am to say that the other Honorable the Judges do not share these apprehensions. It is true that under the scale now in force on the Original Side of the High Court, the total sum levied in Court Fees on suits over Rs. 2,500 in value is on the average lower than it would be in the City Court, under the Court Fees Act, but acting on the suggestion of the Government, the Judges now have under consideration a revision of the High Court scale. A majority of the Court considers that some enhancement is desirable and the Government will

be separately addressed on the subject.
As to the other reason for not going
beyond Rs. 2,500, I am to point out that
the City Court differs from a District
Munsif's Court in this important respect
that an appeal on the facts lies direct
from it to the High Court, and not
merely a second appeal on points of
law only. Moreover, Rs. 5,000 was the
limit originally suggested by the
Secretary of State in his despatch to
the Government of India, No. 1, dated
7th January 1892, Legislative, and the
lower figure of Rs. 2500 was adopted
mainly in deference to the opinions
of the Judges who considered it advisable
to commence at a low limit till the
quantity of work received and the
general success of the measure could
be gauged by experience.

10. The result of the two years' experience
is to place beyond doubt that the Court
may safely be entrusted with the higher
powers, and to grant it these powers

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will afford a very substantial relief to
the High Court without any immediate
increase of expenditure. Mr. Justice
Shephard and Mr. Justice Best have
recorded their views in separate
minutes which are forwarded herewith.
The rest of the Court is agreed in
considering that, under the circumstances
stated above, if the Secretary of State
still adheres to his decision not to
sanction the appointment of a
sixth Judge, it would be unjustifiable
and contrary to the public interests to
neglect this alternative measure of
relief.

11. The change may be viewed with
disfavor by the Commercial Community
on the ground that the range of value
from Rs. 2,500 to Rs. 5,000 will include
some mercantile suits of an important
character for which the High Court is
the most suitable tribunal. It is to
be remembered, however, that the
High Court has concurrent jurisdiction

with the City Court and it would be unreasonable to suppose that any suit involving a substantial question of Commercial Law, if filed in the High Court, would be remitted to the City Court for trial. But it may still be objected that even in such a suit the plaintiff runs a risk of incurring the penalties regarding costs provided in section 16(1) of the City Court Act, and to meet this objection, the Legislature might be invited to consider the advisability of introducing a clause excepting commercial causes from the operation of those provisions regarding costs. I am to mention that such a distinction has recently been recognized by the High Court of Justice in England, where Special Benches known as "Commercial Courts" have been appointed for the trial of commercial causes alone.

12. With these remarks I am to express the hope that steps may be taken to introduce the necessary legislation for enhancing the jurisdiction without delay.

I have the honor to be,

Honorable Sir,

Your most obedient servant

Registrar.

P.S.—By the desire of Hon. Justice Best, a further minute written by him subsequent to the preparation of this letter is also forwarded herewith.

Registrar.

Jud

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C 282

Jud Dept.

From

The Chairman
Chamber of Commerce

Dated 23-1-25
Recd 23-1-25
Regd 24-1-25
Encl- 1

Subject.

Forwd. Resolutions passed at a special general meeting of the Chamber of Commerce held on the 18th inst. for the purpose of considering the changes proposed to be introduced in the Original side of the Madras High Court.

Ro

Please put up with the letter from the Hon'ble Reg. the city Civil Court's Jurisdiction now with you

dy 25/1

CURRENT NO 282 44

CHIEF SECRETARY
23 JAN 1895
GOVERNMENT OF MADRAS

188

The Chamber of Commerce,

MADRAS, *23rd January, 1895.*

FROM

THE HON'BLE MR. G. G. ARBUTHNOT,

CHAIRMAN, CHAMBER OF COMMERCE,

MADRAS.

To

THE CHIEF SECRETARY TO GOVERNMENT,

LEGISLATIVE DEPARTMENT,

FORT ST. GEORGE.

SIR,

I have the honour to inform you that a Special General Meeting of the Chamber of Commerce was held on the 18th instant for the purpose of considering the changes which the Chamber understands it is proposed to introduce on the Original Side of the Madras High Court, and the proposed extension of the jurisdiction of the City Civil Court.

The Meeting which was largely attended, unanimously adopted the following Resolutions :—

1. That inasmuch as the High Court on the Original Side is admittedly unable to cope with the Civil Suits coming before it, and is a full year in arrear of its work, the Chamber is of opinion that the permanent appointment of a fifth Puisne Judge is imperatively necessary.

2. That, in view of the circumstances mentioned in the last Resolution, it is inexpedient to effect, on financial grounds, any changes which might tend to weaken the establishment of the Original Side of the Court, diminish its efficiency and further prolong and delay the disposal of suits and the issue and execution of Decrees.

3. That the City Civil Court being a Tribunal constituted for the express purpose of providing a measure of relief to the poorer class of suitors to whom the expenses of a trial in the High Court were alleged to be prohibitory, should be confined to the object for which it was created, viz., the trial of petty cases, and the Chamber is of opinion that any extension of its jurisdiction would be undesirable and is for many reasons to be deprecated.

4. That in the opinion of the Chamber the substitution of fees calculated in accordance with the Court Fees Act for the scale of fees now leviable in the High Court on its Original Side would be most disadvantageous to suitors, and that there are no circumstances which justify such additional taxation on litigants as would be involved in the introduction of the Act in question into the High Court.

5. That in the opinion of the Chamber no good reason exists for placing the High Court of Madras on an exceptional footing as compared with those of Bengal and Bombay.

I have the honour to enclose a copy of this letter and to request that it may be forwarded to the Government of India at an early date.

I have the honour to be,

Sir,

Your most obedient servant,

George G. Arbuthnot

Chairman.

Encls. 1.

URGENT No 377
Jud Dept

From

The Chairman
Chamber of Commerce
Madras.

Dated 28/1/35
Recd 29/1/35
Reg 30/1/35

Subject

Requ[e]st to be favoured with a copy of the communication addressed to the Madras Govt. by the Judges of the High Court on the necessity for an additional Judge to the High Court Bench

46

Every letter, whether printed or in manuscript, should be docketed and abstracted on the back; and the abstract should state clearly the purport of the letter and not merely its title subject. * * * * * * * *

Enclosures and statements also, whether sent with letters, or merely under cover, should be numbered, docketed and abstracted. The headings of statements should be written in full to prevent mistakes. (G. O., 8th April 1893, No. 239, Public.)

Judicial {1895.} Department.

No.

From

The Registrar of the High Court
of Judicature, Appellate Side,
Madras.

CHIEF SECRETARIAT
2 FEB 1895
GOVERNMENT OF MADRAS

Dated 12th February 1895.

Received 2 } 1895.
23 Feb.

No. 260.

Enc. 1 attachment &c.

Forwarding in continuation of letter No. 102 dated the 18th ultimo a statement of suits filed in the High Court in 1893 and 1894 and indicating by a ring round the cases which would have been cognizable by the City Court had the jurisdiction been fixed at Rs. 5000

C/- No 212/95.

Suits filed on the Original Side of the High Court in 1893.

A.—Ordinary Civil Suits.

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of claim.	Remarks.
1	Munshi Hajee Syed Abdul Waheb Saib.	Iuna Bhoyee and 4 others ...	5,622	0	0	For goods sold.	
2	R. G. Orr and another	C. V. Cunniah Chetti	7,530	10	4	On a promissory note.	
3	The Administrator General of Madras	T. Vasanthum Chetti and another,	30,000	0	0	For the administration of an estate and for an account.	
4	C. Theodor Simon and another ...	G. Ethirajulu Naidu and 2 others...	7,131	11	1	On an equitable mortgage.	
5	Rithcurn Lallah	T. Appadoray Mudali and another...	2,786	0	0	On a promissory note.	
6	Manikkammall	K. Annaswami Mudaliyar ...	4,813	10	9	On a mortgage.	
7	Narsu Juggeevan and 2 others ...	W. Morgan	7,050	0	0	On a promissory note.	
8	I. B. Hepburn	The South Indian Railway Company Ld., and another.	29,392	5	11	For work done and for compensation for breach of contract.	
9	Dhunna Lall Lallah	M. Stree Davy Ummall and another.	9,400	0	0	On a promissory note.	
10	V. Soobramiah Chetti	G. Sreenivasooloo Chetti ...	3,390	12	0	On a letter of guarantee.	
11	G. Venkiah Chetti	A. Shunmoogappa Chetti and 3 others.	5,626	11	0	On settlement of accounts.	
12	C. Ramanatha Mudali	P. Ethirajulu Nayudu and 4 others.	2,706	9	5	For boat hire.	
13	M. Velaventhrasami Pillai ...	P. Rajaruthna Nayudu	12,000	0	0	For dissolution of partnership and for an account.	
14	The Maharajah of Mysore Spinning & Manufacturing Co., Ld.	G. Subramania Aiyar and another...	200,000	0	0	For damages for false and malicious publication.	withdrawn 21—3—93

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No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of claim.	Remarks.
15	P. S. Annasawmy Chettiyar ...	P. Loganatha Chettiyar and 4 others.	13,992	14	0	For an account of the family property and for partition.	
16	Sah Man Mull Chordia ...	A. W. Cooke	5,200	0	0	On a promissory note and for a declaration that the debt be a charge upon two Policies.	
17	The Purswakum Hindu Jananukoola Saswatha Nidhi, Ld.	C. Narayanaswamy Pillai & 5 others	5,613	2	8	On usufructuary mortgages & promissory notes.	
18	P. Davasikamany Pillai ...	M. Thayammall and another ...	3,000	0	0	For delivery of moveable and immoveable properties.	
19 Pauper	T. Ruthnasabapathy Mudali ...	T. Gnanasundra Mudali ..	5,725	0	0	For an account of the estate and for partition.	
20 Pauper	Lutchmiah Nayudu	Andalamma	3,500	0	0	For a declaration and for possession of immoveable property.	
21 Pauper	P. Andalammall	F. Rowlandson and 2 others ...	2,700	0	0	For a declaration, for a re-conveyance of the premises and for an injunction.	
22	C. Ruthnavelu Mudali & 3 others ...	P. O'Gilvie	2,000	0	0	For delivery of possession under Specific Relief Act.	
23	Y. Sooboo Lutchmammall ...	Y. Rungiah	12,000	0	0	For a declaration, for an account and for delivery of moveable and immoveable properties.	
24	M. Thiroomala Chariyar	K. Krishnasawmy Chetti and another	2,873	4	0	Money due on Hundies.	
25	T. Mooroogasa Mudali and 2 others...	T. Runganatha Tauker and another	12,000	0	0	On a mortgage.	
26	The Bank of Madras	R. Subroya Chetti and 2 others ...	3,742	0	6	On a promissory note.	
27 Pauper	M. Nummiah Chetti	K. Mooniswami Chetti	2,574	14	19	For a declaration, for an account and for cancellation of a promissory note.	
28 Pauper	M. Kishnaswamy Mudali ...	M. Ruthnammall and another ...	10,000	0	0	For a declaration and for delivery of possession of a house.	
29 Pauper	C. Meenamba Ammall	C. Saravana Mudali	...	...	...	For maintenance and for delivery of Sreedhanum property.	
30	C. Tiroomala Ammall	N. K. Ungian Chetti and 3 others ...	3,500	0	0	For a declaration and for an injunction.	
31	P. C. Palaniappa Chetti	C. B. Chengleraya Chetti ...	3,841	12	0	On a mortgage.	
32	R. C. Walker	H. A. Coggan and another ...	3,342	12	10	For money advanced.	
33	Sadasu Gumbura Chund	A. Narayana Chetti	3,149	4	0	On settlement of accounts.	
34	T. Ramanujammall	T. C. Narayanaswamy Nayudu ...	3,000	0	0	For specific performance of an agreement and for declaration.	
35	T. Gopalakishna Mudali	Bakiammall and 3 others... ..	13,113	13	0	For a declaration, partition and for an injunction.	
36	A. Moonoosawmy Mudali ...	M. Ramakishniah	8,431	12	10	On a promissory note.	
37	K. Soobaraya Chetti	A. Sabapathy Chetti	4,108	0	0	For return of jewels, &c.	
38	Krishna Doss Balamukun Doss ...	A. Coopoo Chetti	4,000	0	0	For specific performance of contract and for an injunction.	
39	S. Ethirajammah	S. Vijearagavooloo Nayudu ...	13,900	0	0	For maintenance.	
40	Jogunthara Nath Paul	Kajinthra Laul Sing	...	..	...	For an injunction.	
41 Pauper	P. Seenivasa Naiker	P. Perumall Naiker and 6 others ...	2,400	0	0	For a declaration, for an account and for partition.	
42 Pauper	Gopala Chetti and 4 others ...	P. Moonisawmy Chetti and 15 others.	5,370	0	0	For a declaration, for an account and for partition.	
43	P. Adinarayana Garu	The Oriental Government Security Life Assurance Company, Ld.	8,000	0	0	On a Policy of Assurance.	
44	G. Autherton and another ...	C. Ruthnasabapathy Chetti and another.	4,085	10	11	For loss incurred by sale of goods.	
45	B. C. Jeevala Ramiah	B. C. Rasammah ...	6,280	0	0	For a declaration, for delivery of properties and for an injunction.	
46	V. Papiah Chetti	B. Venkatakishnama Chetti and another.	5,091	10	8	On a promissory note.	
47	G. Venkiah Chetti and another ...	V. Venkatasubbiah Chetti and 2 others.	31,000	0	0	For an account of the dealings and transactions.	
48	The South Indian Export Company, Limited.	Hajee Ichangheer Saib	2,817	6	4	For damages for breach of contract.	
49	M. Soobaraya Mudaliyar ...	T. Muthia Mudaliyar and another ...	6,221	0	0	For a declaration, for delivery of possession of temple and moveable and immoveable properties, for an account and for an injunction.	
50	M. Somanatha Naicker and another	M. Loganatha Naicker and another	20,047	8	0	For an account, for partition and for an injunction.	
51	C. Kuppiah Chetti and another ...	C. Mahalutchmi Ammall ..	5,000	0	0	For a declaration that the defendant is entitled to draw interest on Government promissory note and for maintenance.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of claim.	Remarks.
52	M. Ramakishniah	Manikka Mudaliyar	9,248	0	0	For balance of purchase money and for a declaration.	
53	Sah Man Mull Chordia	A. R. K. Herbert	10,266	0	0	On a promissory note.	
54	The Madras Building Company, 5th Branch, Limited.	A. Chunda Boyee and another ...	8,855	0	0	On a mortgage.	
55	Do. ...	Do. ...	5,487	2	3	On a mortgage.	
56	Do. ...	Mahamed Syed...	4,375	0	0	On a mortgage.	
57	T. Ragava Chetti	T. Govindu Chetti and another ...	5,250	0	0	For a division of family property.	
58	T. Lutchmammah	R. Ramanada Aiyar	4,575	0	0	On a promissory note.	
59	D. E. W. Leighton and another ..	M. P. Vencataramiah Chetti ...	5,963	14	10	On Bills of Exchange.	
60	M. Ramakishniah	D. Subkurn Sing and 3 others ...	2,749	11	0	On a promissory note.	
61	Do.	Tholasinga Naicker and 3 others ...	2,762	8	0	On a promissory note.	
62	A. Champion	R. G. Orr	50,000	0	0	For damages for false and malicious publications.	
63	V. L. Theruvarunga Mudali ...	G. Ramakishna Nayudu and another	12,700	0	0	For a declaration and for an injunction.	
64	A. Champion	Commercial and Land Mortgage Bank, Limited.	11,330	1	9	For transfer of shares, for delivery of same and for an injunction.	
65	W. C. Munsie and 3 others ..	V. S. Iyathoray Mudali ...	2,530	15	5	For money advanced.	
66	K. Thyanayakee Ammal	K. Kanakaraya Mudali ...	...	...	...	For specific performance of an agreement.	
67	V. Y. Abdul Kareem Saib and 3 others.	P. Ghoolam Mahomed Saib and 3 others.	2,603	3	4	For goods sold.	
68	Baboo Salagram Chandrik ...	P. Coopoosawmy Nayudu and 4 others.	7,487	4	0	On a promissory note.	
69	C. Singaravaloo Dasigar and another.	C. Thanikachella Mudali and another.	7,715	8	0	On a mortgage.	
70	The Commercial Land Mortgage Bank, Limited.	T. Vencatachella Mudali	14,686	7	9	On a promissory note.	
71	M. V. Vencatacharlu	C. V. Pedda Seetharamiah ...	7,385	10	5	On a promissory note,	
72	T. V. Tooljaram Rao	K. Batcharam Saib and another ...	6,998	8	10	On promissory notes.	
73	Do.	Do. ..	3,147	7	6	On promissory notes.	
74	Jamar Boy and another	Abdul Alli Khan Bahadur and another.	5,106	11	10	On settlement of accounts.	
75	M. A. Singara Chary	Sheik Mahomed Alli Saib and 3 others.	2,812	8	0	On an equitable mortgage.	
76	Hajee Mahomed Abdul Hajeej Badsha Saib and another.	Mahomed Murad Murcayor and 8 others.	10,750	0	0	On an agreement.	
77	K. Puttasamy Chetty and another..	M. Soobraya Chetti	6,342	3	0	On a mortgage.	
78	P. Kuppusawmi Mudali	S. Pooniakoti Mudali	5,000	0	0	For a declaration, for delivery of moveable and immoveables and for mesne profits.	
79	T. Balasoobaraya Mudaliyar ...	T. Koomoothavallee Amma ...	3,342	0	0	For a declaration, for an account and for delivery of properties.	
80	G. W. P. Woodroffe and 2 others .	V. Y. Abdool Kareem Saib and 3 others.	3,543	7	0	For loss on a sale of goods.	
81	C. V. Chinna Seetharamiah and 2 others.	M. Ramakishniah	11,124	3	5	For damages for breach of contract.	
82	A. Shunmugappa Chetti ...	K. Obayya Nayudu	8,735	0	0	On a promissory note.	
Summary 83	T. Toolcanum Chetti and 2 others ..	T. Kalathy Ammall and 2 others ...	16,970	0	0	For a declaration that the properties be declared to be the undivided family property, for an account; for an injunction and for an appointment of a Receiver.	
84	The Murreed Brewery Company, Limited.	T. Leishman and 2 others ...	100,000	0	0	For balance of purchase money.	
85	The Commercial and Land Mortgage Bank, Limited.	T. R. Sawmy Appa Naicker ...	42,555	1	4	For interest due on mortgages.	
86	N. Vythilinga Chetti, ...	P. Venkatasubbayya	2,581	8	6	On a promissory note.	
87	M. Ramakishniah	C. V. Chinna Seetharamiah and 2 others.	45,000	0	0	For damages for breach of contract.	
88	P. L. S. Arunachella Chetti ...	V. R. M. S. Subramania Chetti ...	3,793	1	6	On settlement of accounts.	
89	M. Ramakishniah	S. Veerasawmy Nayudu and another.	3,454	6	4	On a promissory note.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of claim.	Remarks.
90	Pasha Bee Ammall	Imam Saib and 5 others... ...	7,000	0	0	For a declaration, for an account, for delivery of moveable and immoveables, for an appointment of Receiver and for an injunction.	
91	C. V. Seshachella Chetti ...	Va. Sashachella Gramany and 2 others.	1,785	0	0	On a mortgage.	
92	C. Yagappa Chetti	S. Chethumbara Chetti and 3 others.	7,322	2	8	On promissory notes.	
93	The Administrator General of Madras.	P. Murugasa Mudali and 2 others.	3,878	11	0	On a mortgage,	
94	Sreemantha Raja Yarlagadda Mullikarjuna Prasada Nayudu Bahadur.	G. Kotayya Nayudu and 7 others ...	18,423	1	8	on a promissory note.	
95	G. Veeriah Nayudu	P. Ethirajooloo Naynda and 4 others.	6,783	5	6	On a promissory note.	
96	S. R. Turnbull and 5 others ...	F. F. L. Penno	2,759	15	6	On a promissory note.	
97	Rithcuru Lall	C. D. Renga Rao	14,291	0		On a promissory note.	
98	M. Janakee Ammall *alias* Stree Davy Ummall.	Alexander Mackenzie Esquire and 3 others.	80,000	0	0	For a declaration, for an account of the estate, for delivery of moveable and immoveable, for the injunction and for a Receiver or for an Administration of the estate.	
99	G. Ramanna	C. Soobroyaloo Chetti and 7 others.	4,840	0	0	On a mortgage.	
100	P. V. Soobroya Mudali & another.	T. V. Toljaram Rao and another ...	1,418	0	0	For a declaration, for setting aside a decree and for an injunction.	
101	Ada Eliza Moore	William Cullen Moore	9,600	0	0	For a declaration, for payment of money and for an injunction.	
102	Koonthan Mall Lallah	Guy Moberly	5,000	0	0	On a promissory note.	
103	P. Cundasawmy Mudaliyar ...	K. P. Theruvengada Mudaliyar and 20 others.	5,000	0	0	For a declaration and for damages for being out-caste.	
104	P. Malraju	Mahomed Abdul Khader Khan Bahadur.	4,767	8	11	On a settlement of accounts.	
105	C. Vencatarungum Chetti ...	C. Ethirajammah and 5 others ...	4,250	0	0	For a declaration, for delivery of the moveable and immoveables; for an injunction and for a Receiver.	
106	M. Ramakistniah	T. N. Singaravelu Mudali ..	3,579	9	0	On an equitable mortgage.	
107	Do. ...	D. Nabi Sahib	13,400	0	0	For money advanced.	
108	N. Venkatroyalu Chetti and another.	R. Nummalwar Chetti and another	4,110	4	0	On a promissory note.	
109	Choori Laljee Sowcar	Amthul Latheef Syed Thunnisa Begum Sahiba.	8,200	0	0	On a promissory note.	
110	Anantha Lall Lallah	G. Moberly	3,792	0	0	On a promissory note.	
111	S. Velco Chetti	S. Parthasarathy Chetti and 3 others.	3,000		0	For plaintiff's share in the family properties, for an execution of a release, for an injuction and for charging the said share on the family properties.	
112	M. Ramakistniah	D. Solomon and 2 others	2,959	0	0	On an equitable mortgage.	
113	R. Nammalwar Chetti and another.	R. Andalammall and another ...	4,346	0	0	For a declaration; for delivery of jewels and for an injunction.	
114 Pauper	Cooloo Chetti	Coopoosawmy Chetti and 9 others...	41,950	0	0	For a declaration, for a division of the family properties and for appointment of a Receiver.	
115	Moladina Ludda Sait	O. Govindu Chetti	10,200	0	0	For specific performance of the contract, for execution of conveyance and for damages.	
116	K. Venkatakristnamah Chetti ..	R. Ramdoss Aiya and another ..	4,500	0	0	For a dissolution of the partnernship and for an account.	
117	R. M. V. Chidambara Chetti ...	A. K. Meah Pillai Sahib and 3 others.	2,681	0	0	On a promissory note.	
118	V. Vencatanarrain Pillai ...	P. Soobbroya Pillai and 2 others ..	...	...	...	For a declaration and for an injunction.	
119	William Hogg	Annamallai Pillai and another ..	4,687	0	0	For a declaration, for delivery of possession of moveable property and for an injunction.	
120	The Commercial and Land mortgage Bank, Limited.	K. M. Raman Chetti and 2 others.	5,930	1	9	On a promissory note.	
121	E. Appa Rao Mudaliyar	P. Vencatachella Mudaliyar and another.	4,000	0	0	On a promissory note and for an attachment before judgment.	
122	M. Seetharamaiya	N. Cundasamy Pillai and 2 others.	4,727	12	0	For money advanced and an indemnity bond.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of claim.	Remarks.
123	Ghulam Ghouse Saib	Haji Abdul Khadir Sahib and 11 others.	12,021	0	0	For an account of the estates, for carrying out the trusts and provisions of the Will, for a division under Mahomedan Law.	
124	O. Runganayaki Amah	O. Veeriah Chetti and another ...	...	...	...	For a declaration, for an injunction and for appointment of a Receiver.	
125	Chidiri Haji Mahomed Jehangir Saib.	Hajee Mahomed Hanief Sahib ...	2,374	3	5	For dissolution of partnership, for execution of a conveyance and for an account.	
126	Buckthavan Mull and another ...	Hustamull Longkud and another ...	4,859	4	0	On a settlement of accounts.	
127	M. Vencataramasawmy Chetti ...	P. Soobroya Pillai	9,000	0	0	For cancellation of the contract for sale of the immoveable property and refund of a part of purchase money.	
128	M. Varadarajulu Chetti ...	K. Ramanuja Aiyangar	3,441	11	1	On a promissory note.	
129	The Honble. Mr. Humayun Jah Bahadur.	R. Runganathum Chetti	...	...	...	For possession of the plaint shop and premises and for arrears of rent.	
130	Baldav Doss Daga and 2 others ...	Rajammall and another	98,000	0	0	For an account of the estate, for Administration of the said estate, for the issue of an injunction and for appointment of a Receiver.	
131	P. Parthasarathy Chetti	P. Chellappa Chetti and 12 others.	8,000	0	0	For a declaration that the division in the plaint mentioned are null and void for a new division of the estate and for the issue of an injunction.	
132	Sah Man Mull Chordia and another.	P. L. M. Muthia Chetti and another.	2,963	10	0	On a mortgage.	
133	G. W. Deane and another ...	M. Cawder Ismail Saib and another.	2,859	3	2	On a settlement of accounts.	
134	Ghulam Hussain Saib and 2 others.	Syed Amed Saib and 6 others ...	9,500	0	0	For setting aside the decree in C. S. No. 81 of 1892 on the file of this Court; for division of the plaint properties.	
135	Kistna Doss Vittal Doss	Ambasankar Davy	11,524	4	6	On 3 promissory notes.	
136	Te Merchants Company Ld., in liquidation.	Ponnappa Naicker and 5 others ...	6,818	13	4	For goods sold and delivered.	
137	V. Guruvappa Chetti and another ...	K. Veerasawmy Chetti	25,826	8	6	On 6 mortgages.	
138	Hindu Mull and another ...	Rai. Bahadur C. V. Cunniah Chetti.	4,000	0	0	On a promissory note.	
139	The Commercial and Land Mortgage Bank, Ld.	S. T. R. Rungasawmy Chetti and 4 others.	10,389	2	5	On 3 promissory notes.	
140	The Nungumbaukam Sasvatha Danarakshaka Nidhi, Ld. ...	K. Parthasarathy Chetti and 3 others	3,820	1	2	On a mortgage.	
141	A. L. A. R. A. R. Bank, Madras ...	Ku. Manika Chetti and 2 others ...	15,133	10	0	On a promissory note.	
142	C. Rajagopaul Nayudu and another.	K. Venkatasa Mudali	...	...	...	For appointment of a Dhurmakarta of the plaint Pagoda and for settlement of a scheme for its management.	
143	Sah Man Mull Chordia and another.	C. Sundaram Mudaliyar	3,000	0	0	On a mortgage.	
144	Inayuth Hoossain Sahib	Raja Ishwara Doss Diawanth Bahadur	2,200	0	0	For delivery of the plaint promissory note; for an account of the transactions and dealings and for payment of the amount found to be due.	
145	T. Shaviappa Gramany	Vencatachella Chetti	...	...	...	For declaration that the lease in the plaint mentioned is still subsisting; for the issue of an injunction and for damages.	
146	S. Vencatarunga Iyer and another.	Nandakishera Doss	3,913	15	2	On a mortgage.	
147	The Madras Building Society, 5th Branch, Ld.	Fatima Bee Bee	3,331	9	6	On a mortgage.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of claim.	Remarks.
148	M. Ramakishniah	A. Balakistniah and 2 others ...	2,549	6	9	On a promissory note and for money lent.	
149	Rao Rajah Eshoor Doss Diawanth Babadoor.	Inayet Hussain Sahib	2,743	12	6	On a promissory note.	
150	R. Sadagopa Chariyar	Umadi Raja Rajaiha Dewara Kumara Muddu Venkatappa Nayudu Bahadur Varu.	21,007	9	10	For one-fourth share of the principal and interest due on a Bond.	
151	D. Rungamannar Chetti and 3 others	V. Streenivasa Runga Rao Pantulu and another.	12,081	11	0	On a mortgage.	
152	Ghulam Dustagheer Saib ...	Hafiz Muhammad Aboo Saeed Saib.	...	...	...	For a declaration and for delivery of possession of the immoveable property.	
153	A. Venoyaga Mudali	Mathuramuthu Pillai	2,640	0	0	On a promissory note.	
154	P. Mungupathy Nayudu ..	The Administrator General of Madras.	4,041	11	11	For a declaration that the late S. Ramasawmy Nayudu deposited the title deeds, &c, of his property so as to create an equitable lien or charge in favour of the plaintiff in respect of matters referred to in the plaint.	
155	D. Rungamannar Chetti and 4 others.	K. Krishnamah Chetti and 4 others.	7,202	3	9	On a settlement of accounts.	
156	P. Appu Chetti	M. Rungammall and another ...	3,000	0	0	For a declaration that the Will of M. Soobraya Chetti is not genuine and that the plaintiff is the reversioner to the 1st defendant's property and for the issue of an injunction.	
157	P. Vencatachella Chettiyar ...	M. Manavala Naidu and 3 others ...	2,521	8	0	On a mortgage.	
158 Pauper	P. Kuppusawmy Mudali ...	P. Kylanada Mudali and 3 others.	3,000	0	0	For a declaration and for partition of the family property.	
159 Pauper	C. Parthasarathy Naicken ...	C. Soobrayaloo Naicken and another.	8,019	0	0	For a declaration that the plaintiff and defendants are the members of an undivided family and for an account of the family property.	
160	S. C. Vencatasawmy Nayudu ...	P. Vencatachella Chetti ...	5,209	13	0	On a promissory note.	
161	G. Lutchmanarasu Chetti ...	S. Vencatavaradarajulu Nayudu ...	7,320	8	0	On a mortgage.	
162	M. Ramakrishniah	P. Srinivasa Mudali	2,520	3	0	On a promissory note.	
163	P. C. Vencataruthnam Nayudu ...	P. C. Ramiah Nayudu and 4 others	7,094	6	7	For setting aside the compromise; for restoration of the order of 26th April 1892 and for the issue of an injunction.	
164	M. Ramakristniah	T. Appavoo Naicker	10,938	4	0	On a mortgage.	
165	V. Basavish and another ...	S. Munusawmy Chetti	4,955	14	10	On a mortgage.	
166	J. C. Shaw Esquire and 3 others ...	C. Patchiappa Naicken	14,285	12	5	On a settlement of accounts.	
167	S. Lakshmammall	The Muthialpettah Mutual Benefit, Permanent Fund (Limited).	10,040	0	0	For amount deposited and subscription paid in respect of shares.	
168 Summary.	The Bank of Madras	Soondrammal and 2 others ...	10,181	0	6	On a promissory note.	
169	P. Davanoyaga Mudaliyar ...	A. K. Rungiah Hebbar	7,000	0	0	For commission agreed to be paid for raising a loan.	
170	P. Munoosawmy Chetti	P. Baloo Chetti	50,000	0	0	For an account of the family property; for a division and for the issue of an injunction.	
171	Sethuramanada Pandara Sannadi...	Haritheerthum Aiyar	590	0	0	For setting aside the decree in C. S. No, 8333 of 1893, on the file of the Madras Court of Small Causes and for the issue of an injunction.	
172	R. Veerasawmy Chetti and another..	T. R. Namasevoya Chetti and another.	3,200	15	0	For raw rice sold and delivered.	
173	M. Shunmuga Mudaliyar ...	P. Vijiappa Nayudu ...	2,810	0	0	For supply of ground nuts and for damages.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of claim.	Remarks.
174	N. Venkatasamy Nayudu ...	N. Varadarajulu Nayudu and another	6,050	0	0	For a declaration that the pro-note sued on in C. S. No. 241 of 1891 is fraudulent, null and void and the decree in the said suit is null and void, for cancellation of sale in execution of the said decree.	
175	P. Rajum Chetti ...	C. Sashiah and others ...	13,715	11	9	On settlements of accounts.	
176	J. Subramaniam Chetti and another.	Mrs. E. Faciolle and another ...	6,521	3	2	For dissolution of the partnership, for an account of the said partnership business.	
177	Hindu Mull and another ...	Rai Bahadur Collah Vencata Cunniah Chetti,	4,041	11	8	On a promissory note.	
178	P. Venkata Reddi ...	L. Venkata Subbayya and another...	12,057	5	5	On settlement of accounts.	
179	R. Veerasawmy Chetti and another.	R. Namasevoya Chetti and another..	2,695	1	3	For paddy sold and delivered.	
180	W. W. Munsie and others ...	S. Teagaroya Chetti ...	3,735	1	4	On a promissory note.	
181	B. Rungiah Chetti ...	D. Calder Esquire ..	3,122	8	0	On promissory notes.	
182	Hydan and another ...	Sydney Constance ...	2,693	12	0	On promissory notes.	
183	C. Sonachella Chetti and others ...	C. Ruthna Chetti and others ...	5,000	0	0	For division of the plaint immoveable property between plaintiffs and defendants.	
184 Pauper	M. Devarajulu Nayudu ...	M. Koorasulu Nayudu and others ...	3,600	0	0	For a declaration that the sale of the house and ground is null and void and inoperative and cancelled, for an account of all the estate and effects of W. Munusawmy Nayudu and that the plaintiff is solely entitled to the said estate.	
185 Pauper	R. Ramanjamma" ...	V. Narayanaswamy Pillai *alias* Munisamy Pillai and another.	4,535	0	0	For a declaration that the plaint properties are the joint acquisition of plaintiff and 1st defendant and as such the plaintiff is entitled to a half share in the said properties.	
186	G. W. P. Woodroffe and others ...	K. Baliah Chetti ...	6,747	15	2	Money due in respect of contracts.	
187	T. V. R. Soobbu Chetti and another.	G. Vardarajoolu Chetti and others	30,600	0	0	For a declaration that the sale by Oakes & Co. is valid and binding on defendants 1 to 10; that plaintiffs and 11th and 12th defendants are the purchasers and entitled to have the property conveyed to them by defendants 1 to 10 and for possession of same; that 11th and 12th defendants be decreed to join in the above conveyance; for rupees 25,600 and for rupees 5,000 damages against defendants 1 to 10 and for costs.	
188	A. Kondiah Chetti	V. Subramaniya Nainar and another.	4,049	14	0	For shortfall of indigo consigned to London.	
189	M. Ramakrishniah	C. Krishnasawmy Pillai	14,065	0	0	On promissory notes.	
190	W. W. Munsie and others ...	Pakeer Mohideen Sahib	3,106	3	3	For money advanced for shipment of skins.	
191	W. W. Munsie and others ..	P. Ragavaloo Nayudu	4,169	3	3	For money advanced for shipment of indigo.	
192	Syed Abdul Kareem Sahib ...	Kareem Oon Nissa Begam Sahiba...	5,025	0	0	On promissory note.	
193	C. Arulala Mudali	W. Cassim Sahib and others ...	5,485	6	6	For dissolution of partnership and for an account of profits and losses, &c., in the trade.	
194	P. Varudarajula Nayudu ...	P. Theperumal Nayudu and another.	14,305	0	0	For an account of the properties liable to partition, for a declaration that the plaintiff is entitled to one half share in the said properties and the 1st defendant to other half share thereof; for division of the said properties, for possession of their respective shares for sale of the said properties if necessary, that due provision be made for maintenance of 2nd defendant out of family property.	
195	P. Venkatesam Chetti and another.	C. T. Arumuga Pillai	6,619	15	5	On a mortgage.	
196	The Commercial and Land Mortgage Bank, Limited.	M. V. Velangooloo Chetti and 2 others.	2,598	14	0	On a promissory note.	
197	C. Ramanada Mudali	Soobkern Singh	5,000	0	0	For dissolution of partnership and for an account of the partnership business.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of claim.	Remarks.
198	Hajee Mahomed Hussain Saib ...	Sri Hari Hara Mardarajah Devo, Rajah of Kallikota and Atagada.	9,131	11	10	On a settlement of accounts and for goods sold and delivered.	
199	M. Venkataratnam Garu... ...	S. Narayanasamy Chetti and another.	6,552	4	1	On a mortgage.	
200	George Brown	F. Rowlandson Esquire	5,074	11	0	On a promissory note.	
201	T. Govinda Charri	T. Annamalai Pillai and 2 others ...	3,500	0	0	For damages for illegal arrest.	
202	Hajee Abu Mahomed Saib and another.	Khyroo Bee and another ...	4,512	14	11	On a settlement of accounts.	
203	Sadasak Kotary	Bommi Chetti Rungiah Chetti ...	13,674	3	0	For money borrowed on pledge of precious stones and jewels.	
204	C. Narasimmulu Nayudu ...	S. Devanayagam Mudaliyar and 2 others.	7,900	0	0	For delivery of jewels pledged.	
205	Choodamony Ammall	Balammall and 3 others	5,391	0	0	For a declaration and for division of the plaint properties.	
206	M. Zynoolabdeen Saib and another.	Coo. Khader Saib and another ...	7,925	15	7	On a promissory note.	
207	P. Ramawami Chetti	W. E. Dhanakoti Raju	4,366	6	6	On a promissary note.	
208	A. Condiah Chetti	Daivasigamony Nainar and another.	4,469	7	2	On a bill of exchange for shortfall of shipment of indigo.	
209	R. Balakrishnama Chetti ...	P. Venkatakrishnama Chetti and 2 others.	3,550	0	0	For a declaration for delivery of the plaint premises and for mesne profits.	
210	P. Gurunadha Chetti and another.	C. Venkatakristnama Chetti and 2 others.	4,373	5	4	On a promissory note.	
211	W. W. Munsie and 3 others ...	Madar Moidin Saib	5,069	0	8	For money advanced against tanned skins and hides.	
212	Rai Rajah Eshoor Doss Diawanth Bahadoor.	C. V. Pedda Seetharamiah and another.	6,000	0	0	For delivery of possession of the plaint premises and for mesne profits.	
213	C. Chinna Condiah Chetti ...	A. Soobba Nayudu ...	9,261	14	0	On a promissory note.	

214	P. Parthasarathi Chetti and another.	A. Soobraya Chetti and another ...	3,505	0	0	On two promissory notes.	
215	K. C. Ponnusawmi Chetti ...	Poonalal and another	3,003	8	8	For goods sold and delivered and for the issue of an injunction.	
216	G. G. Volkart and others	K. Baliah Chetti	4,800	6	6	Due in respect of two contracts in writing.	
217	C. Baday Miah Saib	C. Hajee Mahomed Ismail Sahib and others.	3,93,725	0	0	For an account of the family property, for a declaration and payment of plaintiff's share, for dissolution of the partnership, for the issue of an injunction and for an appointment of a Receiver.	
218	C. Sivasankara Mudaliyar ..	T. Rathnavalu Mudaly and another.	4,846	7	3	On two promissory notes.	
219	S. Narayana Chetti	R. Rookmany Ammal *alias* R. Andalammall and another.	5,320	14	9	On a promissory note.	
220	K. Muthu Chetti	T. Colanday Ammall and others ...	8,586	14	0	On two promissory notes.	
221	A. Venkatasubbammah	P. Sabapathy Chetti	3,500	0	0	On a mortgage.	
222	Abdul Kareem Sait and another ...	P. Tirumurti Chetti and another ...	4,667	9	0	For goods sold and delivered.	
223	Ramakrishniah	S. Trutwin	2,623	12	9	On a promissory note.	

B.—Matrimonial Suits.

1	U. N. Joyce	M. Joyce ... . F. D. Craizs, (Co.-Respondent)	2,000	0	0	For dissolution of marriage and for damages.	
2	E. B. M. Waller	C. St. John Waller	...	...	...	For a judicial separation and for custody of Petitioner's children.	
3	R. L. L. Lee	...	...	...	...	For dissolution of marriage.	
4	E. B. M. Waller	C. St. John Waller	...	...	...	For dissolution of marriage.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of claim.	Remarks.
		C.—Testamentary Suits.					
1	C. Perundevi Ammall	C. Rajaruthna Mudaliar ...	2,053	1	4	For a grant of Letters of Administration.	
2	Administrator General	G. Currie	2,700	0	0	Do.	
3	C. A. Chinnasawmi Pillai ...	A. Appavu	6,000	0	0	Do.	
4	M. Janakee Ammall	M. Rookmany Ammal	89,300	0	0	Do.	
5	N. Ethirajamma	N. Rungiah Nayudu	7,500	0	0	Do.	
6	Y. Rungiah	Y. Subba Lukshamma	1,500	0	0	For a grant of Probate.	
7	Sivanunthum Ammall	G. Marutha	500	0	0	Do.	
8	Abdul Kareem Sait	Hajee Esak Hajee Mahomed Sait ..	3,95,500	0	0	For a grant of Letters of Administration.	
9	B. Vencatakistnama Chetti ...	P. Kamalavallee Thoyaramah ...	13,000	0	0	Do.	
10	M. Rukmani Ammal otherwise called Rukh Darness.	A. Chokalingam Pillay	6,000	0	0	For a grant of Probate.	
11	Davay Ramachandur Ravidath ...	Bai Raiva	45,000	0	0	For a grant of Letters of Administration.	
12	C. Papathi Ammall	Thoyammah	2,000	0	0	Do.	
13	T. Chinnacunnoo Pillai	Athisayammall and another ...	1,911	0	0	For a grant of Probate.	
14	V. Perumall	Antoni Fernandez	350	0	0	Do.	
15	Porkodi Ammall	P. Visalatchee Ammall	900	0	0	Do.	
		D.—Suits received on remand.					
210 of '90	C. Teagaraja Mudali	Loganada Mudali and 2 others ...	2,600	0	0	For damages for removal of earth, &c.	
40 of '92	The Hindu National Bank Permanent Savings Branch, Limited.	M. Ghulam Dastaghir Saib and another.	1,027	4	4	On a mortgage.	
161 of '91	O. Condiah Chetti & others ...	V. Ragavachari and 13 others ...	...	...	...	For a declaration and for appointment of Dharmakarthas to the plaint Temple.	
168 of '91	M. Sivankannoo Ammall... ...	S. Moothoolinga Achari and 2 others.	217	7	1	For a declaration that the sale deed of the plaint house was executed without consideration and for the purpose of defrauding the plaintiff and other creditors.	
		E.—Suits restored.					
103	P. Candasawmy Mudaliyar ...	K. P. Thiruvengada Mudaliyar and 20 others.	5,000	0	0	For a declaration and for damages for being out-casted.	
97 of '91	M. Govinda Rao	W. G. Rowley and another ..	3,600	0	0	For damages for breach of contract and for a declaration.	
		F.—Suits transferred from the Court of Small Causes, Madras, for re-hearing.					
18935 of'92	Dhunna Lall Lala	P. Sundarum Iyer	1,200	0	0	On a promissory note.	
54 of '92	A. Sabapathi Chetti	T. Vencatasubbia	1,711	0	5	On a promissory note.	
3889 of' 93	V. T. Rungasami Mudali and another.	V. Thungavalu Mudali ...	1,111	0	0	For maintenance.	

Suits filed on the Original Side of the High Court in 1894.

A.—Ordinary Civil Suits.

No. of Suit.	Plaintiff.	Defendant.	Amount claimed.			Nature of Claim.	Remarks.
			Rs.	A.	P.		
1	C. Chakra Chetti	T. H. Puddeputt and another ...	4,288	0	0	On a promissory note.	
2	L. Narayanasamy Mudaliyar ...	Yousoof Sait	...	...	...	For delivery of possession of the house and for rent.	
3	G. W. P. Woodroffe and 2 others ...	Hajee Esack Hajee Mahomed Sait *alias* Abbas Sait.	21,629	5	5	For bales of twists sold and delivered.	
4	The Commercial and Land Mortgage Bank, Limited.	P. V. Ramasawmy Raju	17,404	3	0	On a promissory note.	
5	T. Seetharam Chetti and 2 others...	Meenatchi Soondra Nachiar and 2 others.	2,979	13	4	On an undertaking.	
6	A. Parthasarathy Chetti & another..	A. Chinna Kristnasawmy Chetti and 2 others.	34,000	0	0	For partition of the family property and for maintenance.	
7	R. Veerasamy Chetti and another ...	E. Natcheappa Mudaliyar and 6 others.	29,470	0	1	On agreements.	
8	C. Seshagiri Rao	C. Rama Rao and another ...	8,950	0	0	For an account of the properties for division for plaintiff's half share therein and for mesne profits.	
9	M. V. Moothoosawmy Aiyar ...	P. Dorasawmy Chetti and 7 others.	2,539	6	0	On a mortgage.	
10	A. Shunmugappah Chetti ...	A. Subba Nayudu	8,379	6	4	On a settlement of account.	
11	A. V. D. Best and 2 others ...	P. Subramier and another ...	5,000	0	0	Damages for breach of contract.	
12	V. Seetharamaiya	V. Lukshmama and another ...	4,790	0	0	For a declaration for delivery of the immoveable properties and for mesne profits.	
13	A. Condiah Chetti	C. Patchiappa Nainar	8,260	14	1	For short falls on shipment of indigo.	
14	C. Kothanayaki Ammah	C. Rungiah Nayudu	1,490	8	0	For maintenance at Rupees 15-0-0 per mensem and for delivery of Streedhanam jewels or for payment of their value.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
15	Amatool Kader Kadari Begum Sahiba.	Abdul Kader Savee and another ...	4,127	8	0	For a declaration and for setting aside decree in C. S. No. 309 of 1891 on the file of this Court.	
16	P. Alwar Chetti	T. Ramasawmy Chetti	6,455	0	0	On two promissory notes.	
17	N. Thoyammah *alias* Choodamah and another.	G. Streenivasulu Chetti and 5 others.	22,357	0	0	For an account and for administration of the estate.	
18	M. Ramakrishnia	T. V. Rama Rao	19,198	0	0	On 3 promissory notes.	
19	Ananthulal Lallah	George Vernon Burrows	2,600	0	0	On a promissory note.	
20	The Commercial and Land Mortgage Bank, Limited.	P. V. Ramasawmy Raju	8,666	4	9	On a mortgage instrument.	
21	The Commercial and Land Mortgage Bank, Limited.	M. Bhashkara Setupati	33,030	6	8	On seven several promissory notes.	
22	M. A. Visvanatha Chetti ...	E. M. Baber Esqr.	2,996	3	10	On a promissory note.	
23	V. Cooruthalwar Chetti	R. Vencata Subba Rao	4,060	0	0	On 2 promissory notes.	
24	The Nungumbaukum Sasvatha Dhana Rakshaka Nidhi, Limited.	P. Streeramulu Nayudu and 5 others.	4,689	4	11	On a mortgage instrument.	
25	The Pursewalkum Hindu Jananoo-koola Sasvatha Nidhi, Limited.	K. A. M. Ramanuja Yakangisawmy.	5,390	7	8	Do.	
26	The Pursewalkum Hindu Jananoo-koola Sasvatha Nidhi, 1st Branch, Limited.	V. Nyna Pillai *alias* Parasurama Pillai and 7 others.	2,967	1	11	Do.	
27	P. Rajum Chetti	V. Sawmy Chetti and 2 others ...	11,795	8	0	For goods sold and delivered.	
28	C. Raghava Rao Puntulu ...	M. S. Appu Chetti and another ...	11,000	0	0	On a mortgage instrument.	
29	T. Cuppusawmy Mudali	M. Ramakistnier	4,213	13	0	On a promissory note.	
30	Hazari Mull	Pattail Kushal Boyee Jaysing Boyee.	6,746	6	0	On a pledge of jewels.	
31	Akber Oon Nissa Begum Sahiba ...	Amatoollah Begum and 6 others ...	8,000	0	0	For an account and for the administration of the estate.	
32	Kunnathammall	K. Ramanuja Charriar	4,932	10	6	On a mortgage instrument.	
33	T. V. Lakshmana Rao	T. Appajee Rao and 2 others ...	3,000	0	0	For a declaration that the mortgage document is void for want of consideration and for cancellation of the same.	
34	P. M. A. Vellayan Chetti and 4 others.	M. Venkatachallam Chetti and 4 others.	14,123	5	9	On an equitable mortgage.	
35	Kurnidan Sowcar	C. Vencatachella Pillai	5,080	0	0	On a promissory note.	
36	S. Krishnasawmy Chetti ...	S. Periah and 4 others	2,804	9	4	In respect of short falls and on 2 promissory notes.	
37	Mahomed Ali Khan Bahadur ...	His Highness Rajah Bomma Rajah Bahadur Varu.	14,151	10	8	On an equitable mortgage.	
38	W. S. Theruvengadasawmy Mudaliyar.	S. Ragava Charriar	1,12,000	0	0	For dissolution of partnership and for an account.	
39	The Mercantile Bank of India, Limited.	Abdoolla Sait	2,906	4	0	Damages for breach of contracts.	
40 Pauper	P. Kumbalinga Bathudu	P. Chinna Veerammah and another.	3,000	0	0	For a declaration and for delivery of immoveable property.	
41 Pauper	C. Coomarasawmy Aucharry and another.	C. Moorthy Acharry and 5 others...	4,000	0	0	For a declaration and for partition of the family property.	
42	Koondhan Mull Lallah	T. G. P. Lawrenson	3,675	0	0	Due on a promissory note.	
43	Allanjee Hajee Abdul Rhyman Saib and 9 others.	M. M. Varadammall	2,804	13	9	Due on settlement of accounts.	
44	The Merchant's Company, Limited, in Liquidation.	G. Manicka Chetti and 4 others ..	2,958	1	8	For goods sold and delivered.	
45	C. Chinna Achiah Nayudu ...	T. M. Ayyacunnoo Chetti ...	2,676	8	0	On a promissory note.	
46	G. Kothandapany Nayudu ...	G. Krishnaswamy Nayudu and 3 others.	3,500	0	0	For division of the family property and for plaintiff's ¼ share therein.	
47	A. Ruthna Mudaliyar	P. C. Krishnasawmy Nayudu ...	2,525	0	0	On a mortgage.	
48	Murugasa Mudali	V. Guruvappa Chetti and 5 others ...	10,000	0	0	For a declaration and for ascertainment of plaintiff's share.	
49	Patrick Macfadyen and 4 others ...	Abdul Kareem Hajee Ismail Sait and 5 others.	10,009	8	0	Under Chapter 39 of Act 14 of 1882 on a promissory note.	
50	Yerran Chetti	Koneri Chetti and 4 others ...	4,000	0	0	For an account of the family property and for delivery of ⅛ share thereof to the plaintiff.	
51	N. Kanakasabapathy Mudali ...	N. Singara Mudali and 4 others ...	6,603	8	0	For ascertainment of plaintiff's share and for delivery of the same to him.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
52	H. B. Abdul Rasack Saib ...	Hajee Mahomed Yakoob Saib ...	50,000	0	0	Damages for publishing false and defamatory statements.	
53	C. Arulala Mudaliyar	W. Cassim Sahib and 2 others ...	5,485	6	6	For an account of the partnership business and for dissolution of the same.	
54	T. Venkiahbathudu and another ...	W. Dorasawmy Acharry	34,983	4	0	For sanction or framing a scheme for the proper management of the temple and for an account of the said properties.	
55	Paramanand Doss Anand Doss ...	Bommi Chetti Rungiah Chetti ...	22,366	10	0	Due on pledge of jewels.	
56	Syed Abdul Razack Saib ...	Kyroo Bee *alias* Batcha Begum Sahiba.	6,649	11	7	Due on a promissory note.	
57	Do. ...	Do. ...	2,603	4	7	Do.	
58	Pallanjee Carsetjee	The Commercial and Land Mortgage Bank, Limited.	41,000	0	0	For a declaration and for delivery of the bond in the plaint mentioned.	
59	Valikhan Sahib	Mackdoom Sheriff Sahib and another	5,012	0	0	For division of property and for an account.	
60	G. Pappammah	S. Ramasawmy Nayudu and another.	11,700	0	0	For an account of Estate in the plaint mentioned and for the appointment of Trustees.	
61	Doctor G. Oppert	H. Fortesene Harvey	3,249	1	4	Due on a promissory note.	
62	S. Rungiah Chetti	C. Thanigachella Mudali and 4 others.	No value.			For a declaration and for delivery of possession of immoveable property.	
63	P. Raghavulu Chetti and another ...	P. Rangasayi Nayudu and 5 others.	19,943	8	0	Due on a mortgage.	
64	K. Nadamuni Nayudu	G. Bukthavachalu Nayudu and another.	4,262	10	8	Due on a promisary note.	
65	G. Varadarajulu Chetti	N. P. Adimulam Chetti and another.	4,258	0	0	For delivery of immoveable property and for payment of mesne profits.	
66	R. G. Orr and another	M. Bhaskara Setupati	43,117	4	0	On a promissory note.	
67	G. Camalavallee Thoyarammal *alias* Rose Ammall.	G. Bukthavachala Nayudu and another.	6,760	0	0	For redemption of the jewels in the plaint mentioned and for delivery of the same to the plaintiff or for payment of their value.	
68	T. Ruthnavalu Mudaliyar ...	C. Durmalinga Mudaliyar ...	3,398	5	4	For money lent.	
69	Rungammall	C. Venkata Charry	No value.			For setting aside decree in Original Suit No. 319 of 1891 and for a declaration that the conveyance and Mortgage in the plaint mentioned were for no consideration.	
70	Ahmed Syed Saib and others ...	Mahomed Syed Saib and another ...	24,000	0	0	For a declaration of plaintiff's share in the properties in the plaint mentioned.	
71	Do.	Do.	28,000	0	0	Do.	
72	E. S. Trail Straith	D. Andrew and another	5,501	0	0	For work done.	
73	N. Ramalinga Pillai	Authilutchmi Ammall and others ..	4,602	0	0	Due on a promissary note.	
74	V. Gooroovappah Chetti	P. Ruthnavelu Chetti	6,592	2	0	Due on a mortgage.	
75	C. Subbiah Nayudu	P. Krishnasawmy Naicker and another.	3,155	0	0	Under Chapter 39 of Act 14 of 1882, due on a promisary note.	
76	C. Kanakasabapathy Mudali and another.	C. Sahadeva Mudali and another	14,000	0	0	For a declaration and for delivery of plaintiff's share and for the issue of an Injunction.	
77	The Commercial and Land Mortgage Bank, Limited.	T. R. Sawmy Appa Naicker ..	7,02,749	12	3	Due on a mortgage.	
78	N. Etherajammall	N. Rungiah Nayudu and another ...	10,000	0	0	For a declaration that the mortgage by the 1st Defendant in favour of the 2nd defendant is null and void, for an account of the properties in the plaint mentioned and for the issue of an Injunction.	
79	V. Ramasawmy Mudali ...	Dhanammall and another ...	11,648	10	6	For the appointment of a Receiver, for an account of the properties in the plaint mentioned and for delivery of the same to the plaintiff.	
80	M. C. Raghava Charry	P. Ranganatha Mudali and 2 others.	6,109	13	0	Due on a pramissory note.	
81	Willie Grant	William Morgan	3,497	3	9	For the amount paid by the plaintiff in respect of the mortgage in the plaint mentioned.	
82	A. Mutuswamy Mudali ..	P. Appasawmy Chetti	2,733	6	5	For the amount advanced by the plaintifi and for a declaration that the said sum is a charge on the properties in the plaint mentioned.	
83	P. Manikka Naicker	P. Narayana Naicker and 7 others...	22,023	0	0	For an account and for division of the properties in the plaint mentioned and for payment of plaintiff's share.	
84	P. Kumuthavallee Ammall ...	P. Thondavaraya Mudali *alias* Kumarasawmy Mudali and 2 others	4,112	10	0	Due on a mortgage.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
85	P. Kumuthavallee Ammall ...	P. Thondavaraya Mudali *alias* Kumarasawmy Mudali.	8,472	5	11	Due on a mortgage.	
86	Ghulam Dustagheer Saib ...	Kairulla Khan Saib and 3 others ..	4,777	0	0	For a declaration that the Will in the plaint mentioned is a forgery and that the plaintiff, the 2nd and 3rd defendants are the only heirs of Ammutul, Fathu-Fathoonnissa Begum in the plaint mentioned; and for division of the properties among the plaintiff, the 2nd and 3rd defendants according to Mahomedan Law.	
87	C. Narrainasawmy Pillai ..	C. Meenatchasundrammall and 2 others.	12,000	0	0	For an account of the estate of C. P. Moothia Pillai in the plaint mentioned, for administration of the said estate and for setting apart 2nd and 3rd defendants' share therein; for the appointment of guardian of the 2nd and 3rd defendants.	
88	The Administrator General of Madras.	The Bank of Madras	20,000	0	0	For delivery of the title deeds in the plaint mentioned or for payment of Rupees 20,000.	
89	Do. ...	The Commercial Land and Mortgage Bank, Limited.	18,000	0	0	For delivery of the title deeds in the plaint mentioned or for payment of Rupees 18,000.	
90	A. Tirugnanasambada Mudali ...	A. Namasivaya Mudali and another.	285	0	0	For delivery of possession of the house in the plaint mentioned and for payment of mesne profits of Rupees 285.	
91	Alamelamangathayarammah ...	P. Suryanarrain Rao and 2 others.	550	0	0	For a declaration that the jewels in the plaint mentioned are streedhanam property of the plaintiff and for delivery of the said jewels to the plaintiff and for payment of Rupees 550.	
92	Paramaun Doss Anun Doss and another.	G. Stree Venkatasen Chetti and 2 others.	33,175	0	0	Due on a mortgage.	
93	Moolchund	D. Subkurn Sing	3,015	0	0	Due on a promissory note.	
94	K. M. Raman Chetti	P. T. Venkataroyulu Chetti and another.	6,780	0	0	On a promissory note and on settlement of account.	
95	R. Veerasawmy Chetti auother ...	D. Pedduthumbi Maistry and another.	4,370	15	8	For money due on agreements, mortgage instruments and account: for the execution of the deed of transfer of the salt manufactured by 1st defendant; for damages and for the issue of an Injunction.	
96	A. Chengiah Chetti and another ...	Rai Raja Eswara Doss Diawant Bahadoor.	2,984	6	0	For brokerage on the sales of 4 per cent. Government promissory notes.	
97	A. Condiah Chetti	C. Patcheappa Nainar and another.	3,793	5	0	Due in respect of the short falls on the shipment of indigo as in the plaint mentioned with further interest.	
98	R. Veerasawmy Chetti and another.	Terumalai Chetti	7,681	4	2	For a direction to account for or re-place the bags of rice in the plaint mentioned, the moneys paid by the persons in column 1 of the schedule to plaint mentioned and Rupees 1,626-11-3 or for payment of Rupees 7,681-4-2.	
99	R. Aroonachela Mudali ...	A. P. Kristnayer	3,100	0	0	For a declaration that the sale deed executed by Rungammal in favor of the defendant is null and void as against plaintiff, for delivery of possession by the defendant to the plaintiff of premises No. 2 in the plaint mentioned, together with the articles of worship and other appurtenances.	
100	P. Soobramaneya Aiyar	M. Vencatasawmy Nayudu ...	4,103	0	0	Due on settlement of account with further interest.	
101	A. Condiah Chetti	P. Muthusawmy Nainar and another.	7,603	10	0	Due in respect of the short falls on the shipment of indigo as in the plaint mentioned, with further interest.	
102	Do.	M. Ramakrishnia and another ...	3,767	3	0	Due in respect of the short falls on the shipment of dry leaf indigo as in the plaint mentioned, with further interest.	
103	V. D. V. Gopaul Doss	G. D. Girder Doss and 4 others ...	1,19,531	5	6	For accout of the family property; for a declaration that the Pharicut exected by plaintiff in favor of 1st defendant is null and vaid and for setting aside the same as such; for delivery of possession by the 1st defendant to the plaihtiff one fourth of the property in his possession; for an account of the accretions of the property in schedule D to the plaint mentioned; for a declaration that plaintiff is entitled equally with the defendants to take part in the management of the same and of the appropriation of the share of the income thereof and for the issue of an Injunction.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
104	W. Bukkiah Nayudu	C. Moonisawmy Nayudu and 9 others.	2,53,160	0	0	For a declaration that plaintiff is the nearest reversionary heir of W. Parthasarady Nayudu deceased and as such entitled to the whole of the estate in the plaint mentioned; for an account of the said estate and for ascertainment of the nett residue; for a declaration that the Last will and Testament of W. Rangammah deceased is null and void and for setting aside the same; for a declaration that the alienations in favor of the defendants (2 to 10) made by the said Rangammah is null and void and for delivery of the said properties to the plaintiff; for a declaration that the deed of Trust dated 23rd January 1891 in favor of 1st defendant is null and void; for feeding 12 Brahmins as directed by the will of Rama Doss Nayudu (deceased) for a declaration that the properties set forth in paras. 39, 40 and 41 belong to the said W. Parthasarady Nayudu (deceased) and for delivery of the same to the plaintiff; for the issue of an Injunction and for the appointment of a Receiver.	
105	The Bank of Madras	Abdool Kareem Hajee Ismail Saib and 6 others.	9,105	0	1	On a promissory note.	
106	A. Condiah Chetti	M. Ramanjam Chetti	3,386	13	6	Due in respect of the short falls on the shipment of Indigo as in the plaint mentioned with further interest.	
107	A. Condiah Chetti	T. M. Manika Mudili	3,867	0	0	On a promissory note.	
108	Thungamma *alias* Latshmn Ammal.	Gujjy Ammal and 4 others ...	5,820	0	0	For an account of the proprety, estate and effects of the undivided Hindu family in the hands of M. Venkatachar (deceased) in the plaint mentioned and which on his death came to the possession of the 1st defendant and for their appropriation thereof for payment of	

						Rupees 5,000 due under the Bond in the plaint mentioned with further interest and for Rupees 820; for arrears of maintenance, for a declaration that a maintenance of Rupees 20 a month be a charge on the said properties and for payment of the same to her.	
109	Muthra Doss	Hussain Mahamed Cassim Sahib and 3 others.	2,925	12	9	Due in respect of the dealings and transactions as in the plaint mentioned with further interest.	
110	G. Kristnasawmy Chetti	M. Kristnasawmy Nayudu ...	4,021	10	8	On a promissory note with further interest; for a declaration that the properties in the plaint mentioned are a charge on the amount of the decree to be passed herein in default for sale of the said properties and the proceeds applied towards the amount of the decree.	
111	P. R. A. R. Pareacaruppen Chetti ...	M. Kristnasawmy Nayudu ...	5,038	2	0	On an equitable mortgage.	
112	M. T. Manickasawmy Naicker ...	Natchathra Ammall and 3 others ...	26,119	0	0	For an account of the family property in the plaint mentioned; for a division of the said property; for payment of ½ share to the plaintiff; for the issue of an Injunction and for the appointment of a Receiver.	
113	M. Ramakrishniah and another ...	Natcheapa Mudali and 3 others ...	4,977	5	4	On a promissory note.	
114	K. Nathamuni Nayudu	G. Bakthavathsulu Nayudu ...	15,735	2	11	Due on two promissory notes; for a declaration that the sum of rupees 20,000 now in the hands of Messrs. Volkart & Brothers belonging to the defendant is subject to the lien that is created thereon in favor of plaintiff subject to any claims the said Messrs. Volkart & Brothers may have thereon, and for the issue of an Injunction.	
115	T. Ramanuja Charry	P. A. Sreeranga Charry... ...	4,634	0	0	On a promissory note and for money lent.	
116	G. Veeriah Nayudu and another ...	P. Cumaraguru Mudali and another.	4,455	0	0	On a mortgage deed and for the appointment of a Receiver and for the issue of an Injunction.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
117	S. Cunnammall	S. Cooppiah Puntulu and another...	7,800	0	0	For money lent and for payment of maintenance at Rupees 30 a month for a declaration that the said maintenance is a charge on the immoveable properties in the plaint mentioned and for a direction to the defendants to lodge sufficient sum in this Court so as to yield interest equivalent to the maintenance awarded, and to invest the same in Government securities and for payment of Rupees 1,080 for arrears of maintenance for past 3 years.	
118	The Madras Hindu Mutual Benefit Permanent Fund (in Liquidation.)	T. Raghava Chetti and another ...	4,645	4	0	On a mortgage deed.	
119	Rai Bahadur C. V. Cunniah Chetti...	K. Singaravelu Mudali and another.	2,602	3	7	On a promissory note.	
120	A. Condiah Chetti	V. Narasimhulu Chetti	4,765	0	0	Due in respect of short falls on the shipments of several bales of blue Salem pores in the plaint mentioned.	
121	Bagavan Doss Rai Bahadur ...	C. Ramanatha Mudali	12,813	3	2	Due on three Indentures of mortgage.	
122	P. Rungiah Nayudu	Maharaj Raja Bomma Raj Bahadur Deva Maharajulungaru.	21,969	12	0	Due on a promissory note.	
123	Subroya Saluth...	B. A. David Pillai and another ...	2,664	0	0	Do.	
124	Thomas Ernest Deschamps ..	Louis Cornet	7,666	5	4	For interest due on Rupees 50,000 and further interest; for delivery and assignment to the plaintiff of his share and interest in his deceased father's estate inclusive of 156 fully paid up shares in the Savanna Spinning Mills at Pondicherry and for the issue of an Injunction.	
125	George William Plukenett Woodroffe and 2 others.	Hajee Esack Hajee Mahomed Sait *alias* Abbas Sait and 7 others.	8,702	1	5	Due in respect of the transactions as in the plaint mentioned.	
126	Do. ...	Do. ...	7,566	13	10	For deficiency arising from re-sales of mule twist as in the plaint mentioned and for	

127	R. N. S. Cooppoosawmy Nayudu ...	W. E. Smith and 3 others ...	21,934	13	4	costs incurred in Civil Suit No. 186 of 1893. Due for work done and materials supplied and for damages for breach of contract as in the plaint mentioned.	
128	Syed Abdulla Sahib and 2 others ...	Kyru Bi *alias* Badsha Begum Sahiba and 13 others.	30,000	0	0	For a declaration that the decree in Civil Suit No. 202 of 1893 is not binding on the Testator's estate or upon the plaintiffs; that the Will of Meer Jaffar Ali Saib, deceased, is invalid; and for cancellation of the Probate granted to the 1st and 2nd defendants; for an account of the said estate and for ascertainment of the shares of the plaintiffs and of the defendants 1 to 12 therein; for the appointment of a Receiver; for stay of execution of the said decree and for the issue of an Injunction.	
129	Patrick Macfadyen and 4 others ...	Hussan Hussain Rowther and 4 others.	14,761	4	3	Due in respect of the advances, shipping insurance and other charges regarding the consignment of skins as in the plaint mentioned.	
130	C. Andalammah	M. Alawandariaya	2,121	0	0	For a declaration that the jewels in Schedule A to the plaint mentioned were given to the plaintiff as security for the debt due by the defendant to the plaintiff; for Rupees 2,121 being the amount deposited by the plaintiff with the defendant; for delivery of possession of the moveables in Schedule B to the plaint mentioned; or for payment of their value; for sale of the said jewels and the proceeds applied towards the decree amount and for the issue of an Injunction.	
131	Dhana Bhoyee	Chouth Mull Lallah	4,807	6	3	For the amount deposited by the plaintiff with the defendant and for delivery of possession of the title deeds, &c., in the plaint mentioned.	
132	S. Venkataraghavalu Chetti ...	K. Lutchmana Chetti	6,000	0	0	For the dissolution of the partnership business, for a direction to the defendant to furnish accounts of the said business; for payment of Rupees 6,000 with interest thereon, and for return of the Pro-note for Rupees 2,000 executed by plaintiff in favor of the defendant.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed Rs.	A.	P.	Nature of Claim.	Remarks.
133	The Pursewauknm Hindu Jananukula Sasvatha Nidhi, 1st Branch, Limited.	G. Rajagopaul Chetti and 3 others...	2,662	8	3	Due on a mortgage.	
134	C. Chockalinga Chetti and another.	I. G. Kernan, Esquire and 3 others.	...	...	...	For a declaration that the mortgage, dated 23rd December 1881, is not binding on the plaintiffs and that plaintiffs' ¾ share in the property in the plaint mentioned is not liable for the amount due under the said mortgage; for the issue of an Injunction.	
135	John Hewens Walton	Robert Stuart Sheppard and another.	10,000	0	0	For damages for infringing the plaintiff's copy-right, for the issue of an Injunction, for an account of the profits derived by the defendants since the said infringement and for delivery to the Court of the copies of the book that have been printed.	
136	T. Subramaniam Chetti	M. Seethammah	11,020	6	10	Due on a mortgage and for a declaration that the plaint property is charged with and liable to be sold for the debt due thereunder.	
137	Paramanun Doss Annu Doss ..	Sheik Mahomed Alli Saib & 3 others	4,856	4	0	For money lent.	
138	S. Ramasawmy Chetti	M. C. Appoo Chetti	3,368	13	0	Due on a mortgage.	
139	Ghulam Mahomed Saib	C. Cawder Saib...	2,650	0	0	Due on a promissory note.	
140	A. Soobraya Chetti	P. Mooneammall and 3 others ...	4,000	0	0	For a declaration that the deed of gift, dated 3rd July 1893, executed by 1st defendant in favor of 2nd defendant is void and that the deed, dated 9th May 1890, is a valid deed in favor of Sree Kundasami of Madras; for payment of Rupees 4—8—0 a month from September 1890 till the plaintiff is put in possession of the property; for the removal of 1st and 4th defendants from the Trusteeship if necessary, and for delivery of possession to plaintiff of the trust property.	
141	Paramanun Doss Annu Doss ...	Shaik Mahomed Ally Saib and 3 others.	4,500	0	0	For a direction to register the document in the Madras Registrar's Office if it be duly presented for registration within 30 days after the passing of the decree.	
142	Soopaloo Ammal	Krishnasawmy Aiyar and another...	18,812	2	0	Due on a mortgage and for an account of what is due to the 2nd defendant on his mortgage in the plaint mentioned.	
143	C. Arungasa Chetti	N. Ponranga Pillai and 2 others ...	2,900	0	0	For execution and registration of a sale deed of the house in the plaint mentioned after receiving from the plaintiff Rupees 2,900 less Rupees 265 with interest thereon till the date of execution of the sele deed and for delivery of possession by the defendants to the plaintiff of the said house.	
144	M. Cootti Chetti.	K. Nyna Chetti	5,789	9	8	Due on settlement of accounts.	
145	N. Vedachela Mudali and 2 others.	Kanakavallee Thoyarammal ...	5,000	0	0	For a declaration that plaintiffs are entitled to the possession of the house and ground in the plaint mentioned; for delivery of possession by the defendant to the plaintiffs of the said house; for damages for loss of rent at Rupees 40 from 3rd June 1892 to date of possession.	
146	The Triplicane Hindu Sreenithi Society, 2nd Branch Limited under Liquidation.	T. Saravana Mudali and another ...	2,794	7	5	Due on the pledge of 5 Policies of Assurances on the life of the 1st defendant in the Oriental Government Security Life Assurance and Company (Limited) of Bombay and the jewels in the plaint mentioned.	
147	C. Seshagiri Rao and 2 others ...	C. Rama Rao and another ...	8,604	0	0	For an account of the moveable and immoveable properties and cash in the possession of the defendants; for ascertainment of plaintiffs' half share therein and for delivery of possession of same, and for payment of interest on the sums collected by the defendants and of a moiety of the past mesne profits of the lands in Schedule B to the plaint mentioned with interest thereon and of the subsequent mesne profits at Rupees 100 per annum from date of plaint to date of possession of the said lands.	

No. of Suit.	Plaintiffs.	Defendants.	Amount claimed. Rs.	A.	P.	Claim.	Remarks.
148 Summary	Sah Man Mull	Sri Mahant Baghavan Dossjee ...	20,750	0	0	On a promissory note.	
149	K. Narrainasawmy Nayudu ...	V. Ramasamy Mudali and 2 others.	4,000	0	0	For cancellation of the order of the Honorable Mr. Justice Best, dated 31st July 1894, made in Civil Suit No. 68 of 1890; for a declaration that the decree in the said suit is void and that the 1st defendant is not entitled to a *pro-rata* distribution in Rupees 4,000 now in Court to the credit of Civil Suit No. 68 of 1890 and for the issue of an Injunction.	
150	Patrick Macfadyen and 4 others ...	Hajee Esak Hajee Mahomed otherwise called Abba Sait.	10,009	8	0	Due on a promissory note.	
151	A. Soobroya Chetti and 2 others ...	A. Gurunadha Chetti	80,000	0	0	For an order under section 523 of the Civil Procedure Code referring the matter in the Agreement A filed herein to arbitration and decision of Rai Bahadur Ramasawmy Chettiyar and for a decree in terms of the award of the said Arbitrator.	
152	Hajee Ismail Sait	James William Eales and another ..	48,177	1	4	For damages for breach of contract.	
153 Pauper	S. Narainsawmy Chetti	S. Govindu Chetti and 3 others ...	11,495	0	0	For a declaration that plaintiff and 1st defendant are members of an undivided Hindu family and entitled to their respective shares in the family property; for an account of the said property; for ascertainment of plaintiff's share therein and for payment of the same to him; for payment by the 4th defendant to the plaintiff of his share in the future profits of the Firm of Messrs. Leese and Company until its dissolution and to recognise the plaintiff as the partner in the said firm; for the issue of an Injunction for setting apart a sum out of the family property sufficient for the maintenance of the 3rd defendant; for payment by the 4th defendant to the plaintiff and 1st defendant out of the funds of Leese and Company monthly of a sum for their maintenance till the disposal of this suit.	
154	Sah Man Mull	Goverdon Doss Brijabacon Doss ..	4,110	0	0	Due on an equitable mortgage.	
155	M. C. Mahomed Mea Rowther and another.	Appa Pillai Mahamed Hussan Sahib	9,157	14	1	For dissolution of the partnership in the plaint mentioned; for an account of the said partnership trade and for payment of Rupees 9,157-14-1 with interest thereon.	
156	Rai Rajah Eshoor Doss Diawanth Bahadoor.	L. Thungavaloo Chetti and 2 others	3,627	0	0	Due on a mortgage.	
157	Goverthana Doss	C. Kanagasabapathy Pillai	4,490	0	0	Due on a promissory note.	
158	Do.	P. Y. Chenchiah Chetti	3,150	0	0	Do.	
159	Sah Man Mull	T. Varada Rao Esqr., c. s. ..	3,217	8	0	Do.	
160	The Agra Bank, Limited. ...	Richard Woolley	1,64,073	0	7	Due on two Bills of Exchange.	
161	T. V. Mukhyaprana Rao and 2 others	B. Narasinga Rao and 6 others ...	50,000	0	0	Claim for a declaration that the last Will and Testament of T.V. Sundara Rao, deceased, is void and that all the properties and debts mentioned in the said Will were joint family property of the plaintiffs and 3rd defendant; for delivery of possession by the defendants 1 to 4 to the 1st plaintiff of all the properties in their possession; for an account by the 1st and 2nd defendants of the said estate and for payments to the 1st plaintiff of the sums found due to him.	
162	P. Vencatasawmy Nayudu ...	N. Varadarajulu Nayudu... ...	2,700	0	0	Claim for a declaration that plaintiff is entitled to a share of 5 annas in the Rupee in the hay contract as in the plaint mentioned and for payment to the plaintiff of Rupees 2,700 for his share in the said contract and for the issue of an Injunction.	
163	George Walker and 4 others ...	K. Madar Saib and another ...	41,919	7	0	For money advanced.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
			£.	s.	d.		
164	Samuel Roberts	R. M, Savege and another ...	191 or its equivalent in Rupees.	18	5	On a Bill of Exchange.	
165	M. Arunachella Acharry and another.	M. Muni Ammall and 4 others ...	3,055	0	0	For a declaration that the family of the plaintiffs and the defendants 3 to 5 and the late Ramalinga Acharry in the plaint mentioned were members of an undivided Hindu family at the time of the latter's death, that the Will of the said Ramalinga Acharry is inoperative and not binding on the plaintiffs and the defendants 3 to 5; for an account of the family property; for ascertainment of the shares of the plaintiffs and defendants 3 to 5 and for payment of the same to them; for sale of the family property if necessary; for maintenance of 1st defendant, for payment by the 1st and 2nd defendants of Rupees 500 with interest thereon, for delivery of possession of the jewels in the plaint mentioned or for payment of their value Rupees 135 and for the issue of an Injunction.	
166	C. T. Ruthnavalu Mudali ...	A. Moonoosawmy Sah and another..	20,000	0	0	For an account of the partnership transaction in the plaint mentioned and for plaintiff's share in the profits of the said transaction.	
167	C. Mahadeva Mudali	Rai Bahadur C. V. Cunniah Chetty.	5,415	0	0	On a promissory note.	
168	K. Nyna Chetti	M. Cootty Chetti	7,000	0	0	For loss and damages sustained by the plaintiff on account of the breach of agreement in the plaint mentioned.	
169	M. Murugappa Gramany ...	Maharaja Mirza Sir Pasupati Ananda Gajapathi Razmain Sultan Bahadur, G. C. I. E.	3,997	10	8	For a declaration—the defendant's act in refusing to allow the plaintiff to have access to the leased premises in the plaint mentioned is illegal and unjustifiable; for possession by the plaintiff of the said premises for the unexpired portion of the lease and for payment of Rupees 3,997-10-8 for loss sustained by the plaintiff.	
170	So. Swarnammal	C. Yaloomalay Chetti	2,824	10	9	Due on a mortgage.	
171	Do ...	Do. ...	2,679	0	0	Due on a promissory note.	
172	Aisha Bee Bee	Ameer Bee and 8 others	2,880	0	0	For setting aside the sales of the properties in the plaint mentioned and for a declaration of the same as void so far as the rights and interests of the plaintiffs and 4th and 5th defendants are concerned, for realization of the Estate of Oomer Khan Saib, deceased, and for distribution of the same amongst the plaintiff and 4th and 5th defendants according to their respective shares under the Mahomedan Law and for the issue of an Injunction.	
173	G. Vythianatha Aiyar	P. Venkatasubbiah	3,222	0	11	Due on a promissory note.	
174	Ebrahim Sait	P. Appasamy Pillai	3,090	14	0	For money advanced.	
175	D. Munjalay Sahib	K. Mathar Sahib	5,960	7	8	For goods sold and delivered.	
176	B. Narasinga Rao	A. Bagavanta Rao	3,146	10	9	Due on a mortgage.	
177	S. Narayanammall	V. Moothoosawmy Mudali ...	5,600	0	0	For a declaration that the covenant to pay interest in the mortgage instrument of 16th September 1893 has become merged in the covenant to pay rent in the rental agreements executed in favor of the defendant and that as per the stipulation in the mortgage deed the time for exercising the power of sale has not arrived in that no notice was given to the plaintiff as required by law and that no interest amounting to Rupees 500 is in arrear and unpaid for 3 months after becoming due except owing to defendant's misconduct, and for the issue of an Injunction.	
178	M. C. Ragava Charry	L. Mooniammall *alias* Bavaniammall.	3,784	9	4	Due on two instruments of mortgage.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
179	The Pursavakam Hindu Jananoo-kocla Sasvatha Nidhi, 1st Branch Limited.	M. Pungavanam Ammall and 5 others.	2,655	13	10	Due on two instruments of mortgage.	
180	Balchund Kaniram	K. Narayanayer...	3,175	13	0	On a promissory note.	
181	M. C. T. Chithambara Chetti ..	T. V. Gurusawmy Chetti and 2 others.	3,768	4	0	Do.	
182	Hajee Esack Hajee Mahomed otherwise called Abba Sait and 3 others.	P. Macfadyen and 4 others ...	18,453	9	5	For an account of the shares purchased by the defendants and held by them on behalf of the plaintiffs and of the dividends collected by the defendants in respect thereof; for payment to the plaintiffs of such sums as found due on taking the account with further interest thereon.	
183	Rai Rajah Eshoor Doss Diawantk Bahadoor.	R. Venkata Subba Rao and another.	3,319	15	6	On a Bond.	
184	The Madras Electric Tramways Company, Limited.	M. A. Singara Charry	2,621	10	8	On 200 shares allotted to the defendant as in the plaint mentioned.	
185	C. Seethiah Chetti and another ...	S. Mahomed Hussain Sahib and another.	12,923	15	4	On settlement of account.	
186 Pauper	G. Tiruvengada Chetti	J. G. Kernan, Esquire, and 4 others.	3,500	0	0	For a declaration that plaintiff and 3rd and 4th defendants are the grandsons of G. Veerasamy Chetti, deceased, in the plaint mentioned and as such are entitled to a share in the properties in Schedule A to the plaint mentioned; for setting aside the deed of mortgage executed by the 2nd defendant in favor of 5th defendant and for a declaration that the said deed is null and void against plaintiff and 3rd and 4th defendants, and that the decree in C. S. No. 11 of 1890 on the file of this Court in favor of 5th defendant against 2nd defendant is not binding on the plaintiff and 3rd and 4th defendants and for the issue of an Injunction.	
187 Pauper.	Rookoomany Ammall ...	Parthasarathy Mudali	9,000	0	0	For Rupees 4,000 being value of the sridhanam jewels sold and appropriated by the defendant; for a declaration that plaintiff is entitled to maintenance at Rupees 15 a month and that the same be a charge on the plaint property worth Rupees 5,000.	
188 Pauper	S. Ammayee Ammall ...	K. Abboyee Chetti and another ...	3,030	0	0	For delivery of possession by the defendants to the plaintiff of the properties in Schedule A to the plaint mentioned.	
189	K. Varadaramanuja Aiyangar and another.	O. Sreenivassa Raghava Charry ...	3,100	0	0	For a declaration of plaintiffs' right to the house and ground in the plaint mentioned; for ejectment of the defendant from the said house and for possession of the same by the plaintiffs, for the issue of an injunction; for payment of mesne profits at Rupees 25 per mensem for five months from June 1894 and further mesne profits from date of plaint to date of possession.	
190	E. Phillip Oakshott and 2 others ...	P. Chockalingam Mudali	1,429	11	3	For delivery of possession of the Connemara Hotel and premises in the plaint mentioned, for Rupees 1,429-11-3 for arrears of rent due up to 30th September 1894, for damages for use and occupation of the said premises from 1st October 1894 to the day of recovering possession.	
191	A. Condiah Chetti ..	G. Sreevenkatasem Chetti and 2 others.	12,309	4	0	On an equitable mortgage.	
192	M. Ramasamy Chetti ...	M. Venkatasawmy Nayudu ...	3,983	2	8	On a mortgage.	
193	The Administrator General of Madras	P. Balasoobramaniem Mudali and another.	20,000	0	0	For an account of the estate of the Testator P. V. Krishnasamy Mudali, deceased, come to the hands of the defendants and of their application thereof, for delivery of possession of the said properties to the plaintiff and for the issue of an Injunction.	
194	P. Theruvengada Pillai	M. Narasinga Rao Nayudu ..	6,770	2	0	For Rupees 5,275 being the value of the Government promissory notes deposited by M. Ramasawmy Nayudu, deceased, in the General Post Office in the plaint mentioned and that the same be a charge on the said Government promissory notes and on a promissory note.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
195	B. V. Ramanjulu	The Carnatic Mills Co,, Limited, by its Directors, &c.	2,583	0	0	For a direction to the defendants to restore plaintiff to his post in the plaint mentioned; for payment at the rates in the plaint mentioned from 1st October 1894 to the date when defendants take him back into their service and for Rupees 2,583 damages for wrongful dismissal of the plaintiff.	
196	C. Kanagasabapathy Pillai ...	C. Vengoo Pillai and another ..	51,500	0	0	For a declaration that item No. 2 in Schedule to the plaint mentioned was purchased by 1st defendant *benami* in the name of 2nd defendant out of the family property of the plaintiff and 1st defendant, that plaintiff and 1st defendant are entitled to all the joint and other family properties in equal shares; for partition of the family properties; for possession by plaintiff of his share of such properties, for the issue of an Injunction and for the appointment of a Receiver.	
197	R. Sadayandy Chetti	P. N. Kylasanada Mudali and another.	7,704	10	0	For a direction to the defendants to transfer to the plaintiff the decree in C. S. No. 294 of 1887 on the file of this Court by a proper conveyance and to render a proper account of the receipts from the market in the plaint mentioned, while it was in their management and of the expenditure thereof and for payment of the amount found due by them on rendering such accounts.	
198	D. Venkatasubramanian Chetti and 2 others.	N. Veeranah and another ...	3,743	0	0	On settlements of accounts.	
199	Sriman Madhava Sidhanta Onnabinni Nidhi, Limited.	P. Seethapathy Nayudu	7,135	12	4	On an equitable mortgage.	
200	K. Adiseshiah	U. Kamakchi Ammah and 2 others.	10,330	0	0	For possession by the plaintiff of a third share in the properties in Schedule A to the plaint mentioned; for Rupees 276-10-8 for plaintiff's share of mesne profits; for further mesne profits from date of plaint to date of possession and for a declaration that defendants 2 and 3 are entitled to the other 2 shares.	
201	T. Narasimha Aiyar and another ...	T. Seethammall	6,643	0	0	For a declaration that the properties in the control and management of Veerasawmy Aiyar, deceased, and now in possession of the defendant herein are the undivided family properties to which the plaintiffs alone are entitled, that the deceased Veerasawmy Aiyar had no right to make a Will in respect of any portion of these properties; that the 1st plaintiff is entitled to Rupees 800 left to him under the said Will if this Court is of opinion that the said properties were the self-acquired properties of the deceased and that the Letters of Administration obtained by the defendant is of no effect and for the issue of an Injunction.	
202	Saiyid Mir Saib	Mahomed Hamid Khan Bahadur ...	3,040	10	0	For balance of brokerage.	
203	The Administrator General of Madras.	Sharemull and another	11,511	9	0	On two promissory notes.	
204	F. V. Cranston	V. Rungiah Chetti and 4 others ..	4,050	0	0	For a declaration that the sale of the premises in the plaint mentioned in execution of the decree in C. S. No. 317 of 1893 on the file of the Madras City Civil Court is illegal and invalid and for cancellation of the same; for refund of the purchase money Rupees 4,050 by such of the defendants as are found liable with interest at 12 per cent. per annum from date of payment by the plaintiff till date of refund, and for the issue of an Injunction.	
205	Jamar Boy and another	B. Rungiah Chetti	17,312	13	0	On settlement of acccount and subsequent dealings and for a declaration that the jewels and precious stones, &c., in the plaint mentioned, are charged with the amount of plaintiff's claim and for sale of the same to satisfy the decree herein.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
206	Motheram	P. V. Singaram Pillai	5,741	14	0	On several promissory notes.	
207	Razoo Bhoy	Raja Eswara Doss and 2 others ...	6,180	0	0	For delivery of possession by the 1st defendant to the plaintiff of the jewels in the plaint mentioned, or their value; for production by the 1st defendant of the same in Court and for their detention till the disposal of this suit and for the issue of an Injunction.	
208	The Madras Electric Tramways Company, Limited.	S. Sawmy Aiyangar, A. G. ...	2,716	10	8	On 200 shares allotted to the defendant as in the plaint mentioned with further interest.	
209	C. Annadurai Aiyar	T. R. Ramanatha Aiyar	16,000	0	0	For dissolution and winding up of the partnership in the plaint mentioned, for an account of the said partnership, for realization of the assets and for payment by each party into Court of any balance due from him upon such account; for payment and discharge of the debts and liabilities of the said partnership; for division between plaintiff and defendant of any balance of assets according to the terms of the agreement or for contribution by plaintiff and defendant to discharge the said debts and liabilities.	
210	V. Baliah Chetti	K. Kodi Ammall	3,428	10	7	On a mortgage.	
211	Sriman Madhava Sidhanta Onna Chinni Nidhi, Limited.	Mir Shujat Alli Khan Saib ...	3,184	6	7	On a promissory note.	
212	A. Govindasawmy Chetti ..	G. Varadarajulu Chetti and 4 others.	75,250	0	0	For a declaration that the sale-deed executed by the plaintiff, the 2nd, 3rd, 4th and 5th defendants and A. Narasimmulusawmy Chetti in the plaint mentioned and dated the 22nd March 1893 was only a mortgage by conditional sale; that the 1st defendant be directed to execute and register in favor of the plaintiff, the 2nd, 3rd, 4th and 5th defendants an agreement pursuant to the arrangement made between them; for sale of the properties in the plaint mentioned; for application of the proceeds first in satisfaction of the amount due to the 1st defendant and for payment to the plaintiff and the 2nd, 3rd, 4th and 5th defendants of the balance.	
213	The Madras Electric Tramways Co., Limited.	T. Numberumal Chetti	3,395	13	4	On 250 shares allotted to the defendant as in the plaint mentioned.	
214	The Administrator General of Madras.	P. Venkatasubbiah	5,844	8	4	On a promissory note.	
215	F. G. R. Branson	Khursheed Ally Shah	3,170	0	10	On a promissory note and for charging the property and income of Shur Shahs Tukiah in the plaint mentioned with the said debt.	
216	Syed Hyder Batcha Saib	P. Venncatachelliah	2,930	7	4	On a Bond.	
217	Krishna Doss Balamukun Doss ..	S. M. M. K. S. M. O. Rajah Maharaja Rajay Bommarauz Bahadur Dawa Maharazulungaru.	8,737	8	0	On a promissory note.	
218	P. Etherajulu Nayudu	S. Audi Seshu Nayudu and another.	5,500	0	0	Claim that the defendants be required to interplead concerning their claims to the properties in the plaint mentioned, that a Receiver be appointed and that plaintiff be discharged from all liability to either of the defendants in relation to the said properties upon delivering the said properties to the said Receiver.	
219	T. Murugesa Mudali	M. Kajah Ahmed Saib and 6 others.	7,169	0	0	On an equitable mortgage.	
220	Nallu Chetti	Perumall Chetti and another ...	5,585	0	0	For a declaration that plaintiff and 1st and 2nd defendants are each entitled to $\frac{1}{3}$ share in the properties in the plaint mentioned; for an account of the said properties; for division according to the above said declaration; for sale of the property if necessary, and for payment to the plaintiff out of the proceeds of his share.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
221	P. A. Kumarasawmy Mudali ...	R. M. Subramanya Pillai and another.	2,814	14	0	On a promissory note.	
222	P. Macfadyen and 4 others ...	Abdul Kareem Sait and 7 others ...	65,872	13	4	Due in respect of the contracts and transactions in the plaint mentioned, for payment of interest on the said sum or for carrying out the terms of the Agreement, dated 16th February 1892, if the plaintiffs are not entitled to interest.	
223	T. Runganatha Tawker and 3 others.	Stree Rajah Vellanki Venkata Krishna Rao Bahadur.	4,159	8	10	Due on sale of jewels.	
224	V. Minnulla Saib	M. Abdul Khader Saib and another.	13,721	15	7	On a promissory note.	
225	V. Chockalingam Chetti	V. Ponnusawmy Chetti and another.	16,042	9	9	For a declaration that plaintiff and 1st defendant are each entitled to a half share of the property in the plaint mentioned with such augmentations as it has received since the death of their father V. Desappa Chetti ; for an account of the said property and for partition of the same ; for securing the plaintiff's share therein during his minority in such manner as this Court thinks fit ; for the maintenance and education of the plaintiff during his minority and for the maintenance of the 2nd defendant; for the issue of an Injunction and for the appointment of a Receiver.	
226	T. Gajapathy Nayudu and another.	T. Venkatasawmy Nayudu and others	Schedule B 16,450 Schedules A and C no value given.	0	0	For a declaration that plaintiffs are entitled to $\frac{1}{3}$ share, the 1st defendant to $\frac{1}{3}$ share and the 2nd and 3rd defendants to the other $\frac{1}{3}$ share in the properties in the plaint mentioned ; that the 4th defendant has no interest in the house and ground No. $\frac{3}{59}$ in the plaint mentioned ; that the said property is liable for partition between the plaintiffs and the defendants 1 to 3 ; for an account of the said properties ; for division of same ; for sale of the said properties if necessary and for payment of the plaintiffs' share out of the proceeds.	
227	Her Highness Nawab Khair Oon Nissa Begum Sahiba.	Mirza Mahomed Ismail Khan Bahadoor.	4,88,563	9	2	For an account of the moneys received by the defendant on behalf of the plaintiff and on her account between 1st November 1888 to 21st June 1894 and of the application thereof; for payment of such sum as is found due after taking of the account.	
228	V. Baliah Chetti and another ...	C. Sivasunkara Mudali	6,634	10	8	On three mortgage bonds.	
229	T. Runganatha Takwer and 3 others.	M. Venkatasawmy Nayudu ...	4,913	3	7	Due on sale of jewels.	
230	Do.	Muthuvijiya Ragunada Raja Bhaskarasawmy Sethupathi.	8,362	2	5	Do.	
231	A. H. Deane	C. E. Nixon	£ 10,000	s. 0	d. 0	On a promissory note.	
232	James Savege	Robert Mc Lure Savege and another.	200 or its equivalent in Rupees	0	0	For money advanced.	
233	Chouth Mull Lallah	F. W. H. Cox	2,900	0	0	On a bond; for payment of the sum due, interest and costs by monthly allocation from and out of the defendant's pay and allowances under Section 151 of the Army Act.	
234	M. Ramakrishniah	P. Venkaraya Reddi	15,495	4	11	Due on transactions in the plaint mentioned.	
235	Do.	Vijaya Pala Nayanar	4,360	0	0	On a promissory note.	
236	Goverdhan Doss Brijeebookoon Doss.	R. Venkatasubba Rao B. A. B. L. ...	10,000	0	0	Do.	
237	T. Sabjoo Saib	T. Rahiman Saib and 4 others ...	$\frac{4}{21}$th share of the profits, viz. Rupees 6 lakhs.	0	0	For dissolution of the partnership in the plaint mentioned, for an account of the said partnership ; for ascertainment of the profits of the said partnership, for a declaration that plaintiff is entitled to one Rupee share out of $5\frac{1}{4}$ Rupees shares in the profits of the said partnership and for payment to the plaintiff of his share therein.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed.			Nature of Claim.	Remarks.
			Rs.	A.	P.		
238 Pauper	M. Munnamony Ammall	Vathachella Naicker	3,567	0	0	For delivery of possession by the defendant to the plaintiff of the box containing the Bank Notes, jewels, cloths, brass and copper utensils, documents, and accounts left in his custody as in the plaint mentioned.	
239	N. Vadavallee Ammall... ..	Venkatachella Pillai	7,965	6	8	For delivery by the defendant to the plaintiff of the jewels and other articles in the schedule to the plaint mentioned or for payment of their value Rupees 3,000; for Rupees 2,340-6-8 due in respect of the deposit with the Egmore Benefit Society, 3rd Branch (Ld.); for a declaration that the deposit of Rupees 2,625 with the Purasai Hindu Jananu Kula Permanent Society, 1st Branch (Ld.) now standing in the name of the defendant, is due and payable to the plaintiff and not to the defendant and for transferring the said deposit to the name of the plaintiff and for payment of interest received by the defendant on the said deposit.	25
240	C. Rajasikhamony Pillai & another.	C. Sreenivassa Pillai and 7 others...	56,500	0	0	For a declaration that the alienations by the 1st, 2nd and 3rd defendants in favor of the other defendants are not binding on the plaintiffs to the extent of their $\frac{2}{9}$ th share; for division of the properties in the plaint mentioned and for delivery of possession to the plaintiffs of their $\frac{2}{9}$ths share.	
241	The Honorable J. A. Boyson and 2 others.	Abdul Kareem Sait and 7 others ...	5,127	7	0	For interest, godown rent and Insurance premiums in the plaint mentioned.	
242	K Oosman Saib	T. Rahiman Saib and 4 others ..	47,000	0	0	For dissolution of the partnership in the plaint mentioned; for an account of the said partnership; for ascertainment of the total assets of the partnership up to May 1894 and for payment to the plaintiff of his share of the capital therein; for payment to the plaintiff of his share of profits on the capital laid out by him out of the $\frac{1}{3}$ share of profits set apart for the capitalists and for Rupees 28,000 for plaintiff's 4 annas share therein or such amount as this Court thinks fit out of the balance of profits then remaining and for interest on the several amounts found due to the plaintiff.	
243	R. Andalammall	R. Nammalwar Chetti and another.	3,036	4	0	Due on an award in the plaint mentioned.	
244	T. Royalu Chetti	Henry D'Closets and another ...	33,894	8	6	Due on an agreement in the plaint mentioned and for a declaration that plaintiff has a valid charge or lien on the Policy of Assurance in the plaint mentioned for the said sum.	
245	S. Ramiah Chetti and another ...	G. Soobramaniah and 2 others ...	5,302	8	0	On a mortgage.	
246	P. Ammoyee Ammall	A. Soobraya Chetti and 3 others ...	12,000	0	0	For a declaration that 1st defendant is unfit and incompetent to manage the charities in the plaint mentioned on account of his gross negligence and misconduct, for appointment of fit and proper persons in place of the 1st defendant as Trustees of the said charities; for vesting the trust properties in Schedules A and B and C to the plaint mentioned in the hands of the newly appointed Trustees; for an account of the trust properties and for payment by the 1st defendant of the moneys spent and misappropriated by him.	27
247	V. Sadagopa Pillai... ...	V. Streevaramungay Ammall ..	4,000	0	0	For delivery of possession of the properties in the plaint mentioned; for the issue of an injunction and for a provision for the maintenance of the defendant.	
248	P. Krishnasawmy Nayudu and another.	Haji Ibrahim Haji John Mahamed Sait.	3,000	0	0	For dissolution of the partnership in the plaint mentioned, for an account of the said partnership; for realization of the assets thereof; for payment of the debts and liabilities of the said partnership; for division between the plaintiffs and defendant of the balance or for contribution by the plaintiffs and defendant in such proportions as this Court thinks fit, if the said assets prove insufficient.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
249	P. Yalumalay Chetti and another ..	P. Parthasarathy Chetti and 4 others.	...	...	...	For a declaration that plaintiffs have a life interest in the properties in the 5th para. of the plaint mentioned during the life-time of the 1st defendant and are absolute owners and proprietors thereof after the death of the said 1st defendant and that the 1st defendant is entitled to a life interest in the said property jointly with the plaintiffs and other members of his family ; that the 2nd, 3rd and 4th defendants have only a life interest in the property in para 6 of the plaint mentioned ; that the mortgage by the 1st and 2nd defendants in favor of 5th defendant is invalid and inoperative against the plaintiffs, the 3rd and 4th defendants and against the said property professed to be mortgaged and that the 5th defendant has no interest in the same ; for delivery of possession by the 5th defendant to the plaintiffs and 3rd and 4th defendants respectively of the title deeds of the said several properties ; for the issue of an Injunction and for the appointment of a Receiver.	
250	W. Govindaraja Mudali	C. K. Cuppusawmy Pillai	10,933	0	0	On a promissory note.	
251	V. Kurathalwar Chetti	M. Singaravelu Chetti ...	3,835	0	0	On a mortgage.	
252	Fag Mull and 2 others	Shair Mull and another	3,822	8	0	A legacy.	
253	P. Uttaman Chetti	A. P. V. E. Na. Ka. Ra. Ma. Muthiah Chetti.	25,433	12	0	For Rupees 121-4-0 due as in the plaint mentioned ; for interest on the transactions in the 4th para. of the plaint mentioned from 26th November 1892 to 14th June 1893 ; for an account of the said transactions ; for Rupees 25,312-8-0 damages for breach of contract as in the plaint mentioned and for payment of interest on the above sums from date of plaint to date of realization.	
254	W. H. Oakes and 2 others ...	The Madras Electric Tramways Company, Limited.	4,156	13	6	For goods sold and delivered to the defendants and for work done as in the plaint mentioned; for security from the defendant, for the said sum or for the issue of an attachment before judgment against plaint machinery and premises of the Company.	
Panper 255	T. Govindarajulu Nayudu and another.	T. Narrainasawmy Nayudu and 6 others.	14,000	0	0	For a declaration that plaintiffs or defendant are undivided brothers of a Hindu family ; for an account of the family property of I. Moonesawmy Nayudu ; for ascertainment of plaintiffs' share in the property in Schedule A to the plaint mentioned and for payment of the same to him ; for setting apart a suitable sum for the maintenance and support of plaintiffs' mother and for the marriage expenses of plaintiffs' sister ; for a declaration that the sales and mortgage by 1st defendant is inoperative as against the plaintiffs and for the issue of an Injunction.	
256	C. Kakammall	Venu Aiyar and 2 others... ...	3,974	15	6	On a promissory note.	
257	J. G. Kernan Esquire and another.	H. G. Wedderburn Esquire ..	67,146	0	0	For setting aside the Will of P. Yeloomalay Pillai in the plaint mentioned and for a declaration of the same as void ; for a declaration that 2nd plaintiff is entitled to all the property in Schedule C to the plaint mentioned ; for an account of the said estate come to the hands of the defendant ; for the appointment of a Receiver ; for a separate account of the property not included and disposed of by the said Will ; for the maintenance of the 2nd plaintiff and his family till the disposal of this suit ; for the issue of an Injunction and for a declaration that 2nd plaintiff is entitled to the property not included in the Will if the said Will is declared valid and binding on the 2nd plaintiff.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
258	M. Venkataramiah Chetti ...	R. Nammalwar Chetti and 3 others..	7,000	0	0	For specific performance of the contract in the plaint mentioned; for execution of a deed of sale in plaintiff's favour in respect of item No. 1 and for delivery of possession of same; for payment by defendants 1 and 2 to the plaintiff of Rupees 4,500 if the Court finds that the plaintiff is not entitled to such specific performance and for a declaration that the same is a charge on all the plaint properties; for payment by the defendants 1 and 2 of Rupees 2,500 as damages for breach of contract and also for mesne profits or rents as provided for in the agreement in the plaint mentioned; for the issue of an Injunction and for the appointment of a Receiver.	
259	T. Mooroogasa Mudali and another.	A. Munusawmy Mudali	20,000	0	0	For the removal of the defendant from his office of Dharmakarta of the Temple of Yagambareswarar in the plaint mentioned and for appointment of a fit and proper person in his place; for an account by the defendant of the receipts and disbursements of the said Temple funds; for a scheme for the proper management and control of the said Temple and its properties and for the appointment of a Dharmakarta in the event of vacancies occurring and for the appointment of a Receiver.	
260	The Municipal Commissioners for the City of Madras.	P. Moonesawmy Mudali ..	14,895	3	5	For breach of contract.	
261	P. S. Ponnusawmy Pillai ..	Terupuresundara Ammall & another	6,997	8	0	On two mortgages.	
262	M. M. Meeruddin Saib and another,	Hajee Mahomed Kassim Saib and 12 others.	20,000	0	0	For a declaration that the partnership in the plaint mentioned was dissolved by the death of Salar Nannuh Meah Saib in the plaint mentioned and for winding up the same; for an account of the said partnership; for the appointment of a Receiver; for payment by the defendants of the sums due by them upon such account; for payment of the debts due by the partnership for division between the parties of the balance of assets or for contribution by them according to their respective shares.	
263	G. Venkataramiah	K. Gurusawmy Chetti and 3 others.	4,304	2	0	On two mortgages.	
264	T. Seetharama Chetti and 2 others.	A. Nanabhai Davay and another ..	3,508	7	7	On a promissory note and for a declaration that plaintiffs are entitled by assignment to the money in the hands of Messrs. Wilson and King and for crediting the same when recovered to the plaint debt and that the defendants have no claim or interest therein; and for an Injunction.	
265	I. Subramanyam Chetti	Miss E. A. Harriman	15,425	0	0	For a declaration that plaintiff is the owner and proprietor of the premises in the plaint mentioned; for delivery of possession of the said premises; for payment of Rupees 1,425 for use and occupation by the defendant of the said premises and for mesne profits at Rupees 125 per mensem until delivery of possession.	
266	G. Allauddin Sahib and 3 others ...	T. Rahiman Saib and 3 others ..	37,723	8	0	For a declaration that plaintiffs are entitled to $\frac{5}{6}$ and 4th defendant to $\frac{1}{6}$ of Rupees 37,723-8-0 now in the possession of defendants 1 to 3 and for payment to the plaintiffs of the same; for the issue of an Injunction; for payment by 4th defendant of interest on the amount awarded to the plaintiffs at 12 per cent. per annum from 17th May 1894 to date of payment.	

No. of Suit.	Plaintiff.	Defendant.	Amount claimed. Rs.	A.	P.	Nature of Claim.	Remarks.
		B.—Matrimonial Suits.					
1834 1	Luke Claridge ...	Ruth Claridge ... Kaja Latiferdeen Sahib (Co-Respondent)	...	...	...	For dissolution of marriage.	
2	Andall Ummall ...	Ragavalu Chetti ...	...	...	...	Do.	
3	Richard Brookes ...	Fanny Brookes ...	...	...	...	For restitution of conjugal rights.	
		C.—Testamentary Suits.					
1	A. C. Mooroogasa Mudaliyar and another.	The Administrator General of Madras	15,000	0	0	For Grant of Probate.	
2	Pally Ammall ...	Moonee Ammal ...	3,000	0	0	For Grant of Letters of Administration.	
3	Subhadra Boyee ...	Moorali Doss Bijarathna Doss ..	12,000	0	0	For Grant of Probate.	
4	P. S. Venkiah Chetti and another...	K. Striramooloo Chetti ...	4,500	0	0	Do.	
5	P. Theruvengada Pillai ...	N. Thayarammal ..	5,200	0	0	For Grant of Letters of Administration.	
6	Singaraveloo Mudali and another.	P. Canniammall ...	3,000	0	0	For Grant of Probate.	
7	M. Lutchmana Chetti ..	Sreerangammall ...	2,500	0	0	Do.	
8	S. Venkataseethammall ...	S. Kuppiah Pantulu ...	10,000	0	0	For Grant of Letters of Administration.	
9	Sivasithambaram Pillai ...	Varathatchi Ammal and 4 others ...	2,064	0	0	For Grant of Probate.	
10	P. Subroya Chetti and 2 others ...	S. Alamalumangathayaru Ammall.	3,000	0	0	Do.	
		D.—Suits received on remand.					
241 of '90	P. Ponnusawmy Chetti ...	A. Soobroya Chetti and 5 others ...	6,475	0	0	On a mortgage instrument.	
97 of '91	M. Govinda Rao ...	W. G. Rowley and another ...	3,600	0	0	For damages for breach of contract in the plaint mentioned and for a declaration that the plaintiff is entitled to recover Rupees 1,000 from the Commercial and Land Mortgage Bank, Limited.	
158 of '91	D. Muni Singh ...	G. Mangammal ...	5,775	8	7	On a mortgage instrument.	
391 of '92	A. Janakiram Mudali ..	Y. N. Nagamoney Mudali ...	28,480	0	0	For equity of redemption of the Casuarina plantations in the plaint mentioned; for reconveyance of the same; for an account of the sale proceeds of wood cut and sold; for delivery of the firewood depot; for Rupees 20,000 damages for wrongful cutting of trees; for Rupees 8,480 the value of the land lost by reason of the defendant's non payment of kist; for the issue of an Injunction and for the appointment of a Receiver.	
		E.—Suits restored.					
125 of '89	Annamalay Mudali and another ...	A. Mooneswamy Mudali and 4 others.	2,450	0	0	For a declaration and for delivery of properties.	
9 of 92 Testamentary	G. Ragava Charry and another ...	G. Parthasarathy Aiyangar ...	2,456	15	7	For Letters of Administration.	
38 of '94	W. S. Tiruvengadasamy Mudaliyar.	S. Ragava Charry ...	11,200	0	0	For dissolution of partnership and for an account.	
		F.—Suits transferred from the Court of Small Causes, Madras, for re-hearing.					
14,497 of '93	C. V. Chinna Seetharamiah ...	Mahomed Hamed Khan Bahadur ...	1,732	5	0	Due on contracts for sale of Government promissory notes of the 4 per cent. loan.	
7828 of '93	M. Venkiah Chetti ...	Yarlagada Nayudu ...	2,170	3	5	For money lent.	
10027 of '94	K. Jalammall ...	B. Venkatasubbaraya Chetty and another.	1,013	4	0	On a Pro-note.	

Enclosure ~~No.~~ _____ to letter from the
High Court of Judicature, Appellate Side, Madras,
dated 1st February/95, No. 260.

2 copies of Statement of Suits filed on the original Side of the High Court in 1893 and 1894.

5 Encl. 467

High Court of Judicature,
Madras, 1st February 1895.

No. 260.

74

From

H. W. Foster Esquire,
Registrar of the High Court
of Judicature, Appellate Side,
Madras.

To

The Honorable J. F. Price, C.S.I.,
Chief Secretary to Government,
Fort St. George.

Honorable Sir,

In continuation of my letter No. 102 dated the 18th ultimo, regarding the enhancement of the pecuniary jurisdiction of the City Civil Court to Rs. 5000, I am directed to forward a statement* which the Chief Justice has had prepared for the purpose of showing in detail the effect to be anticipated from the enhancement. The statement is a list of all suits filed in the High Court in the years 1893 and 1894 showing the names of the parties, the value of the subject-matter of the suit and the nature of the claim. All cases which would

*Two copies are enclosed.

No. of Suit.	Plaintiff.	Defendant.	Amount claimed.			Nature of Claim.	Remarks.
G.—Suits re-transferred from the City Civil Court, Madras							
83of'91	M. Govinda Rao ...	P. Ragava Mudali and another ...	200	0	0	For money advanced.	

would have been cognizable
by the City Court had the jurisdic-
tion been fixed at Rs. 5000 are
High C... indicated by being underscored in
dated ... red.

2. The whole number of those
suits would not necessarily
have been instituted in the City
Court for it must be remembered
that the High Court has con-
current jurisdiction in suits of
all values, but if this fact
be borne in mind, a considera-
tion of the statements will place
the Government in a position
2 not only to ascertain the amount
Sir... of relief the High Court will
in ... obtain from the enhancement
of jurisdiction but also to
judge whether there are reasonable
grounds for apprehending that
the suggested change may bring
before the City Court any considerable
number

number of important suits
involving questions of commer-
-cial law or other difficult
questions with which that
tribunal is not fully competent
to deal.

I have the honor to be,
Honorable Sir,
Your most obedient servant,

Registrar.

479
5-3-95

[ ]
2,000 - 8-1-05.

Current No. 134

DEPARTMENT.

From

C. J. Macarthie Esq

No.

Dated 21.2.95

Received 22/2.
Regd 25/2

Enclosures Registered as a Jud. current.

SUBJECT.

Forwdg a letter from the Chairman, Chamber of commerce re: the Reorganization of the H. Ct. Establt.

29.

D. o. No. 134

77

HOUSE SECRETARY
22 FEB. 1895
GOVERNMENT OF MADRAS

GOVERNMENT HOUSE,
21. 2. 1895 GUINDY.

My dear Price

With Box No 25. (High Court Stab. 1 Reorganization question)

*Cuo 886 I send a letter from the Chairman Chamber of Commerce with two memoranda as endorsed on each for Cr.: 1st H. Mst. as in H.E. the Govr. thinks the arguments brought forward require very careful consideration.

479
5-3-95

79.

78

I kept the letter & enclosures back for H.E. the Gov. to see with the circulation papers. being under the impression that they were selected copies intended for H.E.'s use. that duplicates had been sent to you but there is nothing to show that such is the case, so far as the papers in box 25 are concerned

I explore the legal questions of jurisdiction &c in case Fenn ack. & of extending the jurisdiction of the City Civil Court are in hand.

I remain

Jud

No. 886

Jud

From

The Chairman

Chamber of Commerce

Dated. 23. 2. 95

Rec'd. 22. 2. 95

Reply. 25. 2. 95

Encs. 2

Subject

Forwg copy of Resolution passed at a meeting of the Chamber re the proposed extension of the jurisdiction of the City Civil Court

38
80

Enclosures

I.—In a former Memorandum it was pointed out to the Chamber that the Government had asked for the opinion of the Judges on three proposals affecting the High Court, *viz* :—

(*a*) to increase the jurisdiction of the City Civil Court to suits of 5,000 Rupees in value :

(*b*) to substitute fees, calculated in accordance with the Court Fees Act 1870, for the scale of fees now leviable in the High Court :

(*c*) to reorganise the establishment on the Original Side of the High Court with a view of saving money.

And the attention of the Chamber was directed to proposal (*a*). In the present Memorandum, proposals (*b*) and (*c*) are dealt with.

II.—In the G. O. 26th September 1894, No. 2338 reviewing the Report on the Administration of Civil Justice in the Madras Presidency 1893, proposal (*b*) is referred to in the following words :—"*His Excellency in Council would be glad to know "if the Honorable the Judges would be opposed to the substitution of fees calculated "in accordance with the Court Fees Act 1870, for the scale of fees now leviable in the "High Court ; the Government is disposed to think that the change would be advan- "tageous on many grounds.*"

III —The first question that suggests itself is, to whom will the change be advantageous ? Not to the suitor, certainly, for, as will be shewn, the effect will be to burden him with heavier taxation, than that to which he is at present subject.

IV.—In order that the Chamber may clearly understand the position, it will be necessary to compare the fees now leviable in the High Court with the scale of fees calculated in accordance with the Court Fees Act 1870, which, it is proposed to introduce into the High Court and which is now in force in the Mofussil.

In the joint minute of the Honorable the Chief Justice, Mr. Justice Shephard and Mr. Justice Handley on the Bill forwarded to the Chamber on the 3rd August 1891, intituled "a Bill to extend the jurisdiction of the Court of Small Causes" the Judges state :—

"*The heaviest fee levied in the High Court is the fee on presentation of "plaint fixed at 30 Rupees and there is little doubt that the amount of that fee has the "effect of keeping out of the Court a considerable number of petty disputes about land. "In addition to this, there are process, hearing, and other fees ; but in an ordinary "undefended case with one defendant, the whole Court Fees up to and including decree "do not exceed 60 Rupees.*"

In the same minute, the Honorable the Judges give the following information regarding the Court Fees leviable in a defended suit in the High Court :—

"*Take a case of a contested suit lasting two days, in which twelve witnesses "are called and twenty documents filed on both sides, which, we think, is a fairly "typical case. In the High Court, the Court Fees chargeable would be as follows :—*

	Rupees.
"*Fee on presentation of plaint*	30
"*Summons to defendant*	2
"*Sheriff's fee for service of plaint*	2
"*Settlement of Issues*	10
"*Summons to witnesses*	24
"*Exhibits*	40
"*Hearing fees*	30
"*Taxation of costs*	10
Total Rupees	148

V.—The Chamber will see from the foregoing extracts, that the fees now leviable in the High Court are ordinarily, whatever the value of the suit may be,

in undefended cases 60 Rs.

in typical defended cases 148 Rs.

VI.—The following table shows the fees, which the Government contemplate imposing on High Court suitors, under the Court Fees Act 1870, in lieu of those now leviable; which change the Government is disposed to think "would be advantageous on many grounds." The table only shows the fees leviable on suits, the value of which does not exceed 20,000 Rupees; in suits above that value, the *ad valorem* principle is the same, but no suitor can be charged more than a fee of 3,000 Rupees whatever the value of his claim may be.

Value of suit Rupees.	Fees payable under Court Fees Act 1870 Rupees.
3,000	175
4,000	225
5,000	275
6,000	315
7,000	355
8,000	395
9,000	435
10,000	475
11,000	505
12,000	535
13,000	565
14,000	595
15,000	625
16,000	655
17,000	685
18,000	715
19,000	745
20,000	775

VII.—If the fees in the foregoing table are compared with the fees now chargeable in the High Court, *viz.*, 60 Rupees in an undefended suit, and 148 Rupees in a typical defended suit, it will be seen, that in the event of the Court Fees Act 1870

being made applicable to the High Court, the present tax leviable upon suitors will be greatly enhanced. For instance the fee in a suit for 19,000 or 20,000 Rs. leviable under the Court Fees Act 1870 would amount to more than, twelve times the sum chargeable under the High Court scale, if the suit was undefended, and if it was defended to more then five times. The following table will show the effect of the proposed change in cases where the claim is between 3,000 Rs. and 20,000 Rs.

In suits of the value of Rupees.	If undefended.	If defended.
20,000	$12\frac{11}{12}$	$5\frac{35}{148}$
19,000	$12\frac{5}{12}$	$5\frac{5}{148}$
18,000	$11\frac{11}{12}$	$4\frac{123}{148}$
17,000	$11\frac{5}{12}$	$4\frac{93}{148}$
16,000	$10\frac{11}{12}$	$4\frac{63}{148}$
15,000	$10\frac{5}{12}$	$4\frac{33}{148}$
14,000	$9\frac{11}{12}$	$4\frac{3}{148}$
13,000	$9\frac{5}{12}$	$3\frac{121}{148}$
12,000	$8\frac{11}{12}$	$3\frac{91}{148}$
11,000	$8\frac{5}{12}$	$3\frac{61}{148}$
10,000	$7\frac{11}{12}$	$3\frac{31}{148}$
9,000	$7\frac{1}{4}$	$2\frac{139}{148}$
8,000	$6\frac{7}{12}$	$2\frac{99}{148}$
7,000	$5\frac{11}{12}$	$2\frac{59}{148}$
6,000	$5\frac{1}{4}$	$2\frac{19}{148}$
5,000	$4\frac{7}{12}$	$1\frac{127}{148}$
4,000	$3\frac{3}{4}$	$1\frac{77}{148}$
3,000	$2\frac{11}{12}$	$1\frac{27}{148}$

It is clear therefore that the advantage to be derived from imposing fees calculated in accordance with the Court Fees Act 1870, is not with the suitor, for, as has been shewn, an additional burden will be imposed upon him.

VIII.—It may be, and we believe, is urged that it is not equitable that the litigant, who resides within the jurisdiction of the High Court, should be taxed at a lower rate than the litigant, who resides in the Mofussil and outside the jurisdiction of the High Court, and that all litigants should be taxed alike, whether they reside within or without the toll bar.

It becomes unnecessary for the Chamber to consider this contention if (as is the case) it can be satisfactorily shown, that the tax imposed by the Court Fees Act 1870, now obtaining in the Mofussil, is onerous, unjust, and quite out of proportion to the expense which it is intended to meet, and that the fees levied under that Act ought, in justice to the Mofussil suitor, to be considerably reduced and modified on the system, at present adopted in the High Courts in India and by the Courts of Justice in England, by which every step in the course of a suit is charged for and no more, for then, it is submitted, this argument for extending the Court Fees Act 1870, to the High Court and thus enhancing the Presidency Suitors' fees, falls to the ground.

IX.—That the tax imposed on a litigant by the Court Fees Act 1870, is quite out of proportion to the expense which it is intended to meet, is amply proved by the fact that in the year 1893, the net surplus of receipts over charges in the Administration of Civil Justice in the whole Presidency amounted to Rupees 14,54,448, one-third of the total receipts for the year, and that during the last 10 years the Government has made a surplus on Civil Litigation amounting to the enormous sum of Rs. 102,64,401, as the following figures, extracted from the Administration Reports on Civil Justice in the Madras Presidency, will show.

Table showing receipts, charges and surplus on Administration of Civil Justice in Madras Presidency since 1883.

Year.	Receipts.	Charges.	Surplus.
1883	30,60,580	24,36,725	6,23,855
1884	30,32,493	24,67,478	5,65,015
1885	32,54,651	24,97,709	7,56,942
1886	33,27,656	24,97,351	8,30,305
1887	33,40,461	25,14,882	8,25,579
1888	33,41,403	25,48,204	7,93,199
1889	35,59,104	25,60,185	9,98,919
1890	36,49,385	26,26,666	10,22,719
1891	36,17,856	26,35,182	9,82,674
1892	40,72,359	26,61,613	14,10,746
1893	41,50,111	26,95,663	14,54,448
		Total Surplus Rupees...	102,64,401

X.—In addition to the foregoing facts and in order further to assist the Chamber in arriving at a conclusion as to the justice of the tax imposed on suitors by the Court Fees Act 1870, it is thought desirable to refer to a Minute penned in December 1883, by Sir Richard Garth on the Act in question.

Sir Richard Garth was at the time Chief Justice of Bengal. The views and opinion of a man of his position, independent of the Indian Government, and with an intimate practical knowledge of the subject he was writing about, deserve careful and thoughtful consideration. Sir Richard Garth after stating that he had written some years before to Mr. Whitley Stokes explaining how heavily the large amount of Court Fees pressed upon Civil Suitors, and how desirable it was that the existing system should be modified, proceeds as follows :—

"*Our countrymen in England would hardly believe that, before a man can "bring a suit in India upon a bond for Rupees 10,000 he has to pay a tax to the Revenue "of no less than Rupees 475. If the value of the suit is as much as Rupees 4,10,000, the "stamp fee is Rupees 3000 ; but this is the maximum duty ever charged.*

"*I suppose the only ground upon which a tax of this kind can be reasonably "justified, and which, as I shall presently show, was the professed ground for impos-"ing it in this country is, that civil suitors ought to pay some portion of the cost of "the machinery, which is necessary to dispose of their suits; and that a tax of this "kind is probably the most convenient mode of providing a fund for that purpose. "But assuming this to be so, the amount of the tax ought surely to be proportionate "to the expense which it is intended to meet; whereas in Bengal the tax now imposed "exceeds that expense by the enormous sum of upwards of 32 lakhs of Rupees.*

"*I believe that in any other country such a burthen upon suitors would be "considered intolerable. It is well known that in England there has always existed a "very strong feeling against the revenue making anything like a profit out of a tax "of this kind ; and when the amount of the stamp fees in Civil Courts was lately under "the consideration of the English Judges in framing the new rules under the Judicature "Act, I have ascertained that especial care was taken that the amount of the tax should "be rather under than over the estimated expense of the Civil Courts establishments.*

"*This system of taxing civil suitors has always appeared to me so unjust, that I "have on more than one occasion drawn public attention to the subject; and I have now "before advising the Government on the present bill, been endeavouring to ascertain "why and when the system was introduced, and how far the present state of things is "in accordance with the professed intentions of the Government.*"

Sir Richard exhaustively reviews the various legislative enactments which imposed fees upon Civil Suitors in this country since the year 1795 and summarises matters thus :—

1stly—"*That the professed object originally of imposing a tax upon suitors was "to put a check upon frivolous and unnecessary litigation.*

2ndly—"*That the tax was imposed in the first instance to some extent upon "criminal, as well as civil proceedings.*

3rdly—"*That it was not imposed at that time in the shape of an institution "fee only, but distributed, as it is in England, and on the Original Side "of the High Court, over the various proceedings in the suit.*

4thly—"*That so lately as the year 1867, the tax had not amounted to more "than ¼th of the expenditure and*

5thly—"*That it was not the intention of the Government when the present "system was introduced, and that in fact the Government did not "consider it just, that suitors should pay anything like the whole of "the cost of the Court establishments.*

"*And yet within 15 years from the passing of that Act, and without any "declared change of policy or principle on the part of the Government, we find a stamp "fee tax now imposed upon suitors in Bengal which amounts to nearly double the Civil "Courts expenditure.*

"*Now it seems to me, that this is a manifest injustice, and one that falls "with peculiar severity upon the poorer class of litigants. To the rich, the payment of "so large a fee is often a very serious matter; but in the case of the poor, it absolutely "bars the door of justice. Poor suitors are often utterly unable to raise the necessary "sum to enable them to enforce their just rights ; and it constantly happens for this reason "that suits in this country both by rich and poor, are carried on, not by the claimants "in whose names they are brought, but by suit brokers and money lenders, who undertake "the case and pay the necessary expenses, upon the terms of getting a share of the property ; "if the suit should prove successful.*

"*This mischievous system, which is known in England by the name of Cham-*
"*perty and Maintenance is there considered illegal, as being contrary to public policy*
"*and tending to encourage strife and litigation; but it has been tolerated by the*
"*Courts of this country, for no better reason, I fear, than because without it many*
"*unfortunate claimants would be wholly, without any means of redress.*

"*The Governor-General-in-Council may be well assured, that there exists a*
"*very strong feeling against this tax, and that it would only be doing an act of justice*
"*to mitigate its severity.* * * * * *

"*I have already endeavoured to show, that the imposition of a large institution*
"*fee too frequently operates as a denial of justice, and gives rise to very objectionable*
"*practices. But this is by no means the only or most ordinary mischief of the system. Its*
"*effect, with the generality of suitors is to prevent suits being settled out of Court, and*
"*to prolong litigation unnecessarily.*

"*When a plaintiff has once paid a large institution fee, he considers not*
"*unnaturally that he has purchased from the Government the right and the means of*
"*pressing his claim to the utmost. He knows that if he goes to trial he will not have to*
"*pay any further fees, and he thinks that he may as well take his chance of screwing the*
"*last pice out of his opponent. "On the other hand, a defendant, who would be otherwise*
"*disposed to come to a reasonable settlement, is tempted to go to trial, and to set up*
"*some false or shadowy defence, because he knows that whether he goes to trial or*
"*settles the claim amicably, he will still have to repay the plaintiff, over and above his*
"*claim the heavy institution fee; and that he will at least gain time by resisting as*
"*long as he can.*

"*Now the English system, which is adopted in the High Court is calculated*
"*not only to avoid this evil, but directly tends to prevent a suit being unnecessarily pro-*
"*longed, on the Original Side of the Court, a small fee, only Rupees 12, is paid on the*
"*filing of the plaint, and further fees, are imposed as the suit proceeds, in such a*
"*way as to deter both parties from carrying on the suit beyond what is really necessary.*
"*So much is charged upon every affidavit, so much upon every application, so much*
"*upon every witness summoned or document produced, and so much, (the largest*
"*fee of all) upon the trial.*

"*This is manifestly just, because the heaviest fee is thus charged at those*
"*stages of the proceedings, which cause the Government most trouble and expense.*
"*The filing of the plaint is an inexpensive matter, and must needs be the first step*
"*in every cause. No unnecessary obstacle should therefore be placed in the way*
"*of that. But the going to trial or the use of a multitude of affidavits, or*
"*witnesses or applications, may or may not be necessary; and to impose a fee upon*
"*each of these commensurate, with the degree of extra trouble which they cause, or*
"*time which they involve, is only a wholesome check upon needless proceedings.*

"*If a plaintiff or a defendant can save the Court fees and other expenses*
"*of a trial by settling the matter amicably, here is a direct inducement to do so; or*
"*if the production of each witness or document costs so much in stamp fees, besides*
"*the other ordinary expenses of bringing them into court, a prudent man will think*
"*twice before he incurs that cost.*

"*By thus distributing the fees over the various proceedings in the suit, the*
"*Government will only be reverting to the system, which prevailed in this country for*
"*many years, and which so far as I can ascertain, was only discontinued because the*
"*levy of the one institution fee relieved the Courts of a certain amount of trouble.*"

If the views of the former Chief Justice of Bengal, as expressed in his minute, are correct and if the arguments adduced by him in 1883 against the Act are sound, then with how much greater force do they tell in the year 1893, when we find the profits on the Administration of Civil Justice in this Presidency have risen from 6,23,885 Rupees in the year 1883 to 14,54,448 Rupees in the year 1893.

XI.—It has been demonstrated above:—

(1) that the introduction of the Court Fees Act 1870, into the High Court would not be advantageous to the suitor.

(2) that the Act in question has been condemned as unjust and impolitic by the highest authority.

XII.—It is now intended to show, leaving the special character of the Act in question out of account, that no good ground exists for the imposition of a heavier burden on litigants, and that it should rather be the aim of Government to lessen the cost of obtaining justice than to increase the already enormous surplus of revenue derived, as above stated, from the Law Courts.

In September 1869, when the late Mr. F. R. Cockerell moved for leave to introduce into the Supreme Council a Bill to provide for the better regulation of Court Fees, Sir Henry Sumner Maine, then Mr. Maine, on behalf of Government dealt with the principle on which litigants should be taxed in the following manner:—
"*he had been desirous of explaining away two misapprehensions, one much more*
"*important than the other, which were disclosed by the paper which he and his honorable*
"*friend had examined. One of these was the mistaken idea that the Government of*
"*India had ever started or encouraged the doctrine that the taxation of the administration*
"*of justice was a justifiable mode of recruiting the general finances of the empire.*"
In the same speech Sir Henry Sumner Maine said. "*But assuredly the last thing*
"*which could be attributed to* * * * *the Government*
"*was a policy of taxing litigants as a separate class for the benefit of the general*
"*finances.*" * * * * * * *

"*The other misapprehension was of very much less importance. It seemed to be*
"*supposed that he himself had at sometime or other elaborately justified the policy of*
"*filling the Treasury by taxing litigants. He might be permitted to say he had never*
"*done anything of the kind.*" * * * * * *

"*The true doctrine was that the litigants and the general tax payers should*
"*each contribute something. No body denied that the litigants benefited by the Courts, and*
"*no body would deny that the rest of the community derived some advantage from the*

"solution even of such questions as those raised by this Bengali gentleman's will (Sir "Henry Sumner Maine was referring to the case of Tajore v. *Tajore, 9 Bengal Law "Reports, 395), what the proportion paid by each should be was a question not of theory "but of experience to be equitably settled by the Government as trustee for all."*

Sir John Strachey, G.C.S.I., in his work entitled "India" referring to the Courts of Justice, says :—*"They are also too expensive. Heavy stamp duties still "exist ; they were originally imposed partly as a means of revenue to meet the expenses "of the Courts, and partly under the unfortunate notion, not yet altogether exploded, "that needless litigation is encouraged by making recourse to the Courts cheap and "easy."*

In the able Memorandum on the Progress of the Madras Presidency, during the last forty years of British Administration compiled by S. Srinivasa Raghavaiyangar B. A., Dewan Bahadur, C.I.E, the author, in the chapter on the costliness of justice in this country, quotes a despatch from Lord Kimberley, when Secretary of State for India, wherein His Lordship remarks *"notwithstanding the immense improvement "which has of late years been effected in the efficiency and integrity of the administration "of Civil Justice generally, much remains to be done towards making it cheap and "speedy, everything which adds to the expense, delay and difficulty of recovering just "debts increases the price at which the money-lender gives his help to the land owner."*

XIII.—It follows that the introduction of the Court Fees Act 1870, into the High Court would not only be immediately disadvantageous to the Madras Suitor but would also be a retrogade step, contrary to a well recognised principle of taxation supported by high authority, that its effect would, as shown by the late Chief Justice of Bengal, contribute to prevent suits from being settled out of Court and to prolong litigation, and that it would add to the expense delay and difficulty of recovering debts and generally of enforcing rights, and thus tend to defeat in fact the objects for which Courts of Justice exist.

XIV.—We now pass on to consider the third and last proposal of Government *viz.*, to re-organise the Establishment on the Original Side of the High Court with a view of saving money

XV.—This is a subject upon which these appears to have been a difference of opinion in the year 1890, between the Government, which is chiefly concerned with the financial aspect of the question, on the one side, and the Honorable the Judges, who are chiefly concerned in maintaining the efficiency of the Establishment, on the other side. Hitherto the litigating public of Madras has, like the Judges, deprecated any proposal to diminish the Establishment, and has even protested that the delay frequently occourring in the issue of orders, decrees, and the like points to the conclusion that the Establishment is undermanned than otherwise. It seems therefore desirable that the attention of the Chamber should be called to the following facts and considerations bearing upon the proposal of Government mentioned in the last preceding paragraph.

XVI.—The first point which suggests itself is, that if reductions are now made without sufficient experience of their feasibility, and they are found afterwards not to be justified by the result, it will be very difficult to obtain the necessary sanction from Government for funds to enable the establishment to be restored to its requisite strength. The Chamber is aware how greatly the efficiency of any Court of Justice is diminished by an under manned establishment and how essential it is in the interest of Justice, that orders, judgments, decrees and processes should be issued promptly.

XVII.—It is desirable, while on this point, to direct the attention of the Chamber to the opinion of the Honorable the Judges regarding the reduction of the Establishment of the Original Side of the High Court, expressed in their letter to Government, before referred to dated 3rd September 1890 No. 2115, when commenting on the Bill for giving effect to the scheme for affording relief to the Madras High Court by enlarging the Jurisdiction of the Madras Presidency Court, which measure was to have raised the Jurisdiction of the Small Cause Court to 2,500 Rs. and simultaneously with the passing of which Act, it was contemplated to reduce the Establishment of the High Court Original Side, with a view to consequent savings.

"The Judges of the High Court think it very probable that the work on "the Original Side will not be decreased materially by the introduction of the new scheme. "It has been found by experience that if intending suitors are aware that their causes "can be tried without delay many suits are brought, which, under other circumstances "would never be proceeded with and it may well be that although the Original Side may "be relieved of a certain number of causes of comparatively small value, yet their place "will be supplied by an increase in suits of a larger value and more intricate character "It will probably therefore, be eventually found impossible to carry on the work of "the Original Side, even after the transfer of Jurisdiction with any smaller establishment "than that hitherto entertained, and, this being so, it would be very inadvisable to put "into effect the reductions proposed simultaneously with the passing of the Act, as the "Secretary of State suggests."

"In the opinion of the majority of the Judges, the best plan would probably "be to defer the introduction of all the changes in the Establishment till some experience "of the effect of the new Act shows whether they are really feasible, and I am to suggest "that the fairest way of dealing with the present Registrar of the Original Side would "be to postpone any change in his office till it becomes vacant."

The Chamber might ascertain whether there has been, since the date of that letter (3rd September 1890), any such change of circumstances as to deprive the well considered opinion of the Honorable the Judges of any of its force, and whether they consider that sufficient experience has yet been gained of the effect of the City Civil Court to show that the reductions, they then deprecated in the High Court, are now feasible.

XVIII.—The question of the re-organisation of Establishment is referred to in the Government Order of the 26th September 1894 No. 2338 as follows :—

"In view of the decrease of work on the Original Side of the High Court which "is due to the creation of the City Civil Court the Government would be glad to be

"*favoured with the opinion of the Honorable the Judges as to the possibility of a* "*re-organisation of the Establishment and consequent savings. In the present financial* "*condition of the country the latter is an object of great importance.*"

XIX.—It will be seen from the foregoing extract, that the re-organisation is suggested, not with a view to the more active and efficient discharge of the business of the Court but with the sole object of saving money. The Government, not content with its surplus of 14,54,448 Rupees, wishes to still further recruit its finances from the tax imposed upon litigants, by appropriating funds levied from them ostensibly to meet the expenses incurred in the administration of Civil Justice, to purposes other than those for which they are so levied.

XX.—There was, it appears, a decrease in the number of suits filed on the Original Side of the High Court in the year 1893, occasioned, no doubt, in some measure, to the institution of the City Civil Court, but, is it possible to say with any degree of certainty that this decrease will be maintained? As a matter of fact, there has been already an increase, for the Chamber is informed that in the present year, 290 suits have been filed as against 242 in 1893. It appears unwise for the Government to suggest such an important step as the reduction of the High Court Establishment on the basis of the working of the court for one year only. Take the figures which appear in the Administration Report regarding the work in the Madras Court of Small Causes, in 1892 there were 25,361 suits filed, whilst in 1893 the number only reached 22,985 and yet no one would advocate a reduction of that establishment simply because the file of the Court happens to show on one year's working a decrease of 2,376 suits. In the Report on the Administration of Justice the matter is thus commented on. "*The falling off in the number of Small* "*Causes is very remarkable, the figure recorded this year being the lowest in the last* "*decade. The cause of the decrease cannot be stated with any degree of certainty but it* "*has been suggested that the depression in trade in Madras owing to the fall in exchange* "*may be to some extent accountable.*" Why should not this reason also hold good to some extent with regard to the falling off in the number of suits filed on the Original Side of the High Court? At all events the working of the Court for one year appears quite inadequate for the purpose of ascertaining whether the business of the Court admits of any reduction of establishment.

XXI.—Leaving out of consideration for a moment the opinion of the Honorable the Judges quoted above, and apart from the subject just dealt with, (as to the alleged decrease of work on the Original Side of the High Court,) there remains the question, whether the present is an appropriate time for giving effect to the proposal of Government, regard being had to the facts admitted in the Government Order on the last Administration Report, *viz*:—

(*a*) that the High Court is unable to cope successfully with the Civil Suits coming before it.

(*b*) that the decrease in the disposals of Civil Suits would doubtless have been greater in 1893, but for the lightness of the sessions and the presence of a fifth Puisne Judge for 3 months.

(*c*) that the High Court on the Original Side is a full year in arrear of its work.

XXII.—A further and important factor in the situation, in addition to those above referred to, is to be found in the circumstance adverted to at length in paragraph IX that the Government has made, and is in fact making a large financial profit on the Administration of Civil Justice, the actual nett surplus for last year amounting to 14,54,448 Rupees.

XXIII.—What form the Government desire the re-organisation to take, does not appear from the order. The Chamber will remember that when it was proposed in 1890 to raise the jurisdiction of the Small Cause Court to 2,500 Rupees and with the previous sanction of the Government of India from 2500 Rupees to any value that might be thought advisable, certain changes were then recommended by the Government of India in the establishment of the High Court which the Government decided to adopt, with the sanction of the Secretary of State, as soon as the transfer of jurisdiction had been effected.

XXIV.—The changes then proposed are to be found in the despatch from the Government of India, Department of Finance and Commerce (Salaries and Establishments), Law and Justice, to Her Majesty's Secretary of State for India dated Simla, 15th October 1889, No. 324 and were as follows.

"*In the event of your Lordship approving the scheme for the enlargement of the* "*jurisdiction of the Presidency Small Cause Court at Madras.* * * * * * * "*We may observe that, on a consideration of the proposals made by the Finance* "*Committee in connection with the cost of the Madras High Court and of the* "*recommendations of the Madras Government in regard to them, we have decided to* "*adopt the following changes, subject to your Lordship's sanction, as soon as the transfer* "*of jurisdiction, has been effected,* viz :—

(1) "*that the post of Registrar on the Original Side (pay Rs. 1,500 a month)* "*should be abolished, and that a Deputy Registrarship, to be held by a* "*professional lawyer, should be created for that side on a pay of Rs.* "*1,000 a month.*"

(2) "*that the pay of the post of the Registrar on the Appellate Side, who will* "*supervise the work on both sides of the Court, and who is now in* "*in receipt of a salary of Rs. 1,600 a month, should be a progressive* "*one, rising from Rs. 1,450 to Rs. 1,800 a month by annual increments* "*of Rs. 70.*

(3) "*that in the case of the Deputy Registrar on the Appellate Side—a post* "*which affords an opportunity of useful judicial training to a junior* "*Civilian—the pay should also be made progressive, beginning at* "*Rs. 700 (which is the existing rate) and rising to Rs. 1,000 a month* "*by annual increments of Rs. 60.*

(4) "*that the office of Clerk of the Crown, the pay of which is Rs. 300 a month,* "*should be abolished as a separate office, and the duties appertaining* "*thereto entrusted to the Deputy Registrar on the Orignal Side.*

"*These changes will result in an ultimate saving of Rs. 516-10-8 a month as*

Present Scale.		Proposed Scale.	
	Per mensem.		
"Registrar Original Side...	1,500	One Registrar Rs. 1,450 rising to Rs. 1,800 mean ...Rs.	1,683 5 4
" Do. Appellate ,, ...	1,600	Dy. Registrar Appellate Side Rs. 700 rising to Rs. 1,000 mean ...Rs.	900 0 0
"Deputy Registrar ...	700		
"Clerk of the Crown ...	300	Dy. Registrar Original Side ...Rs.	1,000 0 0
TOTAL... Rs.	4,100	TOTAL .. Rs.	3,583 5 4

"*shown in the margin. The permanent additional expenditure involved in our proposal to create an additional judgeship for the Small Cause Court at Madras on Rupees 1,200 a month will therefore be Rupees 683-5-4 a month, and this amount may be further reduced if as seems eventually possible, one of the Assistant Registrarships on the Original Side is abolished. We trust that the proposed arrangement will receive your Lordships sanction.*

XXV.—Upon these proposed changes the Honorable the Judges of the High Court in their letter of the 3rd September 1890, No. 2115, before referred to, wrote as follows :—

"*I am now to state the views of the Honorable the Judges on certain changes in the Establishment of the High Court which, with the approval of the Secretary of State, it is proposed to introduce simultaneously with the creation of the new jurisdiction.*"

"*It is proposed to make the Registrar on the Appellate Side, Registrar of both sides of the Court and to substitute for the Registrar on the Original Side a Deputy Registrar on the pay of Rs. 1,000.*"

"*A majority of the High Court, as at present constituted, is greatly averse to the proposed subordination of the Chief Officer of the Court on the Original Side and consider it would be a mistake to abolish the office of Registrar on that side of the Court. Objections to the proposal were well stated in a letter written by the late Chief Justice, Sir Colley Scotland, at the time when, on the creation of the High Court, this subject was once before discussed. Referring to the work of the Registrar of the Original Side he writes :—It has become very considerable and it is in every respect dissimilar from that of the Registrar on the Appellate Side and requires special qualification and training. For the discharge of these duties the Registrar should in my judgment, continue the Chief Officer in Civil and Ecclesiastical matters on the Original Side with independent ministerial responsibility, and the Registrar on the Appellate Side the same in matters of appeal. The distinction to be retained in this instance is accompanied by, as I have said, a very material difference in the duties and qualifications of the two officers, and in my opinion the suggested present change in designation would tend, without any advantage, rather to weaken the strictness with which the Judges regard the responsibility of each Chief Officer and to impede the active and efficient discharge of the business of the Court, (Letter, dated 21st March 1863). There has since that time been no such change of circumstances as to deprive his opinion of any of its force, and Sir C. Scotland's reasons would hold good even if a large percentage of the Original Suits were withdrawn from the High Court. It must be remembered that as stated before, the remaining suits, the number of which may become much larger than the present figures indicate, are far the most important, and must give proportionately more work to the Registrar. The business of taxing costs in suits in which solicitors are engaged would still be very considerable. Assuming that*

"*a competent man could be found amongst the solicitors to accept the post at a salary of Rs. 1,000, it is not clear to the Judges that any advantage would be gained by making him subordinate to the Registrar whose work would be chiefly on the Appellate Side. Practically the latter who is usually a covenanted Civilian holding his office for a short time only, having no technical knowledge, and having his time fully occupied with his own special work would exercise no control over the Chief Officer on the Original Side. It is very doubtful whether for a salary of Rupees 1,000 it would be possible to find a solicitor competent to do the work now required of the Registrar of the Original Side and other quasi-judicial work which may be delegated to him and the difficulty would certainly be increased by making its holder subordinate to the other Registrar.*"

XXVI.—These changes were not carried out, and if those, now contemplated by Government are the same, then unless there has been a change of circumstances, since that letter was written, to deprive their opinion, of any of its force, the views of the Honorable the Judges ought in the interests of the public to be supported by the Chamber; but as has been already pointed out, the Chamber has not before it particulars of the changes now proposed by Government, and it can therefore, without details, only express generally its strong disapproval of any reductions in the face of the present state of business on the Original Side of the High Court.

XXVII.—The Chamber is informed that the cost of the Regular Establishment on the Original Side, which comprises the establishment in the office of the Registrar, the Interpreters, the Chief clerk in Insolvency and the Judges' clerk is small, and that the establishment itself is insufficient to cope with the present work, if this be so, then no reductions should be countenanced. Reliable and independent information, as to the sufficiency of the establishment on the Original Side of the High Court, might be obtained from the Bar and the Attorneys and Vakils' Associations, the Members of the latter Associations being specially qualified to give a practical opinion on this question.

XXVIII.—There is also another matter upon which the Chamber should obtain information, which will no doubt be given by the Honorable the Judges if application is made to them, *viz.* what proportion of the total receipts of the High Court are contributed by the Original Side. It will be observed on page LX of the Report on the Administration of Civil Justice in this Presidency that a statement marked K is given showing the judicial receipts and charges of Civil Courts for 1893, from the statement it appears that the total receipts of the Appellate Side and the Original Side of the High Court for the year amounted to 2,45,440 Rupees. It is generally believed that the receipts from the Original Side of the High Court exceed the receipts from the Appellate Side, whilst the cost of the Regular Establishment of the Appellate Side of the High Court is roughly speaking about seven times the cost of the Regular Establishment on the Original Side.

It is not for a moment suggested that the Regular Establishment on the Appellate Side is too large or should be reduced, but if these figures are correct and if it is the fact, that the present Regular Establishment on the Original Side is inadequate to cope with its work, the Chamber should consider the advisability of respectfully requesting the Honorable the Judges, in the interests of the public, to apply to Government to increase the Establishment with a view to greater efficiency and not to reduce it with a view to consequent savings.

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Memorandum on the proposals contained in G O. 26th September 1894, No. 2,338, Judicial, viz., to substitute Institution fees, calculated in accordance with the Court Fees Act 1870, for the scale of fees leviable in the High Court, and to reorganise the Establishment on the Original Side of the High Court with a view to saving money.

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Jud Dept
Madras No 1
To
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It will be within the recollection of the Chamber that towards the end of the month of January 1889, a paper bearing date the 12th January 1889, No. 22, from the Secretary to the Government of India, Home Department, was communicated to the Chamber with a request that it would favor the Government with its opinion on the proposed enlargement of the Jurisdiction of the Madras Court of Small Causes.

That paper contained the following proposals:—

1. To afford relief to the High Court at Madras by enlarging the Jurisdiction of the Presidency Small Cause Court.
2. To add a Judge and a Regular Side to the Court of Small Causes.
3. That all cases not of a Small Cause nature and not exceeding Rs. 2,500, in value should be instituted in the Court of Small Causes instead of the High Court.
4. The right of appeal in all such cases to the High Court.
5. A similar right of appeal in all Small Causes ranging from Rs. 1,000 to 2,000, now tried summarily.

The paper further stated that "*the High Court will of course be competent to call up cases to their own file and it is understood that they will readily exercise this power in all cases involving questions of mercantile law.*"

With regard to the proposals contained in this paper, attention should be given to the inducements held out to the Mercantile Community to accept them, *viz.*:

(*a*) The right of appeal to the High Court.

(*b*) That the High Court would readily exercise the power conferred upon it of calling up all cases involving questions of mercantile law and usage.

Inducement (*b*) was most indignantly repudiated by the High Court as will be shewn later on.

On the 8th March 1889, the Chamber in its letter of that date to Government, approved of the proposals provided "*the services of a 6th Judge of the High Court are not dispensed with until it is satisfactorily established that the relief afforded by the proposed change will reduce the work of that Court to dimensions that can be efficiently dealt with by a smaller number of Judges than six.*"

In consequence of rumours as to the scope of the Bill which the Chamber heard was about to be introduced into the Viceregal Legislative Council, the Chamber on the 8th May 1890, wrote to the Government of Madras stating that since it had conditionally approved of the proposals contained in the paper of the 12th January 1889, it had been led to believe that had it seen the official correspondence on the subject, it might have formed a different opinion to that which it had already expressed, and requesting that ample time would be afforded for the consideration of the Bill in Madras and that full information would be given to the objects that the Government of India had in view.

On the 12th May 1890, the first day of the High Court vacation, the Government submitted to the High Court Judges "a draft of a Bill for giving effect to the "scheme for affording relief to the Madras High Court by enlarging the Jurisdiction "of the Presidency Small Cause Court."

The important features in this Bill were,—

(*a*) that it was to come into force on 1st July, 1890.

(*b*) that it was was proposed to confer upon the Local Government the power of raising, with the previous sanction of the Government of India, the pecuniary limit of the new Jurisdiction of the Small Cause Court from 2,500 Rupees to any value that might be thought desirable.

With regard to (*a*) considering the vacation commenced on the 12th May and extended to the 12th July and that therefore the Judges would be away, there was no time for them to consider the Bill. It was afterwards stated that this date was inserted in error. With regard to (*b*) it is to be observed that the proposal is entirely different to the one to which the Chamber accorded a conditional approval by its letter of the 8th March 1889.

The Chamber at this time had no copy of the proposed Bill and on the 20th May 1890, it wrote to Government expressing a hope that it might be favored with a copy of the Bill and deprecating the quite unnecessary haste which was being displayed to rush the Bill into law.

On or about the 5th July 1890, the draft Bill was sent to the Chamber.

The Chamber did not at the time address Government on this Bill as there was a universal outcry against it not only in Madras but in Calcutta and Bombay and the Chamber believed it had been abandoned.

It is important to consider the views of the Judges of the Madras High Court, as expressed in a letter written by the Registrar of the Court to Government, on this Bill, because it is difficult to see what has occurred, between the date of this letter 30th September 1890, and the present time, to detract from the arguments the Judges then adduced against curtailing the jurisdiction of the Original Side of the High Court, which is at this present moment again contemplated by Government.

In paragraph 2 of the letter in question they say "*in fact, the measure "appears to have been designed with a purely financial object, simply and solely to "relieve the High Court of a portion of its work and thereby enable the Government "to avoid appointing permanently a fifth puisne Judge in the High Court. If this is, "in fact, the sole object which the Government has in view, the High Court is "constrained to record its emphatic opinion that the mere possibility of effecting some "small reduction of expenditure is not an adequate reason, in fact, constitutes in itself no "reason, for interfering with any portion of the system of administration of justice in "this country, and must protest against the adoption of considerations of economy "as the sole ground for proposing changes in the Jurisdiction of the High Court.*"

In paragraph 3, regarding the desirability of a cheaper forum for suitors with claims of small value which would not bear the expense of a High Court Suit, they say,—

"*In the first place, the High Court has always felt the necessity for "creating some tribunal which might afford relief to suitors whose claims relating to "land, and being of small value, will not bear the expense of a High Court Suit. "Under the existing system of Judicial Administration in the Presidency Town, the "High Court is the only forum before which disputes relating to matters not "cognizable by the Court of Small Causes can be brought, and, owing to the "comparative costliness of litigation before that tribunal, Justice is practically denied "to a not insignificant portion of the inhabitants of the city. On the assumption "therefore that the suits under the new jurisdiction will, as regards levy of Court "fees be brought under the provisions of the Court Fees Acts, the measure, so far as "its effect is to provide a new and cheaper machinery for the benefit of small suitors, "has the support of the High Court.*"

As to the alleged unanimity of local opinion in favor of the Bill which it was alleged existed, the understanding that the High Court would call up cases to their own file, and that the measure would obviate the necessity of continuing permanently a 6th Judge, they say in paragraphs 9,10 and 11,—

"*(9) I am here to refer to a matter regarding which some mis-apprehension "appears to have arisen. In laying before the Secretary-of-State an outline of the "measure under discussion, the Government of India, in paragraph 5 of its Despatch No. "324, dated 15th October, 1889, laid great stress on the unanimity of local opinion in its "favor. The High Court believes that the Government of India is mistaken on this point. "It does not appear that the Judges of the Small Cause Court, the Bar, the Attorneys or "the Native Mercantile Community were consulted on the proposed changes, and the "generally favourable opinions recorded by the Chamber of Commerce and by the Trades "Association, seem to have been based on a misunderstanding. These bodies were informed, "in the letter of reference, that the High Court will of course be competent to call "up cases to their own file, and it is understood that they will readily exercise this power "in all cases involving questions of mercantile law and usage.*"

"*(10) The High Court desires emphatically to repudiate any such understanding "as one for which they are in no way responsible, and which in point of law must be "wholly inoperative. It is impossible, however, to say what weight may have been "attached to this supposed understanding by the bodies consulted, nor can their approba- "tion of the measure which was described to them be said to raise any inference in favour "of the present measure, inasmuch as the two measures differ in several important respects. "Moreover the High Court learns that the Chamber of Commerce approved of the measure "only provided the services of a sixth Judge of the High Court are not dispensed with until "it is satisfactorily established that the relief afforded by the proposed change will reduce "the work of that Court to dimensions that can be efficiently dealt with by a small number "of Judges than six.*"

(*11*) "*This leads to a consideration of the effect the introduction of the scheme "will have on the work of the High Court. In this connection I am to premise that the "Honourable the Judges view with favor the design of economising the Judicial Power of "the High Court by constituting an inferior and cheaper tribunal for the determination of "suits of low value and comparatively smaller intricacy and importance, but their "Lordships are firmly convinced that the measure must fail to realise the hope of the*

"*Government of India, not it is true, very sanguinely expressed, that the necessity of*
"*continuing permanently the appointment of a sixth Judge may be avoided by its means.*
"*As this is apparently the sole aspect of the measure which has received attention at the*
"*hands of the Government, the High Court considers it desirable to examine it, in detail.*"

"In paragraph 23 of the letter, the Judges say with regard to the necessity "of maintaining a 6th Puisne Judge for the proper performance of the work of the "High Court,"

"*I am to remind the Government that a great increase of Civil litigation is*
"*the natural and inevitable result of the extensive development of the country in*
"*material resources and of the advance in education and civilisation of the community*
"*which have marked the last three decades, while, the additions which as a direct*
"*result of the improvement in education, have been made annually of late years to*
"*the number of highly trained legal practitioners throughout the country, tend in the*
"*same direction. It is not reasonably to be expected therefore that a High Court of*
"*the numerical strength which was found sufficient in* 1862 *can suffice for the greatly*
"*increased requirements of the present day. The time for considering such a measure*
"*as the present bill as an expedient for postponing the permanent addition of one*
"*Judge to the strength of the Court has long passed. The particulars given above of the*
"*growth of the Court's work make this abundantly clear, and in considering the finan-*
"*cial effects of this measure, the Government must regard it as an established necessity*
"*that six Judges at least are essential for the proper performance of the High Court's*
"*work.*"

In paragraph 25, exception is taken to placing the Courts of Madras on an exceptional footing as compared with Calcutta and Bombay.

"(25) *Turning to the detailed provisions of the Bill. I am to state at the*
"*outset that the High Court as at present constituted takes a strong exception to the*
"*application of peculiar legislation on this subject to Madras. It impairs the unifor-*
"*mity and symmetry of the system of legislation for the Presidency Towns.*"

As to the virtual abolition of the jurisdiction of the High Court by the increased jurisdiction being given to the Small Cause Court, the Judges in paragraph 28 observe,—

"(28) *But passing from the legal question to the question of policy, the*
"*Judges are at a loss to understand for what reason it is proposed to incorporate a*
"*provision of so sweeping a character in the Act. At no period during the discussion*
"*on the subject of the enlargement of the Small Cause Court's Jurisdiction, ranging over*
"*the last twenty years, has the present proposal been hinted at or foreshadowed and the*
"*Judges are not aware of any circumstances since the date of the abolition of the*
"*Supreme Court which should make it expedient in the interests of the public that the*
"*High Court, in so far, as it is a successor of the Supreme Court, should also be*
"*abolished. On the other hand, they are convinced that a radical change in the consti-*
"*tution of the Court, which would be destructive of the two English branches of the legal*
"*profession, would be most prejudicial to public interests.*"

As to the power of Government to curtail the Jurisdiction of the High Court the Judges in paragraph 32 say,—

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"(32) *The observations above made apply in a great measure to the provision*
"*of section 4. It is proposed that the High Court should be absolutely deprived of its*
"*Jurisdiction in cases below a certain value, and it is not certain that the Jurisdiction*
"*of the High Court conferred by the letters patent can legally be curtailed in this way*
"*except by an Act of Parliament. So far as the Judges are aware, there is no pre-*
"*cedent for such legislation with reference to a superior Court either in this country or*
"*in Englaud and on the coutrary the provision here made in the Civil Procedure Code*
"*requiring suitors to institute their suits in the Court of lowest jurisdiction is so framed*
"*as not to exclude the jurisdiction of the Courts of higher jurisdiction. The provision*
"*with regard to costs contained in the present Small Cause Courts Act has been found*
"*amply sufficient to deter suitors who might resort to the Small Cause Court from*
"*resorting to the High Court and the Judges believe that no further precaution is*
"*required.*"

In paragraph 36, the Judges give their approval to the Bill so far only as it creates a cheaper forum for petty suits in the following words,—

"(36) *The views of the High Court expressed above may be summarised as*
"*follows:—First the Honourable the Judges are disposed to approve of the measure so*
"*far as its effect will be to create a cheaper forum for certain class of actions which will*
"*not endure the expense entailed on suitors under the present system, but they would*
"*point out to the Government that the consequences of providing such a tribunal are—*
"*likely to be more far reaching and serious than seems to have been anticipated.*"

This letter was forwarded to the Secretary to the Government of India Home Department Judicial by the Madras Government on 11th November 1890, No. 1771, Judicial. It is not proposed to discuss this despatch, on some points Government agreed with the Judges on others they did not, but the most important point on which Government agreed with the High Court was, that the retention of a fifth Puisne Judge was indispensable and that the then present strength (*i.e.*, five Puisne Judges) of the High Court would never admit of reduction.

This is what Government say.—

"*It will be seen that the High Court looks upon the retention of a fifth Puisne*
"*Judge as indispensable and I am to state that His Excellency the Governor-in-Council*
"*is in full accord with the High Court on this point.*"

"*The relief afforded by the present Bill will be small and may be largely*
"*counteracted by a growth of litigation and as the existing staff of Judges is hardly capa-*
"*ble of coping with the work which now comes before it, it is the decided opinion of the*
"*Government that the present strength of the High Court will never admit of reduction.*

Notwithstanding this decided opinion since the fifth Puisne Judge Mr. Justice Handley retired on the 4th April 1893, the Secretary of State has declined, in view of the institution of the City Civil Court, to appoint another Judge in his place, so that the strength of the High Court has been reduced.

After the very scathing criticisms, on this Bill by the High Court, it was dropped.

It is instructing at this stage, when it was solemnly proposed by the Government of India to raise the pecuniary jurisdiction of the Madras Court of Small Causes to 2,500 rupees and with the sanction of the Government of India to any value that

might be thought advisable, to find that the Government were actually at this very time recommending that the pecuniary limit of the Presidency Small Cause Courts, which then stood at 2,000 rupees, should be altered, and the limit laid down by Act XXVI of 1864, *viz.*, 1,000 rupees should be reverted to.

Such however was the case, the suggestion was contained in a letter from the Secretary to the Government of India to the Government of Madras No. 445, dated 28th March 1891, and forwarded to the Chamber for its opinion. In that letter however the Secretary to the Government of India says:—"*I am to explain that this "revision of jurisdiction would merely affect cases which would be tried as small cases and "will in no way touch the proposal that the Small Cause Court in Madras should be "empowered to try under the procedure applicable to regular suits, such cases of over "1,000 rupees in value as may be withdrawn from the jurisdiction of the Madras "High Court.*"

So that Judges of the Calcutta and Bombay Small Cause Courts were only to try cases the value of which did not exceed 1,000 rupees whilst the Judges of the Madras Small Cause Court were to try cases up to any value, 1 lac if necessary.

It may be here mentioned that a bill to carry out this proposal to reduce the value of Small Cause Suits to 1,000 Rupees is now actually before the Supreme Government.

The Chamber on the 18th July 1891, in a letter of that date to Government approved of the Small Cause Court Jurisdiction being limited to 1,000 Rupees.

In that letter the Chamber also refer to the draft Bill submitted to it on the 5th July 1890, which it believed had been abandoned and say "*that though in March "1889, it did approve conditionally of the proposal to extend the jurisdiction to all "causes not of a Small Cause nature and not exceeding 2,500 Rupees in value it now "doubts the efficacy of the proposed extended jurisdiction and disapproves of it.*"

Sir P. P. Hutchins was in no way daunted by the utter collapse of this sweeping measure, which as the Judges pointed out practically abolished the Original Jurisdiction of the High Court, for on the 3rd August 1891, the Government forward the Chamber a copy of another Bill intituled "A Bill to extend the jurisdiction of the "Court of Small Causes at Madras," with a statement of objects and reasons.

"*The object of this Bill was to constitute what may be called a Regular Side "of the Madras Court of Small Causes for the trial (1) of suits of the nature of Small "Causes but of a value exceeding the limit of 2,000 Rupees fixed by section 18 of the "Presidency Small Cause Court Act, 1882, and (2) of suits not of the nature of Small "Causes. At present all such suits have to be instituted in the High Court and the result "has been found to be not only a great waste of judicial power but also a practical denial "of justice to suitors who are unable to bear the expenses of a trial in the High Court.*"

The poor suitor is now brought on the scene for the first time in a most ingenious way; it will be remembered that the High Court in its letter of the 3rd September 1890, say,—

"*In the first place the High Court has always felt the necessity for creating "some tribunal which might afford relief to suitors whose claims relating to land and "being of small value will not bear the expense of a High Court Suit. Under the exist-*

"*ing system of Judicial administration in the Presidency Town the High Court is the only "forum before which suits relating to matters not cognizable by the Court of Small Causes "can be brought and owing to the comparative costliness of litigation before that tribunal, "justice is practically denied to a not insignificant portion of the inhabitants of "the City.*"

Sir P. P. Hutchins adroitly turns this portion of the Judges letter to his own account and makes the relief to the poor suitor one of the objects of the new Bill; there is apparently no question of relieving the High Court, but the interests of the poor suitor are now what he is anxious about.

The Bill nevertheless proposed to extend the Small Course Court jurisdiction to 5,000 Rupees and by Government notification, if necessary to 10,000 Rupees. Poor suitors claims do not extend to 5,000 Rupees and 10,000 Rupees. This Bill was in reality another deliberate attempt to oust the jurisdiction of the High Court and to prevent the continuation of the fifth Puisne Judge.

In introducing this Bill to the Supreme Government, Sir P. P. Hutchins said,

"*Power is reserved to the Local Government to extend the pecuniary limit of "this Regular Jurisdiction (Small Cause Court) from Rupees 5,000 to any sum not ex- "ceeding Rupees 10,000; and it is intended that they should exercise this power with "reference to the number of Judges who can be made available, in the High Court and "Small Cause Court, respectively, and the business which has to be distributed between "them. In other words, without going so far as to establish a District Court with fixed "powers, which shall oust the jurisdiction of the High Court, and the Judge of which "might not have enough work or might have too much, we shall make use of machinery "which already exists and apply it under conditions so elastic that it will be in the "power of the Local Government to assign to the inferior court just so much work as "may fully occupy the one, one and a half, two, or even three Judges whom it is "prepared to employ over and above those required for Small Cause work proper, "and to reserve for the High Court so much of the more important original civil "business as with the Criminal Sessions and Insolvency Work will occupy the one "Judge, or it may be one and a half, who can be spared from the Appellate Side of "the High Court, my own view of the situation is that in all probability one Judge "ought to be ample for the whole of the original work which deserves to be retained in "the High Court.*"

"*Whether a single Judge will be enough for the Regular Side of the Small "Cause Court must depend on the effect which this legislation may have on the petty "litigation of the City. It has been all along recognised that it is likely to cause a "considerable increase in the number of suits, and it may well be that the work will "be beyond the powers of a single Judge, even with the occasional aid of a "colleague not at the time required for the Small Cause work. Should this prove to "be the case, the Local Government can at once apply an effectual remedy by "appointing a temporary additional Judge, or by enlarging the jurisdiction to "such extent as many seem desirable and giving another permanent Judge. This "elasticity of the scheme is to my mind one of its chief recommendations. I need "hardly remind any one conversant with the work of the Madras High Court in the "last decade or two, how extremely difficult it is to get an additional Judge*

"appointed to the High Court by Letters Patent. Justice Innes long and "ineffectual struggle for the appointment of a fifth Puisne Judge must be well "remembered in Madras; and although in 1883, I had the advantage of entering "into his labours, I might never have succeeded but for the fact of my having in "1886 become a Member of the Government, and for a further happy concatenation "of circumstances of which I was able to take advantage to overcome the very "reasonable objections entertained by the Secretary of State. But now it may be "asked, indeed, it has been asked even granted that the scheme is a good one, "why press it at the present time? There is a fifth Puisne Judge at last, and if "he is confirmed, the High Court will probably be able to get through the work "which will come before it for some years to come—why not get him confirmed "and have done with it? The simple answer is that this puts the case on an entirely "false issue. I am surprised and sorry to find this put forward as the only real "issue in some of the newspapers which had no full knowledge of the facts; but "I still more regret that the High Court itself, as constituted last September, "should have ventured to say that the measure appears to have been designed with "a purely financial object, simply and solely to relieve the High Court of a portion of "its work and thereby enable the Government to avoid appointing permanently a fifth "Puisne Judge." If this were the sole, or even the main object in view, I should "still think that the measure is one which deserves to be carried into effect, first, in "order that we may ascertain whether, after all the fifth Puisne Judge is really "necessary, and secondly, because in a few years time we may have a sixth Judge "proposed, and exactly the same trouble over again. But so far is this from being "the main object in view that the Local Government in its last letter, while expressing "a decided opinion that the present strength of the High Court will never admit of "reduction is equally decided that the Bill is necessary in order to provide a tribunal "both less expensive and less dilatory than a High Court."

We have here an admission of Mr. Justice Innes' long and ineffectual struggle to get an additional Judge appointed to the High Court, of Sir P. P. Hutchins assistance to Mr. Justice Innes in his labors, of the ultimate success of their combined efforts and an indignant protest against the suggestion that the measure then under consideration was to obviate appointing permanently a 5th Puisne Judge.

Can the Chamber in view of what had already taken place, and what is now taking place doubt as to what was the real object of this Bill notwithstanding Sir P. P. Hutchins' indignant protest?

The Chamber will mark the skilful way Sir P. P. Hutchins in the same speech endeavours to make out that the poor suitor is the person to be considered quite apart from the question whether the 6th Judge should be retained.

"I may say then that the objects and reasons of this Bill are two-fold. The "first is to remove that practical denial of justice to a not insignificant portion of the "inhabitants of the City which the High Court admits to exist, and to be inevitable "under the present system of Judicial Administration in the Presidency Town. And "the second is to obviate the lamentable waste of Judicial power involved in that system,

"which requires every petty dispute, not technically a small cause, to be fully investi- "gated by so highly paid an officer as a Judge, or perhaps even a Chief Justice, of the "High Court. This waste is more marked in Madras than in Bombay or Calcutta "because the litigation is pettier, and because the Original Jurisdiction of the Court "extends over a far wider area, and one much less distinguishable from the outer "Mofussil. It includes a large number of suburban hamlets, and there is no concei- "vable reason why a petty dispute arising in one of these hamlets should occupy the "attention of a High Court Judge on Rs. 3,750, with all his paraphernalia, when a "similar dispute outside the toll-bar would be adequately dealt with by a Munsiff "drawing perhaps no more than Rs. 200, I say then that, quite apart from the question "whether the fifth Puisne Judge should be retained permanently or not, there are the "strongest possible reasons for amending the existing state of things in Madras."

That Sir P. P. Hutchins was quite prepared to interfere with the jurisdiction of all the Presidency High Courts, commencing with the Madras High Court, is also clear from the following passage in the same speech.

"All that can truly be laid to my charge is that I do not regard the Original "Civil Jurisdiction of the High Court as a fetish which it would be sacrilegious to "interfere with in the smallest degree, and that I consider that the interests of the "Bar must give way when they come into conflict with the interests of the suitor "and the public tax payer. The Bar however, is but slightly affected by the Bill now "in question, as may be gathered from the letter of 1885, which I have quoted almost "in full. All the pettier suits of the Original Side are already conducted by Vakils, "and by far the best paying work is connected with Mofussil litigation. In this "respect, as well as in other local peculiarities which I have already mentioned, "Madras differs essentially from Calcutta and Bombay. Many good authorities are of "opinion that some similar measure of reform is demanded for the other Presidency "towns also, but Madras has advantages which enable her to take the lead, whether "her sisters will be inclined to follow when they see how easily the proposed transfer "of jurisdiction can be effected, and the good results which follow, is a question which "we may well leave it to time to solve."

This Bill was circulated to the Judges of the Madras High Court and the following extract from the joint minute of the Chief Justice, Mr. Justice Shephard and Mr. Justice Handley, which deals with the question as to the minimum value of suits to be tried by the High Court, fixes as will be seen the limit, at 2,000 Rs. or at the utmost 2,500 Rs.

"The other reason propounded in the statement is that under the present "system, there is in the High Court a great waste of judicial power. We are not "concerned to deny that suits of a trivial character do come before the High Court "as indeed they do before all courts in all countries, or that it is desirable to exclude "them as far as is possible consistently with the principle that the suitor should not be "more heavily taxed than he has been heretofore; but the question is whether in order "to achieve that end it is necessary to fix so high a standard as Rs. 5,000 for the "minimum value of suits to be tried by the High Court? In our opinion, Rs. 5,000, "which in this country represents a very considerable property, is far too high a figure "for the purpose. The adoption of that figure would involve the transfer to the Small

"*Cause Court of cases, the majority of which fully deserve the attention of a Superior "Court. So far as a pecuniary test can be effective in excluding cases of a trivial "nature, we think that a limit of Rs. 2,000, or at the utmost Rs. 2,500, would sufficiently relieve the High Court of cases which it may be thought that it ought not to "be called upon to try. We are, of course, assuming that the High Court is to "remain as a Court having ordinary Civil Jurisdiction in matters arising within the "limits of the Presidency Town, and we do not therefore propose to notice the arguments derived from the analogy of the Mofussil system. To carry those arguments— "the purport of which is that what is good enough for the Mofussil is good enough for "the Presidency town—to their logical conclusion would involve the entire abolition of "the Original Jurisdiction of the High Court. We only desire to record our dissent from the "opinion entertained in some quarters that the work done on the Original Side is of "any less importance than that done by the Court as a Court of Appeal, considering "this reason for the Bill alone and apart from the other reason previously discussed, "we think no case can be made for giving the Small Cause Court extended Jurisdiction "in Suits beyond Rs. 2,000, or at the outside Rs. 2,500 in value.*

Justice Sir T. Muttusamy Aiyar, K.C.I.E., on the same subject in his minute says:

"*I am not in favour of doing more than what is necessary to relieve the High "Court of minor suits. I have always considered that any change of Original Jurisdiction now vested in the High Court, should be gradual, and should rather follow tried "efficacy than assume and anticipate it, especially as in the Presidency Town, large "mercantile interests have to be protected, and the public have always been accustomed "to have their regular suits tried by one of Her Majesty's Judges.*

"*Having regard to the history of the correspondence which has resulted in "the introduction of the present Bill. I observe that the transfer of Jurisdiction to a "certain extent to the Small Cause Court was first suggested as a measure of financial "relief. At a latter period, the creation of a cheaper tribunal was referred to as an "additional argument in favour of the proposed transfer of Jurisdiction. When a Bill "was first sketched, a third principle was adopted, viz., the creation of a New Court of "limited Original Jurisdiction and power in the Local Government to make the new "Jurisdiction unlimited and to practically abolish the Original Side of the High Court. "A doubt was then felt as to whether it was legal to abolish the Original Jurisdiction "of the High Court altogether and the present Bill is the result. It purports to "obviate the difficulty by limiting the Jurisdiction of the Small Cause Court "in the first instance to Rs. 5,000 and giving power to the local Government "to raise it to Rs. 10,000. The object in view appears to me to substitute practically "a new Court of Original Jurisdiction for the trial of all suits not exceeding "Rs. 10,000 and to abolish the Original Side of the High Court to that extent "by making the Plaintiff who resorts to it, forfeit his costs whether he succeeds "in his suit or not. I have always considered and do still think that it is "the interest of suitors to relieve the High Court of petty litigation, to transfer "it to a cheaper tribunal and to make the Small Cause Court a really cheap tribunal. "Any other change which has for its object to substitute a fresh Court of Original "Jurisdiction for the higher classes of suits in the place of the High Court appears to me*

"*to be an experiment of a sweeping character which it is not expedient to introduce until "the Small Cause Court is first tried as a regular tribunal for dealing with minor regular "suits (not exceeding Rs. 2,500) and found to exercise the limited Jurisdiction to "the satisfaction of the public and the legal profession.*

Mr. Justice Parker in his minute says:—"*Bearing the mind that the avowed "object of the Bill is to relieve the High Court of petty litigation only, I think the suggestion to give the Small Cause Court a regular Jurisdiction up to Rs. 10,000 is of too "sweeping a character. The High Court may not unfairly ask to be relieved of the work "of a District Munsiff but suits between Rs. 5,000 and Rs. 10,000 can hardly be described "as petty litigation and I would therefore restrict the new Jurisdiction to suits not "exceeding Rs. 2,500 in value.*"

But Mr. Justice Parker adds "*I should have no special objection to power "being granted to the Executive Government to raise that jurisdiction to suits not "exceeding Rs. 5,000 in value on the recommendation of the High Court for which "course a precedent in legislation may be found in Section 5 Act XXI of 1885, amending the Madras Civil Court's Act with reference to the Small Cause Powers of District "Munsiffs, but it may be advisable to leave such further extension of Jurisdiction "entirely to the legislature.*"

Mr. Justice Parker's views, as expressed in the above minute with regard to there being no special objection to leave being granted to the Executive Government to raise the Jurisdiction, no doubt account for the suggestion on page 12 of the Report on the Administration of Civil Justice in the Madras Presidency 1893, *viz.* "*Had the "Jurisdiction of the City Court been fixed as originally proposed by the Secretary of State "at Rs. 5,000 the relief to the file of the High Court would have been much greater and "would have enabled your Judges to cope with the work without undue pressure.*"

On the 27th August 1891 the Chamber expressed its views on the Bill in its letter of that date to Government.

On the 28th August and 4th September 1891 a meeting of the Citizens of Madras was held protesting against the Bill and a petition sent to the Viceroy.

The Bill was then withdrawn and the City Civil Court Bill introduced in its place.

The primary object of the City Civil Court was to provide a measure of relief to the poorer classes of suitors to whom the expense of a trial in the High Court was alleged to be prohibitory, and it is desirable here to call attention to the Report of the Members of the Select Committee to whom the Bill was referred when introduced by Sir P. P. Hutchins.

The report of the following members of the Committee, *viz.*,

1. Sir P. P. Hutchins.
2. The Honorable A. E. Miller.
3. The Honorable Rashbeary Ghouse.
4. The Honorable P. Chentsal Row.

contained (inter alia) the following expressions of opinion (*Vide* Fort St. George Gazette Supplement April 5th 1892.)

(1.) We are strongly of opinion that the limit prescribed by the Bill, *viz.*, Rs. 2,500 should not be exceeded.

(2.) It is not certain that the Indian legislature is competent to abolish any part of the Original Jurisdiction of a chartered High Court.

(3.) We are of opinion that the new Court should be confined to the trial of petty cases and should not be a District Court.

The Honorable Mr. Bliss another Member of the Select Committee in a separate minute said "*It is not satisfactorily established that any new Court is needed "in the City of Madras, Judges should be Advocates of High Court, without such a "provision the establishment of a new Court will in my judgment tend to the further "decadence of the Madras Bar to the serious injury both of private interests and of the "public weal. By private interests I mean the interests of private suitors not those "of individual members.*"

The Honorable Mr. Evans in his minute said.

"*The necessity for the legislation (if it is necessary) must depend on the "peculiar circumstances of Madras as such a measure would in my opinion be wholly out "of question for Calcuita, the position of Madras as regards the Original Jurisdiction "of the High Court appears to be very peculiar.*

With regard to the opinion expressed by the Honorable Mr. Evans, *viz.*, that such a measure would be wholly out of question in Calcutta. It may be asked, what is the difference between Calcutta and Madras which made this Bill suitable to Madras but wholly out of the question in Calcutta and why is a Madras suitor to be placed on a different footing to a Calcutta or Bombay Suitor.

As to the position of Madras, as regards the Original Jurisdiction, appearing, to quote the words of the Honorable Mr. Evans "to be very peculiar."

Residents of Madras are not aware of any peculiarity, the Honorable Mr. Evans who is a stranger to Madras was evidently led away by Sir P. P. Hutchins who in the year 1891 when introducing that memorable Bill of his before referred to *viz.*, the Bill to extend the jurisdiction of the Court of Small Causes of Madras, which it will be remembered was to give the Small Cause Court Jurisdiction up to Rs. 10,000 said "*that one of the objects and reasons of the measure was to obviate "the lamentable waste of Judicial power involved in that system which requires every "petty dispute not technically a small cause to be fully investigated by so highly paid an "officer as a Judge or perhaps even a Chief Justice of the High Court. This waste is "more marked in Madras than in Bombay or Calcutta because the litigation is pettier and "because the Original Jurisdiction of the Court extends over a far wider area and one "much less distinguishable from the outer Mofussil. It includes a large number of subur-"ban hamlets and there is no conceivable reason why a petty dispute arising in one of "these hamlets should occupy the attention of a High Court Judge on Rs. 3,750 with all "his paraphernalia when a similar dispute outside the Toll Bar would be adequately dealt "with by a Munsiff drawing perhaps no more than Rs. 200, I say then that quite apart "from the question whether the fifth Puisne Judge should be retained permanently or not, "there are the strongest possible reasons for amending the existing state of things in "Madras.*"

It would take up too much time to set out at length the many inaccurate and misleading statements made by Sir P. P. Hutchins in introducing that Bill. The Chamber in its letter of the 27th August, 1891, showed how he misrepresented its views, but it will be sufficient here to show how unfounded was the insinuation that the Judges of the High Court of Madras were occupied on

the Original Side of the High Court in trying petty disputes arising in the large number of suburban hamlets and that the ligitation was pettier than in Calcutta or Bombay, which apparently were the reasons which made the Original Jurisdiction of the Madras High Court appear to the Hon. Mr. Evans to be very peculiar.

In the Report on the Administration of Civil Justice in the Madras Presidency 1893 the Judges point out, that in the preceding six years the High Court received only *seven* suits of which the subject matter did not exceed 100 Rupees in value and during the same period, only 140 suits of which the subject matter did not exceed 500 Rupees in value.

As to the litigation being pettier than Calcutta or Bombay, the average value of the suits filed in the Madras High Court for the last five years is as follows:

	1889	1890	1891	1892	1893
Rs.	13,779	17,319	11,128	9,475	13,346

These averages are, it is submitted, very high, it is believed as high, if not higher, than the average value of suits filed either in the Calcutta or Bombay High Court.

May it not then be fairly stated, that the "petty litigation" and "the pecularity of Madras" did not in reality exist, that they were cries raised for the purpose of diverting the attention of the public from the real aim and intention of Government, which was to curtail the jurisdiction of the High Court and to avoid giving the Madras suitors six Judges, this being the least number stated, by the Judges and by Government, to be essential for the proper performance of the High Court work.

A reference to the Administration Report on Civil Justice in the Madras Presidency 1893 and the G. O. thereon will show that the Government desire to curtail the jurisdiction of the High Court still more and to again avoid appointing a sixth Judge.

If the Report on the Administration of Civil Justice in the Madras Presidency (1893) is turned to, on page 10 the following passage will be found.

"*It will be remembered that one of the objects and reasons for the "constitution of the City Civil Court was to provide a measure of relief to the poorer "classes of suitors to whom the expenses of a trial in the High Court is prohibitory, viewed "in this aspect the City Court has already justified its creation.....the City Court has "given relief in a class of cases which the expense of litigation in the High Court has "hitherto practically excluded, even in suits between Rs. 500 and 1,000 the advantage to "the suitor seems to be altogether with the City Court; and so far as it is safe to judge "upon the statistics for one year, it is to be inferred from the practical equality of this "year's figures with the average (77) of the last six years that the higher institution fees "under the Court Fees Act have had no deterrent effect on the filing of suits of the highest "values namely those between Rupees 1,000 and 2,500.*

With reference to latter portion of this statement, it should be pointed out, that of suits above 1,000 Rupees and not exceeding 2,500 Rupees there were 24 less filed in the City Civil Court than in the High Court in the previous year, no doubt if the average of the last 6 years is taken there is a practical

equality of this year's figures with those of the last 6 years, but, in as much as there has been a progressive increase in the number of suits instituted on the Original Side of the Court it would be safer to compare the last year *viz* 1892 with the year now under consideration and it will then be seen that there is a falling off of 24 suits of this value.

The report on page 12 calls attention to "*the large number of suits (97) "between 2,500 Rupees and 5,000 Rupees in value representing 40% of the whole work "of the Original Side. Had the Jurisdiction of the City Court been fixed as originally "proposed by the Secretary of State at 5,000 Rupees, the relief to the file of the High "Court would have been much greater and would have enabled 5 Judges to cope with the "work without undue pressure.*"

In the G. O. 26th September 1894, No. 2,338, reviewing this report the Government on page 2 observe.

"*There is no doubt that the establishment of the City Civil Court has removed a "serious defect from the system of the administration of Civil Justice*" and at page 8 the following passage occurs which demands particular attention :—

"*On the whole it is clear that the reduced High Court coped successfully with "the business coming before it except in regard to Civil Suits. The decrease in the number "of disposals under this head is very marked and it would doubtless have been greater but "for the lightness of the Sessions and the presence of a fifth Puisne Judge for three months. "At the end of the year the arrears of suits stood at 331, a figure which, though lower "than those for the three preceding years, is certainly unduly high, for it denotes that the "High Court is a full year in arrear of its work. In paragraph 42 of the report it is observed "that forty per cent. of the work of the Original Side consists of suits between Rs. 2,500 "and Rupees 5,000 in value and it is suggested that great relief would have been afforded "to the High Court if the jurisdiction of the City Civil Court had included suits up to "Rs. 5,000 in value. Relief appears so necessary that the Government will be prepared to "take into consideration the question of raising the Jurisdiction of the City Civil Court, if the "High Court is in favour of such step. In view of the decrease of work on the Original Side "of the High Court which is due to the creation of the City Civil Court, the Government "would be glad to be favored with the opinion of the Honorable the Judges as to the "possibility of a reorganization of the Establishment and consequent savings. In the "present financial condition of the Country the latter is an object of great importance. "With regard to the reference in paragraph 38 of the report to the higher institution "fees leviable in certain cases in the City Civil Court, His Excellency-in-Council "would be glad to know if the Honorable the Judges would be opposed to the "substitution of fees calculated in accordance with the Court Fees Act 1870, for the "scale of fees now leviable in the High Court, the Government is disposed to think "that the change would be advantageous on many grounds.*"

It is clear from the foregoing extract that the Government is prepared subject to the sanction of the High Court.

(a) To raise the jurisdiction of the City Civil Court to Rs. 5000 in value.

(b) To subsitute institution fees calculated in accordance with the Court Fees Act of 1870 for the scale of fees leviable in the High Court.

(c) To reorganise the Establishment on the Original Side of the High Court with a view to saving money.

The question to be considered is, whether it is in the interests of the public that these steps should be taken.

With reference to the desirability of raising the Jurisdiction of the City Civil Court to Rs. 5000.

The primary object of the City Civil Court was, as has been before pointed out, to give relief to poorer classes of Suitors.

This according to the High Court has been effected.

Then what reason is there for extending the Jurisdiction to Rs. 5,000? Suits of this value would not be launched by the poorer class of suitor and cannot be called "petty cases."

The reason is to be found in the foregoing G. O. 26th September 1894 *viz.*, that "*great relief would have been afforded to the High Court if the Jurisdiction had "included suits up to Rs. 5,000 in value. Relief appears so necessary that Government "will be prepared to take into consideration the question of raising the Jurisdiction.*"

No doubt relief would be afforded to the High Court on the Original Side, if the Jurisdiction of the City Civil Court was increased to Rs. 5,000 in value, but is that a good reason why the Jurisdiction should be so increased?

The relief should be afforded, not by increasing the Jurisdiction of the City Civil Court and thus taking away the Jurisdiction of the Chartered High Court, but by appointing a fifth Puisne Judge.

The City Civil Court was established by Goverment for the poor suitor who it was alleged was denied justice. This Court has been working about a year when we find the old story repeated again, relief to the High Court. The poor suitor cry is at an end, the Government admit that the High Court is unable to cope successfully with its Civil Suits, notwithstanding the City Civil Court, and but for the lightness of the Sessions and the presence of a fifth Puisne Judge for 3 months, the Court would doubtless have been still less successful; they admit that the High Court on the Original Side is a full year in arrear of its work and they ought, in justice to the citizens of Madras, to appoint another Judge, this they declined to do and are apparently prepared to revive the policy of Sir P. P. Hutchins, which was to oust the Jurisdiction of the Chartered High Court of Madras and give the public an inferior and more expensive tribunal.

To summarise matters.—

1. For years past there have not been sufficient Judges to cope with the work of the High Court.
2. That notwithstanding the fact, that in November 1890, the Judges of the High Court and the Government of Madras informed the Supreme Government that the retention of a fifth Puisne Judge was indispensable and that it was their decided opinion that the present strength of the High Court would never admit of reduction, the High Court has, from the 4th April 1893 (the date of Mr. Justice Handley's retirement) had a strength of four Puisne Judges only, the Secretary of State having declined to appoint a fifth Puisne Judge.

A Memorandum on the various measures proposed by Government since 1889, in order to avoid appointing a 5th Puisne Judge, and tending to curtail the Jurisdiction of the High Court of Judicature at Madras (Original Side.)

CHIEF SECRETARY'S GOVERNMENT OF MADRAS
22 FEB. 1895

The Chamber of Commerce,

MADRAS, *23rd January, 1895.*

FROM

THE HON'BLE MR. G. G. ARBUTHNOT,

CHAIRMAN, CHAMBER OF COMMERCE,

MADRAS.

TO

C. F. MACCARTIE, ESQ.,

PRIVATE SECRETARY TO H. E. THE GOVERNOR,

MADRAS.

SIR,

I have the honour to request that you will be good enough to inform His Excellency the Governor that a Special General Meeting of the Chamber of Commerce was held on the 18th instant for the purpose of considering the change which the Chamber understands it is proposed to introduce on the Original Side of the Madras High Court, and the proposed extension of the jurisdiction of the City Civil Court.

The Meeting, which was largely attended, was unanimously of opinion that the proposed changes would be inimical to the interests both of suitors and of the mercantile community and public at large, and that no good reason existed for placing the Madras High Court on an exceptional footing as compared with those of Bombay and Bengal.

The subject was fully discussed and the following Resolutions were unanimously adopted :—

1. That inasmuch as the High Court on the Original Side is admittedly unable to cope with the Civil Suits coming before it, and is a full year in arrear of its work, the Chamber is of opinion that the permanent appointment of a fifth Puisne Judge is imperatively necessary.

2. That, in view of the circumstances mentioned in the last Resolution, it is inexpedient to effect, on financial grounds, any changes which might tend to weaken the establishment of the Original Side of the Court, diminish its efficiency and further prolong and delay the disposal of suits and the issue and execution of Decrees.

3. That the City Civil Court being a Tribunal constituted for the express purpose of providing a measure of relief to the poorer class of suitors to whom the expenses of a trial in the High Court were alleged to be prohibitory, should be confined to the object for which it was created, viz., the trial of petty cases, and the Chamber is of opinion that any extension of its jurisdiction would be undesirable and is for many reasons to be deprecated.

4. That in the opinion of the Chamber the substitution of fees calculated in accordance with the Court Fees Act for the scale of fees now leviable in the High Court on its Original Side would be most disadvantageous to suitors, and that there are no circumstances which justify such

additional taxation on litigants as would be involved in the introduction of the Act in question into the High Court.

5. That in the opinion of the Chamber no good reason exists for placing the High Court of Madras on an exceptional footing as compared with those of Bengal and Bombay.

I beg to enclose copies of two Memoranda, which the Chamber has prepared dealing with the proposed changes.

I have the honour to be,

Sir,

Your most obedient servant,

George G. Arbuthnot

Chairman.

CURRENT No 942
98
20 B.

A

CHIEF SECRETARY'S
20 FEB 1895
GOVERNMENT OF

MADRAS, 22*nd February* 1895.

THE CHIEF SECRETARY TO GOVERNMENT,

Fort Saint George.

FROM

THE CHAIRMAN,

MADRAS TRADES' ASSOCIATION,

Madras.

SIR,

In their review of the Report on the Administration of Civil Justice, the Madras Government has shown its desire to introduce two changes that would, in the opinion of the Madras Trades' Association, be unjustifiable. It expresses the opinion—a very tentative opinion the Association is glad to note—that the *ad valorem* scale of fees calculated in accordance with the Court Fees Act should be substituted for the scale of fees now leviable in the High Court; and it also expresses its readiness to entertain proposals for raising the jurisdiction of the City Civil Court. The Association so strongly disapproves of both these suggestions that it proposes, before any further steps are taken, to lay before Government some of the objections to these contemplated changes.

The only advantage that the Association perceives in the extension to the High Court of the mofussil scale of fees is a slightly increased revenue to Government. Nearly half the litigation left to the High Court by the establishment of the City Civil Court consists of suits ranging in value from Rs. 2,500 to Rs. 5,000. If the Court Fees Act be made applicable to the High Court, the fees chargeable on suits of this value would be higher than those now leviable in the High Court; those chargeable on suits of the value of Rs. 2,500 would be slightly higher, while those chargeable on suits of the value of Rs. 5,000 would be nearly double the fees now levied in the High Court. This increased taxation would be a burden to the suitor, and it would bring in a comparatively small measure of revenue.

But whatever the income the proposed change of fees might bring in, it ought not to be adopted, because the mofussil scale of fees is on principle much too high. The principle on which Court fees should be levied was thus stated by Sir Henry Maine when legal Member of Council:—

> "The true doctrine, Mr. Maine submitted, was that the litigant and the general taxpayers should each contribute something (*i.e.*, to the maintenance of Courts of Justice). Nobody denied that litigants benefitted by the courts, and nobody would deny that the rest of the community derived some advantage from the solution even of such questions as those raised by the Bengali gentleman's will (referring to the Tagore case). What the proportion paid by each should be was a question not of theory, but of experience to be settled by the Government as trustee for all."

Now, so far from the general community contributing anything to the upkeep of the courts, under the mofussil scale of fees, the litigants not only pay for the courts, but also make a very handsome contribution, in this Presidency alone, of 14½ lacs towards the general revenues.

But not only is the mofussil scale thus distinctly opposed to principle; it is such as the Government is bound to reduce at the very earliest opportunity, because, as Sir Henry Maine declared, speaking on behalf of Government, that he repudiated emphatically the "policy of taxing litigants as a separate class for the benefit of the general finances." The Association consider that enough has been said to show that so far from there being any ground for extending the mofussil scale of fees, there is a very strong case for considerably reducing it in the mofussil, but it will be as well to call the attention of Government to the view taken of the Court Fees Act by the Financial Member, Sir John Strachey, when it was being debated in the Legislative Council. It will be remembered that the Act of 1870 was passed in order, amongst other things, to reduce the fees leviable under the Act of 1867 on suits under Rs. 1,000 in value. In reference to the Act of 1867, Mr. Strachey said :—

> "The fact was that there had hardly ever been an Act passed by the Indian Legislature to which he more strongly objected, and the disappearance of which from the Statute Book he would see with greater satisfaction. He had always believed that of all bad taxes that existed, there were none worse than high taxes on the Administration of Justice : and the taxes imposed under the existing law were simply enormous. . . . . Mr. Strachey did not pretend to say that in his opinion the present Bill (that is the Act now in force) afforded a really adequate measure of relief . . . . . but while he certainly hoped that the time would come when we should see a much larger measure of relief than the present, this Bill was, he thought, a decided step in the right direction."

Here again it will be noticed that Sir John Strachey, even before experience had proved that under the Court Fees Act the litigants would be taxed as a separate class, looked forward to a remission of the onerous duties levied under it.

The proposal to raise the jurisdiction of the City Civil Court is based on the necessity of affording relief to the High Court. That the High Court is in need of relief is a fact universally admitted, and, as far as the Association knows, no one concerned in litigation has the smallest doubt that the only proper way of affording the necessary relief is by giving Madras a sixth High Court Judge, an opinion the Association does not now propose to discuss although one of pressing importance. It will for the present content itself with showing that the proposal of the Government is inconsistent with the objects for which the City Civil Court was established. On the 25th March 1892 Sir Philip Hutchins, in presenting the report of the Select Committee referring to the City Civil Court, said it

> "after all is only another Court for determination of what are really small cases though not within the technical definition of the term Small Causes."

Again on the 11th August :—

> "The effect of the Bill will be to establish what may be briefly described as a District Munsiff's Court in the City of Madras."

It is true that one of the objects of the Bill was to afford relief to the High Court but it was never intended to relieve the High Court by taking away other than petty litigation. But further, Sir Philip Hutchins tells us on the 25th March :—

> "In Madras every District Munsiff has jurisdiction up to Rs. 2,500, and in the Report (of the Select Committee) will be found a strong recommendation that no attempt should be made to go beyond that limit."

It appears to the Association, therefore, that since the Civil Court was established only for petty litigation, and since the Select Committee strongly recommended that the jurisdiction should remain at Rs. 2,500, it is not now open to this Government to take in hand the raising of the Civil Court's jurisdiction. In suggesting the extension of the mofussil scale of fees to the High Court, it seems to the Association that the Government has forgotten that principle of assessing the Court fees which, not this Association merely, but the Government of India itself adopts as the true principle. And the Government has not been less forgetful in expressing its willingness to take into consideration the question of raising the jurisdiction of the City Civil Court. Not only has it apparently forgotten that the City Civil Court was expressly designed for the trial of such small cases only as would in the mofussil go before a District Munsiff, but it has forgotten that the Committee appointed to report on the Bill that became the City Civil Court Act presented a strong recommendation that no attempt should be made to go beyond the limit of Rs. 2,500, discretion not being left to Government to extend the jurisdiction.

The Association, therefore, desires to express the hope that the Government will refrain from proceeding further with the contemplated proposals herein referred to, and to remind Government that under financial stress, Governments, like individuals, are apt not only to exaggerate promised relief, but also to lose sight of other considerations more important than money.

The Association, in conclusion, desires to express its complete accord with the views recently submitted by the Madras Chamber of Commerce in this matter, and trusts, if Government intend to take action in the directions indicated, that ample time will be afforded to the Association for submitting detailed and exhaustive representation on a subject of such undeniable importance.

I have the honour to be,

Sir,

Your obedient Servant,

Chairman,

Madras Trades' Association.

CURRENT NO. 942

Jud

From

The Chairman

Madras Trades' Assoc

Dates 22 - 2 - 95
Recd 26 - 2 - 95
Reply 27 - 2 - 95

Subject

Regarding the extension of jurisdiction of the City Civil Court & the raising of fees.

Pmm

Please put this up to be circumstance order as arranged

HG wants more docs always

Issue two proofs

VB 4/3/95

100

Dept/179 D

Telegram

To The Head Clerk
Chief Secretariat
Madras.

(564) Send Chamber of Commerce 36 copies of Order 27th July 95, No 1580, regarding High Court. If necessary reprint x

[9/9]
2,000—2-4-95.

Current No. 483

DEPARTMENT.

From

The Secretary,
Chamber of Commerce,
Madras.

No.

Dated 31st August 1895
Received 3rd Sept^r 1895
Regd 3
Enclosures

SUBJECT.

Informing that he has forwarded 17 copies of G.O. No 1580 re 27-7-95 the Madras High Court.

The Chamber of Commerce wishes to send a deputation to the Sec^y. of State on what is to them a matter of extreme importance. We are at one with them on the subject, and considering how anxious we are that they should gain their point, I cannot see why we should not forward them with the arguments wh. we have employed. I do not see that we sh^d. thereby embarrass the Sec. of State. On the contrary it should assist him if we had our own views supported and expounded by personal argument. The matter is one wh. so directly affects the public, that I strongly deprecate every mystery. I wd. certainly give them the G.O. they ask for. I am not

G.O. 1803 dy. 29.8.95 Issd.

Secretary.

To notes 101

The Chamber of Commerce asks for 36 copies of G.O. of 27. July 95, No 1580 Mr Lowis's letter to the Secy. of State on the subject of the appointment of the fifth Judge was despd. on the 10. ultimo. The copies irregularly communicated to the Chamber by the Head were recalled by Head telegram in accordance with C.S.'s instructions. Together The copy sent to the Secretary of State showed that have reached him two or three days ago. There seems therefore no objection to giving further copies now.

D 4.9.95

Jo 5/9/95.

I agree with Mr Lewis. G.S. 6/9

My own opinion is that G.O. 1580 27.7.95 wd. not have been comm^d. to the Chamber of Commerce or the Trades Assn. at all & that the proper course to take wd. be to tell those bodies that the Comm^r. was made by authority the office & to ask them kindly & return all copies sent them. I admit the comm^r. was not contrary to rule & that even the despatch of the S. of S. might even be comm^d. without breach of rule, but it seems to me that that this to make public the arguments of this Govt. on a highly controversial subject cannot be embarrassing both to the S. of and to the S. of S.; and that therefore this G.O. should not have been made public. Had I been consulted I should have suggested simply to tell these bodies that Govt. had resolved to recommend this appt. to H.M. &

D.O.

Chamber of Commerce,
Madras, 31st August 1895.

CHIEF SECRETARY * GOVERNMENT OF MADRAS
-3 SEP 1895
-3 SEP. 1895
CHIEF SECRETARY * GOVERNMENT OF MADRAS

102

Dear Sir,

As desired by the Head Clerk of your office in a D.O. of this date I have today returned to him 17 copies of G.O. No 1580, dated the 27th ultimo, regarding the Madras High Court, which were forwarded to the Chamber in compliance with its request. At the last meeting of the Chamber it was resolved to make arrangements for a deputation to the Secretary of State for India supporting the Madras Government in regard to the necessity of appointing a fifth Puisne Judge, and as only three copies of the Order referred to were furnished to the Chamber, an application for 36 more was made with a view to a copy being furnished to the members of the Chamber, at present in Madras and to all the gentlemen composing

composing the deputation. I may mention that our request was made merely with a view to a saving of time, but if you cannot comply with it, the copies can be reprinted by the printers to the Chamber.

Requesting the favour of a reply at your earliest convenience.

I remain, Dear Sir,
Yours faithfully,

A Marlow
Secretary

To
The Honble Mr. J. L. Price,
The Chief Secretary to Government,
Judicial Department,
Rotacamund.

154

I know both things a little different: I can never tell who defined to the H.C. I send two Copies

BB
12/1/95

Jud. DEPARTMENT.

C. No. 483

105

FOR ORDERS.

H.L. is the person who will be held responsible in the matter. Therefore, if he wishes it, let the Chamber have the paper. But perhaps he will consider whether, as the Chamber already knows all our views + arguments, that knowledge will not suffice for its purposes without the formal communication of the S.O. –

BB
7/7/95 JG
9/9

Resolved to A. Ins with reference to A. Gs remarks

7/9/95

Re chambers applin for spare copies of the S.O. respg the appt. by a Justice Jnr.

FOR ORDERS.

Re-submitted with the Govr. with reference to the letter of 11th. The G.O was formally communicated to the C of Commerce on the 14th Augt. last in reply to the Memorial. The application now made is for spare copies

H.P
10/9/95

I would give them the copies they ask for. It is no use doing the thing by halves.

W
11 Sep

C9/9. Co/9
69 ix

[G. / 24.]
500—23-7-95.

DEPARTMENT.

Papers to be read in proceedings:—

106

Again G.O., dated		189	, No.
Again G.O., dated		189	, No.
Current No.	of 189 , dated		, from
,, ,,	,, 189 , ,,		, ,,
,, ,,	,, 189 , ,,		, ,,

ORDER.

Dept 12/9

D.O. to the Secretary to the Chamber of Commerce

Copy forwarded 12 Sept 1895

Dear Sir

In reply to your letter of the 31st ult. I am directed to forward you with 36 spare copies of the G.O. of 27 July 1895 No. 15-80.

11.9.95 H

12/9/95

Cs.

I am afraid this G.O. is exceeding my court, but it is difficult to modify it unless by the addition of a request that requests for spare copies should in future be addressed to the H.S. or C not to a mere clerk, or by an admission that the G.O. shd not have been communicated to the Ch.

Asst clerk in charge of Govt Gazette has been directed to send you

at all, until after it had reached the Sec.ty of State; I doubt if either of these additions will improve matters.

D.
11/2/95

Copies

C.

CHIEF SECRETARIAT,

D. C.

No. 253

Dated, 12.9. 189.

250—12-12-93.

From

107 Jud.l DEPARTMENT.

C. No. 212 dy 18 Jan 95 from High Court
C. N.o 282 dy 23 Jan 95 from Chamber of Commerce
C. N.o 377 dy 28 Jan 95 from Chamber of Commerce
C. N.o 467 dy 17 Feb 95 from High Court
C. N.o 586 dy 23 Jan 95 from Chamber of Commerce
D.O. N.o 134 dy 21 Feb 95 from the Private Secretary
C. N.o 942 dy 22 Feb 95 from Trades Association

Dated 189 .

FOR ORDERS.

The disposal of these papers has been delayed by the absence of the necessary references which were in circulation. They deal with four subjects, viz:—

(1) the reorganization of the establishment of the High Court;
(2) the application to the Original Side of the High Court of a scale of fees based on the Court Fees Act, 1870;
(3) the enhancement of the jurisdiction of the City Civil Court &
(4) the appointment of a fifth puisne Judge.

This Note deals, however, with the last two questions only; for the first is under consideration separately & the Registrar has informed me, D.O., that the High Court does not intend to make any definite proposals regarding the application of the Court Fees Act scale of fees until Govt. has pronounced an opinion as to the raising of the jurisdiction of the City Court & the appoin

ment of an additional Judge. As Mr. Justice Best observes, it would, perhaps, have been better had the High Court dealt with the Court Fees Act question in the present communication; because, there would be much more chance of the Secretary of State sanctioning enhanced expenditure, if it could be met from increased receipts from fees.

It is ~~probable~~ possible that H.M.'s will find it ~~impossible~~ practicable to pronounce a final opinion on the question of increasing the number of Judges until the High Court has expressed its views on the Court Fees Act question; but, at all events, the ground will be cleared towards a final settlement by setting out the facts relative to the two questions now under immediate discussion.

As already stated, these two questions are

(1) Shall the strength of the High Court be increased?

(2) shall the pecuniary limit of the jurisdiction of the City Civil Court be raised?

~~[illegible]~~

250—12-12-93.

From

108

DEPARTMENT.

No.

Dated 189 .

FOR ORDERS.

2. ~~The following is a brief précis of the law & cases and rules relating to the strength of the Madras High Court~~ Judges.

The history of the Madras High Court begins with the Charter of 1687 but, in its present form, the Court dates back only to the Statute 24 & 25 Vic. C. 104 (1861).

~~[illegible]~~

Sec. 1 empowers Her Majesty to establish High Courts by Letters Patent. Sec. 2 declares that the High Court of Madras shall consist of a Chief Justice & as many Judges, not exceeding fifteen, as Her Majesty may from time to time think fit & appoint. Sec. 7 provides that vacancies may be filled by the Governor in Council "until some "person has been appointed "by Her Majesty .... or until "the absent Judge has returned". In 1862 the first Letters Patent under this Statute were

issued; they declare (para 2) that the High Court shall consist of a Chief Justice & five Judges & mention the names of the persons who shall first hold office. One of the persons named was Mr. Morehead, but he merely took his seat pro forma & resigned.

Apparently from 1862 to 1865 the Court was worked by a C.J. & four Judges.

In 1865 revised Letters Patent were issued. They do not specify the number of Judges of whom the Court shall consist, but they declare that the then C.J. & Judges shall continue in office. And as, at the time, there were only four puisne Judges, the Letters Patent of 1865 fixed the strength of the Court in an indirect way at one C.J. & four Judges whether this result was contemplated or not seems to be uncertain. Assuming that it was, then the combined result of the L.P. & of sec. 7 of 24 & 25 Vic C. 104 is that any vacancy up to five (1 C.J. & 4 Judges) could (subject, of course, to any orders by the Sec. of State) be temporarily filled up by the Local Govt., but, for the appointment of a fifth puisne Judge, even temporarily, the issue of L.P. by Her Majesty would be necessary.

3

No. 109 DEPARTMENT

Dated 189

FOR ORDERS.

In 1868 Mr. Justice Holloway went on leave & ~~resigned~~ ~~Justice Cohen~~ ~~was appointed~~ As an experiment, the Govt. resolved not to fill up his vacancy. Accordingly for most of 1868 & 1869 the Court was worked by a C.J. & three Judges. The C.J. (Sir Colley Scotland) was asked to report the result of the Experiment & he replied that four puisne Judges were not absolutely necessary, but added that "it could" only be by a constant strain on their energies "is it possible for four "Judges [including the C.J.] "to sustain the [pro tem] "working of the Court". In 1871 the Govt informed the Sec. of State that it was no longer possible to work the Court with the reduced staff & prayed for permission to re-instate the fourth puisne Judge. The Sec. of State refused at first to comply with the request, but he seems to have given way ultimately

In 1877, however, on Mr. Justice Holloway's departure from India, the Court was again allowed to fall to a strength of three puisne Judges. ~~The Government,~~ ~~strong reasons urging~~ ~~were urged~~ ~~however~~ ~~that~~ ~~under~~ ~~the~~ ~~circumstances~~ ~~it~~ ~~would~~ ~~be~~ ~~desirable~~ that the staff should be strengthened, ~~a~~ ~~strong~~ ~~representation~~ ~~was~~ ~~made~~ to the Government of India, and the Secretary of State sanctioned the appointment of a fourth puisne Judge as a temporary measure. The Government of India ~~refused~~ ~~to~~ ~~sanction~~ ~~the~~ ~~appointment~~ ~~of~~ ~~a~~ ~~fourth~~ ~~puisne~~ ~~Judge~~ ~~except~~ ~~as~~ ~~a~~ ~~temporary~~ ~~measure~~ but he afterwards wrote semi-officially to Govt admitting that the state of the Court rendered the temporary appointment of a fourth puisne Judge unequal. The C. J.'s reluctance to press for a permanent appointment was due to his desire to watch the effect of the proposed amendment of the Small Cause Courts Acts, 1850. The puisne Judges, on the other hand, contended that the proposed alteration of the law would not materially relieve the High Court & they pointed out that the Criminal Procedure Code of 1872 had deprived the Sessions Courts of the power of revising the work of the Magistracy & had thrown the duty more completely than before on the High Court.

This Govt & the G. of I. agreed that a temporary fourth puisne Judge would have to be appointed & the Sec. of State ~~at first~~ agreed. ~~But subsequently~~ ~~on the~~ ~~matter~~ ~~arising~~ ~~again~~

DEPARTMENT.

ad in Proceedings :—

18 , No.

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from

~~anyone but Her Majesty could appoint (there being no Existing vacancy), Lord Cranbrook declined~~

Muttuswami Aiyar was accordingly appointed subject to report at the end of 1878 whether the services of a fourth puisne Judge were still required.

The report was not, as a fact, submitted till 1880, when Sir Charles Turner expressed his opinion that the fourth puisne Judge must be retained. This Govt agreed but the G. of I. recommended that the appointment should still be regarded as temporary & the Sec. of State concurred with the G. of I.

In 1882 Sir Charles Turner urged that the appointment of a fifth puisne Judge was necessary (see his letter in G.O. of 7 June 1882, No. 410, Jud.) & the Madras Govt supported his request & took the opportunity to urge again that Muttuswami Aiyar and Shan

be confirmed as fourth puisne Judge (Ld. letter d 7 June 1882).

The G. of I. again obstructed urging that the effects of Act XV of 1882 should first be ascertained. The Sec. of State accepted the G. of I's views & declined to confirm the fourth puisne Judge but sanctioned the appointment for six months of a fifth Judge (vide correspondence in G.O. d 2 Feb 1883, No. 334, Jud.). On a further representation the High Court, however, urged that the S. of S. had no power to sanction even the temporary appt of a fifth puisne Judge as there was no existing vacancy to fill. This being represented to the S. of S., he replied that he was not prepared to recommend Her Majesty to make any merely temporary appointment by Letters Patent. The appt was accordingly made

A further representation was made to the Committee on the same year, Jud. re-organization urged permanent that a fifth puisne judge should be appd & this Govt endorsed the proposal (Jud. letter d 4 Dec 1883, No. 3199). Again, the G. of I. declined to recommend the appt. because In 1885 (G.O. d 23 July 1885, No. 1915, Jud.) the question was again raised by the High Court which represented that it could not cope with the work; but, on this occasion

~~The fourth puisne Judge (Muttuswámi Aiyar) was confirmed in Sept. 1883, after acting for seven years or thereabouts.~~

about the fourth puisne Judge (Muttuswámi Aiyar) was confirmed at last in Sept. 1883, after acting for seven years or thereabouts.

Members had expressed the opinion Judges ~~throughout~~ that the Chief Justice (Sir C. Turner) was not just then absolutely necessary.

DEPARTMENT.

[5]
48—21-12-93.

Papers read in Proceedings :—

Again G.O., dated 18 , No.

Again G.O., dated 18 , No.

Current No. of 18 , dated from

Current No. of 18 , dated from

The Madras Govt did not support the proposal, as it prefers to recommend legislative measures for ~~The Govt, however, prefers to recommend~~ a reduction in the work of the Court. In 1886 the Finance Committee para. 24 cat. (in its 'note' on the High Court which will be found under cover of G.O. d 4 Jan 1887, No. 1, Fin., it remarked that, unless considerable changes of procedure were not effected there would soon be an urgent demand to appoint an additional Judge. This 'note' was referred to the High Court which replied (see correspondence in G.O. d 14 May 1887, No. 1026, Jud.) strongly urging that a fifth puisne Judge should be permanently appointed. The Govt agreed, but observed that the proposed transfer of part of the High Court's jurisdiction might render it possible to discontinue the fifth Judge at some future period. ~~However, to facilitate re-appointment the creation of a permanent post by L.P. seemed desira~~

The G. of I. concurring, ~~agreed that a temporary fifth judge was necessary, that he should be appd by L.P. & the S. of S. sanctioned the~~ appointment of a temporary Judge for eight months (G.O. ~~dated~~ 6 Dec. 87, No. 2733, Ind.) & (Letters Patent ~~&c.~~ 19 Nov. 1887, No 2633, Ind.) were issued by Her Majesty. Subsequently this sanction was extended for another 5 months & then, on four separate occasions for another year; that is, altogether from Jan? 1888 to the End of April 1893.

In Ind. Letter dy 7 Feb 1893, No 150, the G. of I. was asked to move the Sec. of State to renew the sanction for another year, but he declined to do so, ~~assigning no reasons~~ (vide Telegram in G.O. dy 2 May 1893, No 912, Ind.).

~~3. Steps taken & proposals made to reduce the High Court's work~~

No reasons ~~were given~~ for his refusal were given by the Sec. of State.

Both Civil & Criminal, but we are only concerned with the former.

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read in Proceedings:—

18 , No.

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from

from

3. Steps taken & proposals made in view to reducing the High Court's work.

It is now one hundred & forty-two years since sacrilegious hands were first uplifted against the original jurisdiction of the High Court.

From 1687 to 1753 the Mayor's Court had enjoyed Exclusive jurisdiction & the fortunate inhabitants of Madras were able to sue in it for recovery of the smallest sums. But, by a Charter of 1753, a Court of Requests was instituted for the trial of suits not Exceeding five pagodas in value & from that year to the present date the original jurisdiction of the High Court has been gradually crumbling away.

The next move was made in 1801 when the jurisdiction of the Court of Requests was extended to one hundred & twenty pagodas & it

title changed to "Court of Commissioners for the Recovery of Small Debts". Then came Act IX of 1850 which converted the Commissioners' Courts into Courts of Small Causes, raised their jurisdiction to R.500 & prohibited the Supreme Court from removing to its own file any suit of which the value did not exceed R.100.

The Act of 1850 was amended by Act XXV of 1860 which raised the jurisdiction of the Small Cause Courts to R1000.

The Exact scope of the jurisdiction conferred by the Acts of 1850 & 1860 was left somewhat uncertain, but it seems to have been generally held that the Small Cause Courts had no authority to determine suits relating to immoveable property.

It is probable that the object of this earlier legislation was to relieve petty suitors rather than the High Court. But afterwards the necessity for reducing the work coming before the High Court was clearly recognized.

It appears that in 1867 the Calcutta Bar Association suggested that the jurisdiction of the Small Cause Courts should be raised to R2000. No legislative action was taken upon this suggestion but in 1877 the question was raised again, and at the request

Jud. Department.

250—12-12-93.

C No. 212 of 18 Jan 1895 from the High Court
C.M. 282 of 23 Jan 95 from the Chamber of Commerce
— 467 of 17 Feb 1875 from the High Court
— 886 of 23 Jan. 1875 from the Chamber of Commerce

From

Dated 189 .

FOR ORDERS.

~~of the Govt~~ the High Court was asked to express an opinion as to the best means of reducing its work by extending the jurisdiction of the Small Cause Court. ~~the replies of the~~ The replies of the ~~pon the Judges~~ High Court and the Small Cause Court will be found in G. O. dated 11 March 1879, No 494, Judicial.)

The High Court recommended that the jurisdiction of the Small Cause Court should be increased to at least R.2500 & that there should be an appeal to the High Court in suits exceeding R500.

The Judges of the Small Cause Court, on the other hand, proposed that a Court of original jurisdiction with the powers of a munsif (excepting the Small Cause jurisdiction) should be established; that the jurisdiction of the Small Cause Court should be raised to at least R.2000 and that no appeal should be allowed from the decisions of the Small Cause Court.

Muthusami Aiyar (then officiating in the Small Cause Court) recorded a separate opinion. He agreed with the other judges

of that Court that a Court of original jurisdiction less expensive than the High Court was wanted but he thought it unnecessary to raise the jurisdiction of the Small Causes Court itself.
~~Sir W. Morgan also recorded his views separately~~
The opinion of the Madras Government will be found in Judicial Letters dated 11th March 1879 No. 430 to 495. It was to the effect that the jurisdiction of the S.C. Court should be raised to R2500; that Small Causes not exceeding R500 should be absolutely excluded from the High Court; that there should be an appeal in Small Causes Exceeding R500. But this Govt was not then in favour of establishing a Dt. Munsif's Court in Madras

About the same time, the G of I asked for a definite opinion whether jurisdiction in insolvency matters and in suits for immovable property should be conferred upon the Small Cause Court.
The replies of the Hon. the Judges will be found in G.O. dated 27 May 1879, No 1247, Judicial.
The Chief Justice considered that the Small Cause Court should have an original side exercising jurisdiction upto R 2500 in all classes of suits, except testamentary, matrimonial and maritime suits; and that it should also have power to dispose of insolvency matters; he added that the public would not object to this extension of jurisdiction if an appeal was given and that an appeal ought to be given even in ~~the~~ Small Causes ~~Court~~ Valued above R5

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e read in Proceedings:—

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from

from

The other judges seem to have generally agreed.
Accordingly, in 1880, a new Small Cause Court Bill was prepared.
It is not necessary to deal at length with the correspondence about the bill but it may be mentioned that this government expressed an opinion in favor of allowing appeals in Small Causes valued at more than R1000.
The bill passed into law as Act XI of 1882. Objection seem to have been raised in other Provinces to the establishment of Courts of Original Jurisdiction in the Presidency towns and the Select Committee thought that very little relief would be afforded to the High Court by granting insolvency jurisdiction to an inferior tribunal. Consequently Act XI of 1882, as originally passed, excluded (inter alia) insolvency cases and suits for immovable property from the jurisdiction of the Small Cause Court but it raised the jurisdiction of the Court to R 2000. ~~and~~,
It should be noted also that the

contained no provision for appeals
In 1885 (vide correspondence in G.O.
dated 28 July 1885, No 1915, Judicial)
the High Court expressed the
opinion that, unless the strength
of the Court were raised, it
would be imperatively necessary
to take steps to reduce the
work coming before it, with the
object of effecting such reduction,
the High Court proposed that
the Small Cause Court should
be invested with power to try as
a Court of Original Jurisdiction
all suits (except testamentary,
matrimonial and maritime)
not exceeding in value
R2000 or R2500 subject to an
appeal to the High Court.
~~The~~ It was also proposed to confer
insolvency jurisdiction on the said
Court.

On receipt of this communication,
this Government addressed the
Q. of S. pressing upon it the
necessity for adopting the
High Court's proposals as the
only alternative to the appointment
of an additional judge and
adding that ~~they~~ said
proposals were ~~desirable~~
worthy of consideration in the
interests, not only of the High Court,
but, also, of the poorer classes
of suitors.

In 1886 the Finance Committee,
in a Note which will be found
under cover of G.O. dated
4 January 1887, No 1, Financial,
made certain observations
regarding the work of the High
Court. In the first place it observed

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Papers to be read in Proceedings:—

Again G.O., dated 18 , No.

Again G.O., dated 18 , No.

Current No. of 18 , dated from

Current No. of 18 , dated from

that much of the work on the
original side which could then
done by a Judge might be
done by a Registrar or Clerk
~~it recommended~~, among other things, ~~the Committee~~
~~recommended~~ that all
insolvency cases upto R5000
should be transferred to an
inferior tribunal. The Committee
also expressed its approval
of the Scheme for establishing
a new Court of original
jurisdiction but suggested that
the limit of that Court's power
should be fixed at R.5000
instead of at R.2500 as
previously recommended.
Shortly afterwards, two letters
were received from the High Court
(vide correspondence in G.O
dated 14 May 1887, No 1026,
Judicial) In the first of
these letters, the Judges
stated that they were not
prepared to recommend the
transfer to an inferior Court
of suits exceeding R2500
in value and that such
transfer, if effected, would
not afford relief so substantial
as to obviate the necessity for

an additional judge.
In the second letter the same opinions were expressed.
After consideration of the whole matter, the Madras Government reported to the G. of I. that it concurred with the High Court in thinking that the transfer of jurisdiction should be limited to suits not exceeding Rs 2500 and urged the G of I. to undertake the necessary legislation without delay.
A few months afterwards, the G. of I., in a letter which was the ground in G.O dated 21 December 1887, No 2910, Judicial, made certain proposals with the object of facilitating the disposal of the less important Appellate business which comes before the High Courts. The Judges however showed reasons why these proposals could not be accepted and, the Madras Government having endorsed the views of the High Court, the matter appears to have been dropped. ~~The matter was~~ The Madras Government concluded its letter on this subject with the remark that the only way of affording substantial relief to the High Court was to transfer all its Original jurisdiction up to 5000 "in the manner which has already been laid before the G. of I.". This last remark was apparently an error for the scheme before the G of I. was to transfer the jurisdiction up

[G. / 25.]
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to Rs 2500 only.
In January 89, the G. of I. asked the Government to ascertain the views of the mercantile community on the scheme for the transfer of jurisdiction and also upon the suggestion that an appeal should lie to the High Court in Small Causes exceeding Rs. 1000 in value. The G of I added "The High Court will, of course, be competent to call upon cases to their own file and it is understood that they will readily exercise this power in all cases involving questions of mercantile law & usage".
In reply to this communication, the Madras Trades Association reported that its members were unanimously of opinion that the change proposed would afford great relief to the High Court & be beneficial & a great convenience to suitors. The Madras Chamber of Commerce also approved of the proposals and

understanding that the Services of the fifth puisne Judge of the High Court were not dispensed with until it was satisfactorily established that the relief afforded by the proposed change would materially reduce the work of the Court:

The G. of I then addressed the Secretary of State and that authority in a despatch dated 9 January 1890 (read in G. O. dated 16 April 1890, No 691, Judicial) approved of the proposed scheme of transfer but suggested that the jurisdiction of the Small Cause Court in Small Causes also should be extended to R2500 and expressed a doubt whether the right of appeal in respect should be conceded in respect of any Small Cause whatsoever.

In Communicating this despatch, the G of I said ~~that~~ asked the Government of Madras whether it would acquiesce in the proposal that no appeal should be allowed in Small Causes and the Government of Madras replied in the affirmative. A few months afterwards a Bill to carry out the scheme of transfer was forwarded to this Gov. for remarks.

The Bill contained provisions to the following effect:—

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(a) it raised the jurisdiction of the Small Cause Court of Madras from R2000 to R2500;

(b) it gave the Small Cause Court jurisdiction upto R2500 in certain suits which were not of the nature of Small Causes; ~~G. of I. sanctioned~~ ~~the Local Government to the sanction of the G of I. to raise by notification the limit of jurisdiction of the original side of the Small Cause Court to any extent.~~

(c) it gave the right of appeal in Small Causes exceeding R200 and in all suits other than Small Causes;

(d) it gave the Small Cause Court insolvency jurisdiction upto R2500; ~~it to be empowered to~~

(e) it empowered the Local Government, with the sanction of the G of I, to raise the jurisdiction of the Small Cause Court, whether sitting as a C. C. Court or as a Court of original jurisdiction or as an Insolvency Court; for

[G. 25.]
21-12-91

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R2500 to any extent which might appear necessary. This bill provoked adverse criticism from the High Court and, in Judicial letter dated 11 November 1890, No 1771, the Madras Government; while expressing general approval of the principle of the proposed measure, pointed out that the proposal to confer insolvency jurisdiction upon the Small Cause Court involved serious legal difficulties and that the relief afforded by such transfers would be inappreciable unless the limit were extended to Rs 5000. The Madras Government further objected to the provisions empowering the Executive to raise the limit of jurisdiction by notification but, although the Government approved generally of the proposed bills, the High Court as then constituted (with the exception of Mr. Justice Muttuswami Aiyar) objected, to the bills as a whole, to the principle of the measure. The consequence was that another bill was prepared. The main feature of the second bill was that the Small Cause Court was empowered to try Small Causes and Suits other than Small Causes if it thought fit, but purported to abolish the concurrent jurisdiction of the High Court in suits triable by the Small Cause Court.

* The High Court as then constituted (excepting Mr. Muttuswami Aiyar) went back on its predecessors & attacked the principle of the Bill; but Mr. Parker's return from leave soon afterwards went a long way towards converting the High Court into an ally of Sir P. Hutchins & the Madras Govt.

upto a limit of Rs 5,000 or to such higher limit, not exceeding Rs 10,000, as the Government might determine, the proposals to abolish the concurrent jurisdiction of the High Court and to confer insolvency jurisdiction on the Small Cause Court having been abandoned. This second bill was opposed by the Madras Government, the Chamber of Commerce, the Acting Advocate-General, the Chief Justice and Justices Shephard and Handley but it received the general approval of the Judges of the Small Cause Court and of Justices Muttuswami Aiyar, Parker and Wilkinson. The views of the Government upon the second bill are contained in Judicial letter dated 5th October 1891, No 2040. It will be seen that Mr. H. E. in C. agreed with the majority of those consulted in thinking that the limit of jurisdiction should be reduced further to Rs 2500 but had no objection

the Executive being empowered to raise the said limit to Rs 5000.
The Government further expressed the opinion that the abolition of the concurrent jurisdiction of the High Court was expedient.
Early in 1892, the Secretary of State suggested that, instead of conferring additional powers upon the Small Cause Court, a separate Court should be established with jurisdiction in suits other than Small Causes up to Rs 5000.
In consequence, probably of this expression of opinion, a third Bill was drafted. This Bill purported to establish a separate Court of Original Jurisdiction but its powers were limited to Rs 2500.
The third Bill was subjected to a great deal of adverse detailed criticism and this Government; after setting out the objections raised, expressed its regret that the original scheme of establishing an Original side to the Small Cause Court had not been adhered to [vide Judicial letter, dated 2nd March 1892, No 395]
[A copy of the remarks of the Bombay Government; The Select Committee thereupon drew up a fourth Bill which was circulated sent to this Govt for remarks along with a copy of the report of the Select Committee (vide G.O. dated 15th April 92 No 748 Judicial) which will be seen that the Committee expressed a strong

Papers to be read in Proceedings:—

Again G.O., dated 18 , No.

Again G.O., dated 18 , No.

Current No. of 18 , dated from

Current No. of 18 , dated from

opinion that the jurisdiction of the new Court should be limited to ~~Rupees~~ Rs 2000.
The Committee further thought that the new Court should be confined to the trial of petty Cases and should not be a divided Court; as had been suggested by ~~the Madras Govt~~ the Parties.
The Madras Government was expressed and ~~expressed~~ a doubt whether the Legislature was competent to abolish the High Courts concurrent jurisdiction. The Hon'ble Mr. Blair dissented from the opinion of the majority of the Select Committee approved of the Bill, which ~~this~~ was also opposed by the Chamber of Commerce, Mr. Justice Handley and the Trades Association. Otherwise the general principles were accepted [vide correspondence ending with G.O. dated 27 June 1892, No 1158, Judicial) and, with certain alterations, it passed into law as Act VII of 1892.
The new City Civil Court was actually established on the

1st December 1892.

It is now necessary to refer briefly to a recent amendment of the Small Cause Courts Act. XII of 1552. In March 1891, the G. of I. asked the Government for its opinion on the advisability of reducing the Small Cause Courts' jurisdiction to R1000. Opinions were invited and with the result that there was found to be a consensus of opinion that appeals should be allowed in Small Causes exceeding R1000 but that the jurisdiction of the S. C. Courts should not be reduced. [vide Judicial letter dated 3 September 1891, No 1774] a good deal of correspondence followed but it is unnecessary to refer to it at length. The upshot of it was that Act I of 1895 was passed. This Act does not give the right of appeal but it provides instead that Small Causes of value exceeding R1000 may be instituted in the High Court at the election of the plaintiff & in that, in Small Causes of similar value, the defendant may apply to the High Court to remove the cause into the High Court. The jurisdiction of the S. C. Court remains otherwise unaffected, that to-day, at R2000. Act I of 1895 may be styled retrospective inasfar as it ~~limits the powers~~ throws High Court open to suits

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exceeding R1000 in value. For more than one hundred & forty years the tendency of legislation has been to ~~curtail~~ restrict the original jurisdiction of the High Court, & for the last twenty years or so, the main stimulus to legislation has been the fear of having to increase the above limit of the High Courts. ~~Even now legislation~~ has stopped short of proposals made long ago by this Govt. which were to the effect that the limit of the S. C. Courts' jurisdiction should be raised to R2500. The stimulus of economy still operates, however, & as it is ~~fairly~~ unlikely ~~that proposals to raise the jurisdiction of the S. C. Courts would be accepted while Act I of 1895 is still in force~~ This stimulus still operates, in para 4(5) of Govt. 28 Sept. 1894, No 2335, Ind. the High Court was asked by this Govt. to consider whether legislation

be undertaken with the object of raising the jurisdiction of the City Civil Court to R.5,000 & thus relieving the High Court. The answers to this question form the present currents.

4. State of the file of the High Court.

~~It appears as a whole~~
~~The statistics in the Earlier reports~~ are so incomplete that ~~gives a clear idea of the position~~ it is impossible to ~~make any useful comparison between the work of the High Court during the last years~~ compile a full statement of the work done by the High Court since its organization on its present footing. Even for the latest years, the particulars available are insufficient in some respects. The following table contains such information as can be gathered from the last ten reports, but it does not show every branch of the High Court's work.

	1884		1885		1886		1887		1888		1889		1890		1891		1892		1893	
Instituted / Disposed of	I.	D.	I.	D.	I.	D.	I.	D.	I.	D.	I.	D.	I.	D.	I.	D.	I.	D.	I.	D.
Civil Appellate																				
First Appeals	145	228	187	141	191	135	227	128	232	261	242	197	254	272	269	269	225	262	284	259
Second "	1041	1283	1115	1054	1352	907	1381	1099	1894	1579	1720	1751	1408	1565	2082	1601	1759	1816	1856	1953
Appeals against Orders	181	229	268	201	235	246	248	220	186	153	101	113	132	82	138	75	209	81	132	101
Revision petitions	573	530	347	441	358	262	289	349	345	324	420	310	454	355	501	418	751	549	942	703
Miscellaneous cases	687	710	658	628	832	800	897	880	1324	1265	1265	1208	999	1111	1277	1297	1209	1226	1164	1382
Criminal Appellate																				
Cases submitted under Sec. 307 & 374 Cr.P.C.	?	?	?	?	83	69	51	58	68	69	69	71	82	79	80	76	77	76	75	78	76	78
Appeals	516	449	622	532	670	499	437	401	620	521	590	484	585	498	575	488	658	573	690	554
Revision Cases																				
Miscellaneous petitions	800	811	732	695	787	765	585	650	741	747	645	625	646	655	625	663	739	717	665	688
Civil Original	?	?	?	?	?	?	?	?	?	?	?	?	149	145	144	143	149	152	177	167
Suits	361	638	348	370	392	278	309	247	320	455	371	368	374	369	802	513	619	417	242	253
Insolvency cases	199	209	187	186	152	169	190	173	156	167	134	152	162	150	144	168	121	129	233	196
Miscellaneous Cases	183	2	4	7	7															
References to Chambers	21	15	2	2	2															
Execution petitions	204	145	235	187	155	82	139	64	182	93	230	104	280	215	220	127	222	106	160	115
Criminal Original																				
Sessions Cases	74	73	67	68	56	51	64	67	45	48	33	33	49	51	65	63	64	65	46	44
Total.																				

Under certain heads, there is ~~is~~ certainly also a marked advance; but the increase was most noticeable in the first half of the decade & since 1888, the growth under the more important heads has been trifling. Indeed, in some cases, there has been a falling off & it is very doubtful whether the figures as they stand indicate sufficient increase of work to justify a permanent claim for additional Judges. The fact however remains that, at the end of 1893, the file of the High Court showed the following arrears:— 331 suits, 366 Execution petitions, 122 Insolvency applications, 205 miscellaneous applications, 283 First Appeals, 1027 Second Appeals, 141 Appeals from Orders, 870 Civil Revisional Petitions, 133 Reference petitions, 202 miscellaneous Appellate Applications, 102 criminal appeals, 55 criminal revision cases, & 10 miscellaneous petitions.

In other words, the arrears at the end of 1893 constituted ample work for a Court of six Judges working for a year; ~~It is clear that~~ ~~the~~ Of course, with accumulated arrears, the average duration of litigation is extending & there seems very little chance of the High Court overtaking its work without some assistance. It must also be remembered that the High Court is consulted on innumerable

commissioners, registrars of this kind are becoming more frequent every year

5. Summary of the Currents.

To turn now to the currents. The following is a summary of so much of them as is not devoted to the question of fees & which does not proceed on considerations of the character of the Judges, & has reference to the Exposure of the wiles & wickedness of Sir P.P. Hutchins; ~~the subjects do not demand consideration~~

C. No. 212 The High Court furnishes some particulars of the arrears at the close of 1894 which show that they have increased upon the figures for 1893 under all heads Except Appeals against Orders, Referred Criminal Trials, Suits, Execution Petitions, Insolvency Applications & Miscellaneous Original Civil cases. From the Statement appended to the High Courts letter it would appear that the necessity for relief is stronger now at the end of 1894 than it was at the end of 1893.

Mr Justice Shephard is opposed altogether to any enhancement of the jurisdiction of the City Civil Court but the other Judges regard the proposal with approval, though it seems they would prefer the appointment of a fifth Puisne Judge. The Judges suggest that, to conciliate the mercantile community, commercial cases ranging between R2500 & R5000 might be exempted from the ~~right to be~~ imposed by sec. 16(1) of Act VII of 1892 on plaintiffs who unnecessarily sue in the High Court.

Mr. Shepherd's objections to the extension of the jurisdiction of the City Civil Court are as follows:— R.

(A) it is too soon to say whether one judge will continue to be able to cope with the work of the City Court and whether there will not in the future be a considerable increase in the number of appeals from the City Court to the High Court;

(B) the Select Committee expressed the opinion that the jurisdiction should be fixed at R 2500 and their restriction is reasonable because it roughly represents the limit after which litigation is cheaper under the Court Fees Act than under the High Court scale of fees; R 2500 is also the limit of a District Munsif's jurisdiction, whereas R 5000 represents no ascertained principle

(C) if changes of this sort are made, the High Court will end by losing its original jurisdiction altogether and such a result is undesirable because it will deprive the High Court Judges of all practice in original work, it will leave complicated commercial cases to inferior tribunals which are hardly competent to deal with them; it will destroy the two English branches of the legal profession and it will enhance

the cost of litigation to suitors generally.

Mr. Beal has also recorded two separate minutes from which it appears that Mr. Parker thinks that the work of the High Court is hardly enough to occupy six judges. Mr. Beal fears that if the City Court's jurisdiction is enhanced it will be necessary to appoint an additional judge to that Court and such an appointment will greatly diminish the chance of getting another judge for the High Court. From Mr. Beal's second minute it would appear that he is inclined to oppose altogether the extension of the City Court's jurisdiction.

C. No. 467 With this letter the Registrar forwards a list of the suits filed in the High Court during 1893 & 1894. The list shows that the extension of the City Court's jurisdiction to Rs. 5000 would afford considerable relief to the High Court and that the majority of the cases between Rs 2500 & Rs 5000 in value are not such as would be questions of commercial law.

~~C. Nos 586~~

C. Nos 282 & 586. From these letters it appears that the Chamber of Commerce is of opinion that a fifth puisne judge is imperatively necessary & that the City Court should be restricted to the trial of petty cases. The Chamber dwells on the opinion expressed by the Government [in judicial letter dated 11 Nov. 1890, No. 1771] to the effect that the relief afforded by the creation of the City Court would not be so large as to justify the discontinuance of the fifth puisne judge & upon the opinion strongly expressed from time to time by various authorities that the jurisdiction of the City Court should not exceed Rs. 2500. The Chamber adds that many suitors are deterred from suing in the High Court by reason of the great delay which occurs in the disposal of business there.

C. No 942 This contains the opinion of the Madras Bar Association. The Association says that the necessity for relieving the High Court is universally admitted but it considers that this relief should be afforded by the appointment of an additional judge & not by an enhancement of the jurisdiction of the City Court.

67 Conclusion It is admitted, as I submit it must be, that the present condition of the High Court is such as to render it imperative in the interests of the public that special measures should be taken to get rid of the arrears, the only question to be decided is as to the ~~nature of~~ form which those measures should take. Relief might be afforded in

any of the following ways:—
(a) By appointing temporarily or permanently a fifth puisne judge;
(b) By raising the jurisdiction of the City Civil Court;
(c) By conferring insolvency jurisdiction upon the City Civil Court.
(d) By transferring to the Registrars certain quasi-judicial functions which are now exercised by the Judges themselves;
(e) By modifying the procedure as to the hearing of appeals.

It is almost certain that the Secretary of State would decline to recommend to His Majesty the permanent appointment of a fifth puisne judge. It appears that Mr. Parker doubts whether the work is sufficient to occupy five Judges & it cannot be said that there has been any noticeable increase in the principal kinds of work during the last 4 or 5 years. It is true that the changes introduced into the law by Act I of 1915 will certainly throw some additional work upon the High Court and it is not impossible that a considerable increase will take place in the number of appeals from the City Court; but, for the present at all events, it will probably suffice to ask for a temporary judge for 2 or 3 years. Another reason for not asking for a permanent

judge is of a personal nature. It is a matter of common repute that the present Chief Justice does not perform his fair share of the work & it is probable that, if the High Court were under the superintendence of a man of the calibre of Sir Charles Lutner, for example, it would be very much more abreast of its work than it is at present. On the whole it appears far better to apply only for a temporary judge than to attempt, so soon after the passing of Act III of 1915, any alteration in the jurisdiction of the City Court. Such an alteration will be met with the same determined hostility which characterized the discussions on the part of the public when the City Civil Court Bill was under consideration and the various arguments adduced by Mr. Shepherd are certainly not devoid of weight. As already stated at the beginning of this Note, we are much more likely to get an extra judge if the scale of fees in force in the High Court is substantially raised but even if no such alteration in fees takes place, it may fairly be urged upon the Secretary of State that the public generally appears to feel great dissatisfaction at the large profit which the administration of Civil Justice undoubtedly secures to Government at present: this profit is mainly, no doubt,

derived from the Mufassal,
but that is no reason why a
portion of it should not be devoted
to enhancing the efficiency of the
Supreme judicial authority.
As the conferring insolvency
jurisdiction on the City Court;
that is a matter which has been
much discussed already as
indicated in the foregoing portion
of this Note. It will be seen
from Paras. 5 & 12 of Judicial
Letter dated 11 Nov. 1870
No 1770
that there are several legal
difficulties in the way of such
conferment of jurisdiction &
that the Government was of
opinion that no substantial
relief would be afforded by a
transfer restricted to amount
to R2500. It was presumably
on account of these representations
that Sir Philip Hutchins omitted
any reference to the insolvency
jurisdiction from the bill which
he introduced into the Legislative
Council: it seems hardly worth
while to raise the question again.
transferring insolvency
jurisdiction.

With regard to the suggested
transfer of quasi-judicial
functions to the Registrar:—
attention is invited to the Note by
the Finance Committee in G.O
dated 4 Jan. 1887, No 1 Financial.
The Committee thought that
References to take Accounts
should be performed disposed
of by a ministerial officer,
that the Civil Procedure Code
should be amended to

1st DEPARTMENT.

No.

Dated 189 .

FOR ORDERS.

legalize the disposal of
non-contentious matters by the
officers of the Court instead
of by a judge. The High Court
however, in Paras. 13 & 15
of its Second Letter read in
G.O. dated 14 May 1887,
No 1026, Judicial, contested
the conclusions arrived at by
the Finance Committee and the
matter was dropped. Now
Mr. Shepherd suggests
extension of the powers of the
Registrar similar to those
recommended by the Finance
Committee but he does not
explain in detail the manner
in which his suggestions
could be given effect to.
From the remarks made by
the High Court in 1887 it would
appear that the relief afforded
by extending the powers of
the Registrar would be
comparatively insignificant
but, if Mr. Shepherd thinks that
the High Court can be asked for a
definite expression of opinion
on the subject:
then as to modifying the
procedure on appeal attention
is invited to the Finance Comm

note ~~xx~~ (Para 42) of G.O. dated 21 December 1887 No 2910, Judicial. In the ~~Order~~ Compiler's Note it was suggested that no second appeals should be allowed when the amount concerned did not exceed Rs100 or that appeals in such cases should be disposed of by an inferior Tribunal, but these suggestions seem to have met with the disapproval of the High Court. ~~The Collector~~ The G.O. of Dec 1887 contains a letter from the G. of I. wherein it is suggested that a single judge should have power to dispose of —

1) All second appeals upto Rs100;

2) All revision cases under Section 622 of the Civil Procedure Code;

3) All revision cases & references under the Criminal Procedure Code except references in Capital cases;

4) All miscellaneous appeals &

5) All second appeals governed by Section 551 of the Civil Procedure Code.

These proposals (which apparently would not necessitate legislation) were disapproved by the High Court for reasons of which it is unnecessary to enter, the Government having agreed ~~agreeing~~ with the High Court; the Hon'ble Mr. Shephard suggested that relief should be given to the Court by empowering single judges to dispose finally of trivial appeals. The other Judges have not

the G. of I. seems to have dropped the matter.

250—12-12-93.

No.

From

Dated 189 .

FOR ORDERS.

communicated upon this suggestion. Orders are solicited whether they should be asked for their views. ~~Similar~~ Proposal Remains to notice a ~~suggestion~~ made by Mr. Bell. He observes that, instead of giving the City Court jurisdiction in all suits upto Rs 5,000, it should be given power to try each suits between Rs 2500 & Rs 5000 as may be referred to it by the High Court. This plan would certainly give rise to less opposition than a general transfer of jurisdiction. Perhaps the other Judges may be asked what they think of it.

24/3/95

Class of work	1884 – 1887 Four years – Two judges Average number of			January 1888 – April 1893 inclusive 5·4 years – 6 judges Average number of			Arrears at the close of 1893 as shown in Civil Judges Report	as shown in Registrar's Office	Arrears at the close of 1893 as corrected in this Table
	Institutions	Disposals Total	Disposals per judge	Institutions	Disposals Total	Disposals per judge			
1	2	3	4	5	6	7	8	9	10
Civil Appellate									
1. Forest Appeals	187·5	160·5	32·1	254·42	266·59	48·43	25	7 2 8 3	23	27
2. Revisional Appeals	1222·25	1055·75	217·15	1778·77	1645·22	279·2	191	1827	174	179
3. Appeals ~~Between parties~~ against orders in Petitions	233·00	226·50	45·3	151·70	101·00	16·83	138	141	291	141
4. Revisional Petitions	379·25	395·75	79·15	527·37	414·39	69·05	631	870	147	232
5. Misc. cases	768·50	754·50	150·9	1255·85	1262·37	210·39	180	203 Lists		
Criminal Appellate										
6. Referred cases	67·33	65·33	13·06	76·55	76·14	12·69	11	15 8	6	5
7. Appeals	536·25	470·25	94·05	602·59	577·52	96·25	80	102	114	117
8. Revisional Cases	726·00	730·25	146·05	677·40	678·04	113·0	86	55	56	104
9. Misc. petitions	"	"	"	.....	130·52	149·06	24·84	5	10	9	14
Civil Original										
10. Suits	327·50	331·50	66·3	264·18	359·66	59·94	34	331	331	291
11. Land Acquisition Cases	182·00	154·25	36·85	152·07	151·74	25·29	85	~~366~~ 122	122	119
12. Execution petitions	183·25	119·50	23·9	221·85	127·96	21·33	359	366	366	365
Criminal Original										
13. Sessions Cases do	65·25	62·75	12·95	50·88	57·55	9·59	nil	nil	nil	nil
Total	4561·25	4572·50	917·76	6211·89	5775·96	971·83	4324 17		4321	5547

4088

× Civil revisional petitions not including reference

† exclusive reference under S 397

~~It should be seen that the Criminal work is up to date~~ Keep Original

~~It should be seen that the figures of Criminal Original do not quite agree but~~

~~the discrepancies are not to~~

Yours

Please put these in type in continuation of the paper what I sent yesterday & show 2 proofs

AB
27/3

	Dec 1884 — 1887 4 yrs, 5 Judges		Average Jan 1888 — Apr 1893 incl. 5⅓ yrs, 6 Judges	
	Institutions	Disposals	Institutions	Disposals
Civil appellate				
First appeals	187·5	160·5	254·5	266·7
Second "	1222·25	1087·75	1748·8	1671·75
appeals against orders	233·00	226·50	151·70	101·00
Revision petitions	379·25	395·75	527·37	414·29
Miscellaneous cases	768·50	754·50	1255·85	1262·37
Criminal appellate				
cases under Secs 307 & 374 Cr.P.C.	67·33	65·33	76·55	76·14
Appeals	536·25	470·25	602·59	517·52
Revision cases	726·00	730·25	677·40	678·04
Miscellaneous petitions	"	"	150·82	149·06
Civil original				
Suits	327·50	331·50	367·18	359·66
Insolvency cases	182·00	184·25	152·07	151·74
Execution petitions	183·25	119·50	221·85	127·96
Criminal original				
Sessions cases	65·25	64·75	50·81	51·55
Total	4861·25	4512·50	6211·89	5775·96

Judge 1580-81
27-7-75

Cor. 212 } 18 Jan. 95 from Hyd Court
Cor. 282 } 23 Jan. 95 from Chamber of Commerce.
Cor. 377 } 28 Jan. 95 from —do— —do—
Cor. 467 } 1 Feb. 95 from Hyd Court
Cor. 886 } 23 Jan. 95 from Chamber of Commerce
Do No. 134 } 21 Feb. 95 from the Private Secretary
Cor. 942 } 22 Feb. 95 from the Law Member

Jud Dept

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FOR ORDERS.

The disposal of these papers has been delayed by the absence of the necessary references which were in circulation. They deal with four subjects, viz.:—

(1) the reorganization of the establishment of the High Court;
(2) the application to the Original Side of the High Court of a scale of fees based on the Court Fees Act, 1870;
(3) the enhancement of the jurisdiction of the City Civil Court, and
(4) the appointment of a fifth Puisne Judge.

This note deals, however, with the last two questions only; for the first is under consideration separately and the Registrar has informed me, D.O., that the High Court does not intend to make any definite proposals regarding the application of the Court Fees Act scale of fees until Government has pronounced an opinion as to the raising of the jurisdiction of the City Court and the appointment of an additional judge. As Mr. Justice Best observes, it would, perhaps, have been better had the High Court dealt with the Court Fees Act question in the present communication; because, there would be much more chance of the Secretary of State sanctioning enhanced expenditure, if it could be met from increased receipts from fees.

It is possible that Honourable Members will find it impracticable to pronounce a final opinion on the question of increasing the number of Judges until the High Court has expressed its views on the Court Fees Act question; but, at all events, the ground will be cleared towards a final settlement by setting out the facts relative to the two questions now under immediate discussion.

As already stated, these two questions are—

(1) shall the strength of the High Court be increased?
(2) shall the pecuniary limit of the jurisdiction of the City Civil Court be raised?

2. *The struggle for an extra Judge.*—The history of the Madras High Court begins with the Charter of 1687 but, in its present form, the court dates back only to the Statute 24 and 25 Vic. C. 104 (1861).

Section 1 empowers Her Majesty to establish High Courts by Letters Patent. Section 2 declares that the High Court of Madras shall consist of a Chief Justice and as many judges, not exceeding fifteen, as Her Majesty may from time to time think

I regret that I have been obliged to detain these papers so long. But the fact is that pressure of other work has been so heavy & constant that I have been unable to find time to attend to them properly. We impose before our attention a heavy file of this kind almost every two or three days & I often sit on the day ordinary boxes have been prepared in our room by the entire yard—

The longest paper among the enclosures is the letter from the Chamber which runs, with its enclosure, to 17 pages of small print. Much of this deals however with the question of the proper rates of Court Fees to be charged in suits generally which is not at the moment under consideration & with the question of the H.C. Bill which has for the present been dropped. I will ask the Secretary to confine his remarks to the question of an increase of the powers of the City Civil Ct. & to the appt. of a fifth Puisne Judge. I think a good case has been made out for the adoption of the latter course. I was all along against the constitution of the C.C. Ct. though, now that it has been established, I am ready to admit that it has done good work

and has probably ~~acquired~~ met a genuine requirement of the poorer classes of suitors in Madras City. But I doubt if we need go further in the direction of increasing its powers. As the C.C. stands it is the Madras City Munsiff's Court, and I think it should remain. The Judge is apparently overworked at present but there is no saying how his work will increase as time goes on. I consider, I add, this unfortunate, I consider, add to his work, absurd for the present. I doubt if the addition to his stock of suits between Rs 2500 & 5000, which are now filed & disposed of in the H.C., would make the total burden more than the present Judge could bear. But it must be remembered that he cannot last forever. He is already nearly 63 years of age, & the time must soon come when he must be replaced by some one else who may not be so able & so hard working. And this inevitable change may affect not only the table of work, but the confidence of the public in the Court, with the double result that the proportion of appeals will increase & therewith the work of the H.C., and that the dissatisfaction which would in any case be felt if the jurisdiction of the Court were increased will

The accumulation of arrears in the H.C. (para 13 of the Note) is so great that the existing number of judges can never bring the work up to date. If the Court remains at its present strength the arrears will go on increasing. The work of the judges, as they view it represented by them, and as I have seen for myself, is very hard, giving them no time for leisure or opportunity to read up law reports &c. and when any one of them gets ill unable to attend to work (as was recently the case with Mr. Parker) there is a state of affairs is hopeless. The only remedy for this is an additional judge. The mere cost is not prohibitive, seeing how much the exempts under Law & Justice exceed the expenditure, and the only question is whether it is necessary or not. If an addl. judge is appointed he will be in any years before the work (even if there is no increase) can be brought up to date. I believe, agreeing with the Hon Mr Bliss, that a 6th judge will be found the needed permanently, but we might try what can be done with an addl. judge for 3 years.

Raising the pecuniary jurisdiction of the Civil Court would give the judges of the H.C. some relief; but I doubt if it will give much, & I am not in favour of it for the reasons given by the Hon Mr Bliss

fit and appoint. Section 7 provides that vacancies may be filled by the Governor in Council "until some person has been appointed by Her Majesty . . . or until the absent Judge has returned." In 1862 the first Letters Patent under this statute were issued; they declare (paragraph 2) that the High Court shall consist of a Chief Justice and five Judges and mention the names of the persons who shall first hold office. One of the persons named was Mr. Morehead, but he merely took his seat *pro forma* and resigned.

Apparently from 1862 to 1865 the court was worked by a Chief Justice and four Judges.

In 1865 revised Letters Patent were issued. They do not specify the number of Judges of whom the court shall consist, but they declare that the then Chief Justice and Judges shall continue in office. And as, at the time, there were only four Puisne Judges, the Letters Patent of 1865 fixed the strength of the court in an indirect way at one Chief Justice and four Judges. Whether this result was contemplated or not seems to be uncertain. Assuming that it was, then the combined result of the Letters Patent and of section 7 of 24 and 25 Vic. C. 104 is that any vacancy *up to five* (one Chief Justice and four Judges) could (subject, of course, to any orders by the Secretary of State) be temporarily filled up by the Local Government, but, for the appointment of a fifth Puisne Judge, even temporarily, the issue of Letters Patent by Her Majesty would be necessary.

In 1868, Mr. Justice Holloway went on leave and, as an experiment, the Government resolved not to fill up his vaccancy. Accordingly, for most of 1868 and 1869 the court was worked by a Chief Justice and three Judges. The Chief Justice (Sir Colley Scotland) was asked to report the result of the experiment and he replied that four Puisne Judges were not *absolutely* necessary, but added "only by a contant strain on their energies is it possible for four Judges (including the Chief Justice) to sustain the proper working of the court."

In 1871 the Government informed the Secretary of State that it was no longer possible to work the court with the reduced staff and prayed for permission to reinstate the fourth Puisne Judge.

The Secretary of State refused at first to comply with this request, but he seems to have given way ultimately.

In 1877, however, on Mr. Justice Holloway's departure from India, the court was again allowed to fall to a

be intensified — Another argument which weighs with me & always has done, is as to the effect the enhancement of the jurisdiction of the Court would have upon the English Character of the legal profession. Upon this point I entirely agree with Mr. Justice Shephard. The Bar has already been most terribly weakened in Madras under the operation of the Act. For many years up (for which I believe the late Mr. Holloway was chiefly responsible) English Vakils are admitted to practice on the original side of the H.C. — In Calcutta & Bombay, I believe, the Vakils are still confined to the appellate side, although the original volume of legal business is so much more considerable in both those places than in Madras, that the Bar could there have far better afforded than here the transfer of a great part of its business to Mofussil agency which is on the whole cheaper & which native litigants have many reasons to prefer. It may be argued, of course, that the Madras Bar has not lost its practice because it has not, as a body, the ability of the Vakils. But when the Vakils first got the right to practice on the original side their ability did not, so far as I know, interfere with the professional gains of the barristers who were then established at the Bar; nor do I believe it does so now. The barristers who have established themselves

and Mr. Shephard. I am sure it will be a most unpopular measure & one that the Govt would hesitate to introduce into the Leg. Council to pass after the original Bill was passed in spite of great clamour & opposition, but the all-absorbing nature of the work of the H.C. judges & Mr. Shephard suggests, viz. the transfer of quasi-judicial function to the Registrar & empowering single judges to dispose finally of trivial appeals might be considered. The other judges should be asked for their views on these points.

JG 26/6

Three out of the 5 Judges are disposed to transfer to the City Civil Court suits up to 5000 Rs. in order to give relief to the High Court. But it should be specially noted that they guard themselves all through by pointing out that they can recommend this course only if the Sec. of State agrees to appoint a fifth puisne Judge. Even then I doubt if very much relief will be afforded, though of course it would give some. But even with this lightening of their labours, it is evident that the High Court cannot possibly work through its arrears, and keep itself abreast of its daily work. We should point out that the tale of work turned out compares very favourably with that of the Calcutta H.C. & shows that the pressure put upon our Judges is very

strength of three Puisne Judges. Strong representations were, however, made that the staff was insufficient and the Secretary of State sanctioned the appointment of a fourth Puisne Judge as a temporary measure.

Muttuswami Aiyar was accordingly appointed subject to report at the end of 1878 whether the services of a fourth Puisne Judge were still required.

The report was not, as a fact, submitted till 1880, when Sir Charles Turner expressed his opinion that the fourth Puisne Judge must be retained. This Government agreed but the Government of India recommended that the appointment should still be regarded as temporary and the Secretary of State concurred with the Government of India.

In 1882, Sir Charles Turner urged that the appointment of a *fifth* Puisne Judge was necessary (see his letter in G.O. dated 7th June 1882, No. 410, Judical) and the Madras Government supported his request and took the opportunity to urge again that Muttuswami Aiyar, J, should be confirmed as *fourth* Puisne Judge (Judicial letter dated 7th June 1882).

The Government of India again obstructed, urging that the effects of Act XV of 1882 should first be ascertained. The Secretary of State accepted the Government of India's views and declined to confirm the fourth Puisne Judge but sanctioned the appointment for six months of a fifth Puisne Judge (*vide* correspondence in G.O., dated 9th February 1883, No. 334, Judicial).

The High Court, however, urged that the Secretary of State had no power to sanction even the *temporary* appointment of a fifth Puisne Judge as there was no existing vacancy to fill. This being represented to the Secretary of State, he replied that he was not prepared to recommend Her Majesty to make any merely temporary appointment by Letters Patent. The appointment was not accordingly made.

A further representation was made about the fourth Puisne Judge and Muttuswami Aiyar was confirmed at last in September 1883, after acting for seven years or thereabouts.

In the same year, the Committee on Judicial Re-organization urged that a permanent fifth Puisne Judge ought to be appointed and this Government endorsed the proposal (Judicial letter dated 4th December 1883, No. 3199). Again, the Government of India declined to recommend the appointment on the ground that the Judges themselves had expressed the opinion that it was not just then absolutely necessary.

stroke and has only been maintained at the expense of their leisure, which they might legitimately look to. It has also been secured by the fortunate circumstance that they have all been able to work at high pressure, but when any sudden illness (like that of Mr. Parker this year) takes place, there is an immediate fall in the amount of work thrown out. On such an occasion there must be a complete cessation of work on the original side, as two Judges must form an appellate Court, and thus four Judges' time must be taken up. There is thus no reserve, & on such an occasion, arrears are being largely added to.

The figures that are now given show that the High Court is a year in arrears with its work, and this fact being known to

× Sir Henry Smith Court Court &c

the public delays many litigants from seeking recourse to the Court (at least the C. of Commerce say so.)

I think we might certainly urge on the Sec. of State the absolute necessity of appointing a fifth puisne Judge stating that although we believe his appointment should be permanent yet we would confine ourselves if one were appointed for only 3 years when his retention might be again considered.

I think we might back up the C. of Commerce against extending the jurisdiction of the City Court. There is undoubtedly a very strong feeling against this step. The City Civil Court has only been in existence a short time, & although it has so far been an undoubted success I think it

In 1885 (G.O. dated 13th July 1885, No. 1918, Judicial) the question was again raised by the High Court which represented that it could not cope with the work; but, on this occasion, the Madras Government did not support the proposal, as it preferred to recommend legislative measures for a reduction in the work of the court.

In 1886, the Finance Committee sat. In paragraph 24 of its "Note" on the High Court which will be found under cover of G.O., dated 4th January 1887, No. 1, Financial, it remarked that, unless considerable changes of procedure were effected, there would soon be an urgent demand to appoint an additional Judge.

This "Note" was referred to the High Court which replied (see correspondence in G.O. dated 14th May 1887, No. 1026, Judicial) strongly urging that a fifth Puisne Judge should be permanently appointed. The Government agreed, but observed that the proposed transfer of part of the High Court's jurisdiction might render it possible to discontinue the fifth Judge at some future period. The Government of India concurring, the Secretary of State sanctioned the appointment of a temporary Judge for eight months (G.O. dated 19th November 1887, No. 2633, and G.O. dated 16th December 1887, No. 2871, Judicial) and Letters Patent were issued by Her Majesty. Subsequently this sanction was extended for another eight months and then, on four separate occasions for another year; that is, altogether, from January 1888 to the end of April 1893.

In Judicial letter dated 7th February 1893, No. 280, the Government of India was asked to move the Secretary of State to renew the sanction for another year, but he declined to do so (*vide* telegram in G.O. dated 2nd May 1893, No. 912, Judicial). No reasons for his refusal were given by the Secretary of State.

3. *Steps taken and proposals made in view to reducing the High Court's work.*— It is now one hundred and forty-two years since sacrilegious hands were first upraised against the original jurisdiction of the High Court.

From 1687 to 1753 the Mayor's Court had enjoyed exclusive jurisdiction and the fortunate inhabitants of Madras were able to sue in it for recovery of the smallest sums. But, by a Charter of 1753, a Court of Requests was instituted for the trial of suits not exceeding five pagodas in value and from that year to the present date the original jurisdiction * of the High Court has been gradually crumbling away.

* Both civil and criminal, but we are only concerned with the former.

do well enough, I understand. The ability & the number of the body of the Vakils & the cheapness with which many of them work do not so much prevent the few barristers we have from making a living which is in fair accord with their professional value & industry, as does the door & the entry of junior barristers who would be willing to begin with small fees in small suits, if only they could in that way get a footing & work their way to the front in time. It is because the competition of the Vakils leaves no opening for juniors that the leading Bar remains in a position to cream off, & the more business is transferred from the H.C. & the City Civil Court the more imminent is the catastrophe & the more complete is it likely to be. But the maintenance of a strong independent Bar is not part of the first public importance. I would not therefore do anything calculated to weaken the Bar, already is more than sufficiently weak, I state. The C.C.C. is doing well (from a certain point of view, that is) as it is. I think we had better let it alone.

Then, the jurisdiction of the C.C.C. is not to be increased, & a fifth Puisne Judge required? I think there can be no doubt that this question should be answered in the affirmative.

The table on p. 12 of this Note shows the amount of work raised & disposed of by the H.C. in the years 1884 — 1893 — In the first four of those years there were five judges; after wards up to April 30, 1893, a for † 5 4/10 years, six judges. From this table, I have had [illegible] the manuscript statement ☒

might very reasonably urge the propriety of watching its course for some time longer, before we entrust it with further powers.

The feelings of the commercial community are entitled to be respectfully considered, & although I think they made [illegible] absurd fuss about the institution of the Court, & altho' the Judges show that their alarm about its further jurisdiction has been now [illegible] any foundation — I do not think we need press for any change.

A very strong point too is the one insisted upon by the hon. Mr Peters — viz: the position of the English bar & solicitors — and their position, weakened as it is now, sh^d. not be further imperilled.

W

29 June

† May 5 4/10 because, owing to the two months' adjournment, the judicial year has only ten months.

prefixed to this note which shows the annual average outturn of work with five and six judges, respectively. From this, again, I find that the average annual number of disposals per Judge has been as under :—

		with 5 judges	with 6 judges
	Civil appellate		
1.	First appeals	32·1	44·43
2.	Second "	217·15	279·2
3.	Appeals against orders	45·3	16·83
4.	Revision petitions	79·15	69·05
5.	Miscellaneous cases	150·9	210·39
	Criminal Appellate		
6.	Cases submitted under ss 307 & 374 Cr.P.C.	13·06	12·69
7.	Appeals	94·05	86·25
8.	Revision cases	146·05	113·0
9.	Mis. petitions	....	24·84
	Civil Original		
10.	Suits	66·3	59·94
11.	Insolvency cases	36·85	25·29
12.	Execution petns	23·9	21·33
	Criminal Original		
13.	Session cases	12·95	8·59
	Total	917·76	971·83

From this it appears that the Judges may be reputed to get through about 950 cases per head per annum or about 4 per working day, the vacation, Sundays, holidays being allowed for, which does not seem unreasonable; and that the six Judges did more work per head than the five Judges, which is what might have been reputed, if there is any truth in the eight hours a day theory.

From the above figures, I tried to work out under each heading the time that a Court of six Judges would take to dispose of the arrears pending at the close

The next move was made in 1801 when the jurisdiction of the Court of Requests was extended to one hundred and twenty pagodas and its title changed to "Court of Commissioners for the Recovery of Small Debts." Then came Act IX of 1850 which converted the Commissioners' Courts into Courts of Small Causes, raised their jurisdiction to Rs. 500 and prohibited the Supreme Court from removing to its own file any suit of which the value did not exceed Rs. 100.

The Act of 1850 was amended by Act XXVI of 1860 which raised the jurisdiction of the Small Cause Courts to Rs. 1,000.

The exact scope of the jurisdiction conferred by the Acts of 1850 and 1860 was left somewhat uncertain, but it seems to have been generally held that the Small Cause Courts had no authority to determine suits relating to immoveable property.

It is probable that the object of this earlier legislation was to relieve petty suitors rather than the High Court. But, afterwards, the necessity for reducing the work coming before the High Court was clearly recognized.

It appears that in 1867 the Calcutta Trades Association suggested that the jurisdiction of the Small Cause Courts should be raised to Rs. 2,000. No legislative action was taken upon this suggestion but, in 1877, the question was raised again, and the High Court was asked to express an opinion as to the best means of reducing its work by extending the jurisdiction of the Small Cause Court. The replies of the High Court and the Small Cause Court will be found in G.O. dated 11th March 1879, No. 494, Judicial. The High Court recommended that the jurisdiction of the Small Court should be increased to at leas Rs. 2,500 that there should be an appea to the High Court in suits exceeding Rs. 500. The Judges of the Small Cause Court, on the other hand, proposed that a court of original jurisdiction with the powers of a munsif (excepting the small cause jurisdiction) should be established; that the jurisdiction of the Small Cause Court should be raised to at least Rs. 2,000 and that no appeal should be allowed from the decisions of the Small Cause Court.

Muttuswami Aiyar (then officiating in the Small Cause Court) recorded a separate opinion. He agreed with the other judges of that court that a court of original jurisdiction less expensive than the High Court was wanted but he thought it unnecessary to raise the jurisdiction of the Small Cause Court itself.

‡

of 1894; but on proceeding to do so I found that the Registrar's figures (page 3 of the proof) do not tally, except occasionally, with those given on page 12 of the note. Whence the discrepancy arises & which set of figures are correct, I do not know; but nor do I think it worth while to have the discrepancies cleared up at the cost of a laborious investigation, the result of which could only be to detect errors of a hundred or two one way or the other. Taking however, the Reg^{r}'s arrear figures as correct, I find that the total arrears on Jan^{y} 1, 1895, amounted to 5901, which an addition of 50 or 60 must be made for decisions, cases & some in during the year. Now six judges each disposed of, assuming as an average, 1000 cases, they would get through no more than 6000 cases between them in the year. I think therefore that we may with confidence say that the H.C. is a full year in arrears, if worked with six Judges, and more than a year in arrears, if with five. The irresistible conclusion seems to me, & not only that a sixth Judge must be appointed, but that a sixth Judge must be retained for at least as long a period as it is now possible to look forward to, (even if a sixth Judge is at once appointed, and if no increase of work takes place, it must be many years, before during which the Judges must use exceptional exertions, before the existing arrears can be overtaken & the work made current.

Incidentally, I may note, the above figures show how futile would be the effort to deal with the existing state of affairs by means of the increase of the Small Cause jurisdiction

The opinion of the Madras Government will be found in judicial letters dated 1st and 11th March 1879, Nos. 430 and 495. It was to the effect that the jurisdiction of the Small Cause Court should be raised to Rs. 2,500; that small causes not exceeding Rs. 500 should be absolutely excluded from the High Court; and that there should be an appeal in small causes exceeding Rs. 500. But this Government was not then in favour of establishing a District Munsif's court in Madras. About the same time, the Government of India asked for a definite opinion whether jurisdiction in insolvency matters and in suits for immoveable property should be conferred upon the Small Cause Court. The replies of the Honourable the Judges will be found in G.O. dated 27th May 1879, No. 1247, Judicial. The Chief Justice considered that the Small Cause Court should have an original side exercising jurisdiction up to Rs. 2,500 in all classes of suits, except testamentary, matrimonial and maritime suits, and that it should also have powers to dispose of insolvency matters; he added that the public would not object to this extension of jurisdiction if an appeal was given and that an appeal ought to be given even in small causes valued above Rs. 500. The other Judges seem to have generally agreed.

Accordingly, in 1880, a new Small Cause Court Bill was prepared.

It is not necessary to deal at length with the correspondence about this Bill but it may be mentioned that this Government expressed an opinion in favour of allowing appeals in small causes valued at more than Rs. 1,000. The Bill passed into law as Act XV of 1882. Objections seem to have been raised in other provinces to the establishment of courts of original jurisdiction in the Presidency towns and the Select Committee thought that very little relief would be afforded to the High Court by granting insolvency jurisdiction to an inferior tribunal. Consequently Act XV of 1882, as originally passed, excluded (*inter alia*) insolvency cases and suits for immoveable property from the jurisdiction of the Small Cause Court but it raised the jurisdiction of the court to Rs. 2,000. It should be noted also that the Act contained no provision for appeals. In 1885 (*vide* correspondence in G.O. dated 23rd July 1885, No. 1918, Judicial) the High Court expressed the opinion that,

of the C.C. Ct.— I may, I may not, be a good thing that that Court should deal with suits from Rs 2500 to Rs 5000 in value arising in the city of Madras; but it is clear that, if the reasonable public demand for the prompt disposal of judicial business is to be complied with, that object will not be practically advanced by the transfer from the H.C. to the C.C. Cts of the few suits which may be from Rs 2500 to Rs 5000 in value; and that, for all practical purposes, and for at least several years to come, just as permanently the need of a sixth Judge will be as urgent after the transfer is effected as it is now.

In these remarks, it has not seemed necessary to go into past history or to consider the arguments for & against the appointment of a sixth Judge for advanced in former years. We have not now to deal with the cries of former years, but with the cries of today; & the cries of today show that a sixth Judge is now needed, whatever may have been the state of the case years ago.

This is really the main point. A transfer of 120 cases from the H.C. to the C.C. is but a drop in the ocean and hardly affects the great mass of business, wh. the H.C. has to get through in the year.

His suggested in the Note that we should content ourselves with applying for an addl. Judge for 2 or 3 years. Of course this would be better than nothing. But my contention is that a sixth Judge is permanently necessary and I should say so.

18/6/95

unless the strength of the court were raised, it would be imperatively necessary to take steps to reduce the work coming before it and, with the object of effecting such reduction, the High Court proposed that the Small Cause Court should be invested with power to try as a court of original jurisdiction all suits (except testamentary, matrimonial and maritime) not exceeding in value Rs. 2,000 or Rs. 2,500 subject to an appeal to the High Court.

The Honourable the Judges also proposed to confer insolvency jurisdiction on the said court.

On receipt of this communication, this Government addressed the Government of India pressing upon it the necessity for adopting the High Court's proposals as the only alternative to the appointment of an additional Judge and adding that the said proposals were worthy of consideration in the interests, not only of the High Court, but also of the poorer classes of suitors.

In 1886 the Finance Committee, in a note which will be found under cover of G.O. dated 4th January 1887, No. 1, Financial, made certain observations regarding the work of the High Court. In the first place it observed that much of the work on the Original Side which was then done by a Judge might be done by a Registrar or clerk and it recommended, among other things, that all insolvency cases up to Rs. 5,000 should be transferred to an inferior tribunal. The committee also expressed its approval of the scheme for establishing a new court of original jurisdiction but suggested that the limit of that court's powers should be fixed at Rs. 5,000 instead of at Rs. 2,500 as previously recommended. Shortly afterwards, two letters were received from the High Court (*vide* correspondence in G.O., dated 14th May 1887, No. 1026, Judicial). In the first of these letters, the Judges stated that they were not prepared to recommend the transfer to an inferior court of suits exceeding Rs. 2,500 in value and that such transfer, if effected, would not afford relief so substantial as to obviate the necessity for an additional Judge. In the ~~the~~ second letter the same opinion was expressed. After consideration of the whole matter, the Madras Government reported to the Government of India that it concurred with the High Court in thinking that the transfer of jurisdiction

should be limited to suits not exceeding Rs. 2,500 and urged the Government of India to undertake the necessary legislation without delay.

A few months afterwards, the Government of India, in a letter which will be found in G.O. dated 21st December 1887, No. 2910, Judicial, made certain proposals with the object of facilitating the disposal of the less important appellate business which comes before the High Courts. The Judges however showed reasons why these proposals could not be accepted and, the Madras Government having endorsed the views of the High Court, the matter appears to have been dropped. The Madras Government concluded its letter on this subject with the remark that the only way of affording substantial relief to the High Court was to transfer all its original jurisdiction up to Rs. 5,000 "in the manner which has already been laid before the Government of India." This last remark was apparently an error, for the scheme before the Government of India was to transfer the jurisdiction up to Rs. 2,500 only.

In January 1889, the Government of India asked this Government to ascertain the views of the mercantile community on the scheme for the transfer of jurisdiction and also upon the suggestion that an appeal should lie to the High Court in small causes exceeding Rs. 1,000 in value. The Government of India added "The High Court will, of course, be competent to call up cases to their own file and it is understood that they will readily exercise this power in all cases involving questions of mercantile law and usage."

In reply to this communication, the Madras Trades Association reported that its members were unanimously of opinion that the change proposed would afford great relief to the High Court and be beneficial and a great convenience to suitors. The Madras Chamber of Commerce also approved of the proposals on the understanding that the services of the fifth Puisne Judge of the High Court were not dispensed with until it was satisfactorily established that the relief afforded by the proposed change would materially reduce the work of the court.

The Government of India then addressed the Secretary of State and that authority, in a despatch dated 9th January 1890 (read in G.O. dated 16th April 1890, No. 691, Judicial) approved of the proposed scheme of transfer but suggested that the jurisdiction of the Small Cause Court in small causes also should be extended to

Rs. 2,500 and expressed a doubt whether the right of appeal should be conceded in respect of any small cause whatsoever.

In communicating this despatch, the Government of India asked the Government of Madras whether it would acquiesce in the proposal that no appeal should be allowed in small causes and the Government of Madras replied in the affirmative.

A few months afterwards a Bill to carry out the scheme of transfer was forwarded to this Government for remarks. This Bill contained provisions to the following effect :—

(*a*) it raised the jurisdiction of the Small Cause Court of Madras from Rs. 2,000 to Rs. 2,500;

(*b*) it gave the Small Cause Court jurisdiction up to Rs. 2,500 in certain suits which were not of the nature of small causes;

(*c*) it gave the right of appeal in small causes exceeding Rs. 2,000 and in all suits other than small causes;

(*d*) it gave the Small Cause Court insolvency jurisdiction up to Rs. 2,500;

(*e*) it empowered the Local Government, with the sanction of the Government of India, to raise the jurisdiction of the Small Cause Court, whether sitting as a Small Cause Court or as a Court of Original Jurisdiction or as an Insolvency Court, from Rs. 2,500 to any extent which might appear necessary; and

(*f*) it purported to abolish the concurrent jurisdiction of the High Court in suits triable by the Small Cause Court.

This Bill provoked adverse criticism from the High Court* and, in Judicial letter dated 11th November 1890, No. 1771, the Madras Government, while expressing general approval of the principle of the proposed measure, pointed out that the proposal to confer insolvency jurisdiction upon the Small Cause Court involved serious legal difficulties and that the relief afforded by such transfer would be inappreciable unless the limit were extended to Rs. 5,000. The Madras Government further objected to the provisions empowering the executive to raise the limit of jurisdiction by notification.

The consequence was that another Bill was prepared.

The main feature of this second Bill was that the Small Cause Court was empowered to try small causes and suits other than small causes up to a limit of Rs. 5,000 or to such higher limit not exceeding Rs. 10,000, as the Government might determine, the proposals to abolish the concurrent jurisdiction of the High Court and to confer insolvency jurisdiction on the

* The High Court as then constituted (excepting Mr. Muttuswami Aiyar) went back on its predecessors and attacked the principle of the Bill; but Mr. Parker's return from leave soon afterwards went a long way towards converting the High Court into an ally of Sir P. P. Hutchins and the Madras Government.

Small Cause Court having been abandoned. This second Bill was opposed by the Trades Association, the Chamber of Commerce, the Acting Advocate-General, the Chief Justice and Justices Shepherd and Handley but it received the general approval of the Judges of the Small Cause Court and of Justices Muttuswami Aiyar, Parker and Wilkinson. The views of this Government upon the second Bill are contained in Judicial letter dated 5th October 1891, No. 2040. It will be seen that His Excellency in Council agreed with the majority of those consulted in thinking that the limit of jurisdiction should be reduced to Rs. 2,500 but that he had no objection to the executive being empowered to raise the said limit to Rs. 5,000. The Government further expressed the opinion that the abolition of the concurrent jurisdiction of the High Court was expedient. Early in 1892, the Secretary of State suggested that, instead of conferring additional powers upon the Small Cause Court, a *separate* court should be established with jurisdiction in suits other than *small causes* up to Rs. 5,000.

In consequence, probably, of this expression of opinion, a third Bill was drafted. This Bill purported to establish a separate court of original jurisdiction but its powers were limited to Rs. 2,500.

The third Bill was subjected to a great deal of adverse detailed criticism (*vide* Judicial letter dated 2nd March 1892, No. 395).

The Select Committee thereupon drew up a fourth Bill which was sent to this Government for remarks along with a copy of the report of the Select Committee (*vide* G.O., dated 15th April 1892, No. 749, Judicial). It will be seen that the committee expressed a strong opinion that the jurisdiction of the new court should be limited to Rs. 2,500. The committee further thought that the new court should be confined to the trial of petty cases and should not be a district court, as had been suggested by the Madras Government; and a doubt was expressed whether the legislature was competent to abolish the High Court's concurrent jurisdiction. The Honourable Mr. Bliss dissented from the opinion of the majority of the Select Committee and disapproved of the Bill, which was also opposed by the Chamber of Commerce, Mr. Justice Handley and the Trades Association. Otherwise its general principles were accepted (*vide* correspondence in G.O., dated 27th June 1892, No. 1188, Judicial) and, with certain alterations, it passed into law as Act VII of 1892.

The new City Civil Court was actually established on the 1st December 1892.

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It is now necessary to refer briefly to a recent amendment of the Small Cause Courts Act XV of 1882. In March 1891, the Government of India asked this Government for its opinion as to the advisability of reducing the Small Cause Court's jurisdiction to Rs. 1,000. Opinions were invited with the result that there was found to be a consensus of opinion that appeals should be allowed in small causes exceeding Rs. 1,000 but that the jurisdiction of the Small Cause Court should not be reduced. (*Vide* Judicial letter dated 3rd September 1891, No. 1774.) A good deal of correspondence followed but it is unnecessary to refer to it at length. The upshot of it was that Act I of 1895 was passed. This Act does *not* give the right of appeal but it provides instead that small causes of value exceeding Rs. 1,000 may be instituted in the High Court at the election of the plaintiff and that, in small causes of similar value, the defendant may apply to the High Court to remove the cause into the High Court. The jurisdiction of the Small Cause Court remains otherwise unaffected, that is to say, at Rs. 2,000. Act I of 1895 may be styled retrogressive in so far as it throws the High Court open to suits exceeding Rs. 1,000 in value. For more than one hundred and forty years the tendency of legislation has been to destroy the original jurisdiction of the High Court and, for the last twenty years or so, the main stimulus to legislation has been the fear of having to increase the strength of the High Courts.

This stimulus still operates and, in para. 4 (8) of G.O., dated 26th September 1894, No. 2338, Judicial, the High Court was asked by this Government to consider whether legislation should be undertaken with the object of raising the jurisdiction of the City Civil Court to Rs. 5,000 and thus relieving the High Court. The answers to this question form the present currents.

4. *State of the file of the High Court.*—The statistics in the earlier reports are so incomplete that it is impossible to compile a full statement of the work done by the High Court since its organization on its present footing. Even for the latest years, the particulars available are insufficient in some respects. The following table contains such information as can be gathered from the last ten reports, but it does not show every branch of the High Court's work :—

Under certain heads these figures certainly show a marked advance; but the increase was most noticeable in the first half of the decade and, since 1888, the growth under the more important heads has been trifling. Indeed, in some cases, there has been a falling off and it is very doubtful whether the figures as they stand indicate sufficient increase of work to justify a claim for a permanent additional judge. The fact however remains that, at the end of 1893, the file of the High Court showed the following arrears:—

331 suits, 366 execution petitions, 122 insolvency applications, 205 miscellaneous applications, 283 first appeals, 1,827 second appeals, 141 appeals from orders, 870 civil revisional petitions, 133 reference petitions, 202 miscellaneous appellate applications, 102 criminal appeals, 55 criminal revision cases and 10 miscellaneous petitions. In other words, the arrears at the end of 1893 constituted ample work for a court of six Judges working for a year; and there seems very little chance of the High Court overtaking its work without some assistance. It must also be remembered that the High Court is consulted on innumerable questions connected with legislation and administrative matters and, doubtless, references of this kind are becoming more frequent every year.

5. *Summary of the currents.*—To turn now to the currents. The following is a summary of so much of them as is not devoted to the question of fees and to the exposure of the evils and wickedness of Sir P. P. Hutchins.

C. No. 212.—The High Court furnishes some particulars of the arrears at the close of 1894 which show that they have increased upon the figures for 1893 under all heads except appeals against orders, referred criminal trials, suits, execution petitions, insolvency applications and miscellaneous original civil cases. From the statement appended to the High Court's letter it would appear that the necessity for relief is stronger now than it was at the end of 1893.

Mr. Justice Shepherd is opposed altogether to any enhancement of the jurisdiction of the City Civil Court but the other Judges regard the proposal with approval, though it seems they would prefer the appointment of a fifth Puisne Judge. The Judges suggest that, to conciliate the mercantile community, commercial causes ranging between Rs. 2,500 and Rs. 5,000 might be exempted from the penalty imposed by section 16 (1) of

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* Hardly this as five Judges disposed through a total of 6393 - and the total arrears were 4644 - but it is quite understood that help is to be given and that help can only take the form of a fifth Puisne Judge for the bulk of the arrears consists of first — second appeals and civil revision petitions of which the High Court cannot by any scheme be relieved the arrears must continue and will probably go on increasing.

Act VII of 1892 on plaintiffs who unnecessarily sue in the High Court.

Mr. Shepherd's objections to the extension of the jurisdiction of the City Civil Court are as follows:—

(*a*) it is too soon to say whether one Judge will continue to be able to cope with the work of the City Court and whether there will not in the future be a considerable increase in the number of appeals from the City Court to the High Court;

(*b*) the Select Committee expressed the opinion that the jurisdiction should be fixed at Rs. 2,500 and this restriction is reasonable because it roughly represents the limit up to which litigation is cheaper under the Court Fees Act than under the High Court scale of fees; Rs. 2,500 is also the limit of a District Munsif's jurisdiction, whereas Rs. 5,000 represents no ascertained principle;

(*c*) if changes of this sort are made, the High Court will end by losing its original jurisdiction altogether and such a result is undesirable because it will deprive the High Court Judges of all practice in original work, it will leave complicated commercial cases to inferior tribunals which are hardly competent to deal with them, it will destroy the two English branches of the legal profession and it will enhance the cost of litigation to suitors generally.

Mr. Best has also recorded two separate minutes from which it appears that Mr. Parker thinks that the work of the High Court is hardly enough to occupy six Judges. Mr. Best fears that if the City Court's jurisdiction is enhanced it will be necessary to appoint an additional Judge to that court and such an appointment will greatly diminish the chance of getting another Judge for the High Court. From Mr. Best's second minute it would appear that he is inclined to oppose altogether the extension of the City Court's jurisdiction.

C. No. 467.—With this letter the Registrar forwards a list of the suits filed in the High Court during 1893 and 1894. The list shows that the extension of the City Court's jurisdiction to Rs. 5,000 would afford considerable relief to the High Court and that the majority of the cases between Rs. 2,500 and Rs. 5,000 in value are not such as involve questions of commercial law.

C. Nos. 282 *and* 886.—From these letters it appears that the Chamber of Commerce is of opinion that a fifth Puisne Judge is imperatively necessary and that the City Court should be restricted to the trial of petty cases. The Chamber dwells

on the opinion expressed by this Government (in Judicial letter dated 11th November 1890, No. 1771,) to the effect that relief afforded by the creation of the City Civil Court would not be so large as to justify the discontinuance of the fifth Puisne Judge and upon the opinion strongly expressed from time to time by various authorities that the jurisdiction of the City Court should not exceed Rs. 2,500. The Chamber adds that many persons are deterred from suing in the High Court by reason of the great delay which occurs in the disposal of business there.

C. No. 942.—This contains the opinion of the Madras Traders Association. The Association says that the necessity for relieving the High Court is universally admitted but it considers that this relief should be afforded by the appointment of an additional Judge and not by an enhancement of the jurisdiction of the City Court.

6. *Conclusion* —If it is admitted, as I submit it must be, that the present condition of the High Court is such as to render it imperative in the interests of the public that special measures should be taken to get rid of the arrears, the only question to be decided is as to the form which those measures should take. Relief might be afforded in any of the following ways:—

(*a*) by appointing temporarily or permanently a fifth Puisne Judge;

(*b*) by raising the jurisdiction of the City Civil Court;

(*c*) by conferring insolvency jurisdiction upon the City Civil Court.

(*d*) by transferring to the Registrars certain *quasi*-judicial functions which are now exercised by the Judges themselves;

(*e*) by modifying the procedure as to the hearing of appeals.

It is almost certain that the Secretary of State would decline to recommend to Her Majesty the permanent appointment of a fifth Puisne Judge. It appears that Mr. Parker doubts whether the work is sufficient to occupy six Judges and it cannot be said that there has been any noticeable increase in the principal kinds of work during the last four or five years. It is true that the changes introduced into the law by Act I of 1895 will certainly throw some additional work upon the High Court and it is not impossible that a considerable increase will take place in the number of appeals from the City Court, but, for the present at all events, it will probably suffice to ask for a temporary Judge for two or three years. Another reason for not asking for a permanent

Judge is of a personal nature. It is a matter of common repute that the present Chief Justice does not perform his fair share of the work and it is probable that, if the High Court were under the superintendence of a man of the calibre of Sir Charles Turner, for example, it would be very much more abreast of its work than it is at present. On the whole it appears far better to apply for a temporary Judge than to attempt, so soon after the passing of Act VII of 1892, any alteration in the jurisdiction of the City Court. Such an alteration will be met with the same determined hostility which characterized the discussions on the part of the public when the City Civil Court Bill was under consideration and the various arguments adduced by Mr. Shepherd are certainly not devoid of weight. As stated at the beginning of this Note, we are much more likely to get an extra Judge if the scale of fees in force in the High Court is substantially raised but, even if no such alteration in fees take place, it may fairly be urged upon the Secretary of State that the public generally appears to feel great dissatisfaction at the large profit which the administration of civil justice undoubtedly secures to Government at present. This profit is mainly, no doubt, derived from the mufassal, but that is no reason why a portion of it should not be devoted to enhancing the efficiency of the supreme judicial authority. As to conferring insolvency jurisdiction on the City Court, that is a matter which had been much discussed already as indicated in the foregoing portion of this Note. It will be seen from paragraphs 5 to 12 of Judicial letter dated 11th November 1890, No. 1171, that there are several legal difficulties in the way of such conferment of jurisdiction and that this Government was of opinion that no substantial relief would be afforded by a transfer restricted in amount to Rs. 2,500. It was presumably on account of these representations that Sir Philip Hutchins omitted any reference to the insolvency jurisdiction from the Bill which he introduced into the Legislative Council and it seems hardly worth while to raise the question again.

With regard to the suggested transfer of quasi-judicial functions to the Registrars.—Attention is invited to the note by the Finance Committee in G.O. dated 4th January 1887, No. 1, Financial. The Committee thought that references to take account should be disposed of by a

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I dont think that this much affects the question. It is true that the C.J. thinks the more difficult & important work which comes before the H.C. but he does a large quantity of work of a kind (Civil appeals & references & Civil second appeals) which, although generally of a simple description takes up a great amount of time, and which must be done by someone. Save so far as it affects the C.J's personal reputation it doesn't much matter that he should deal with easy work & leave the harder to the other Judges. The same might be said of at least one other Judge. How does Mr. Parker try a difficult original Civil suit?

ministerial officer that the Civil Procedure Code should be amended to legalize the disposal of non-contentious suits and the carrying out of investigations of pauperism by an officer of the court instead of by a Judge. The High Court, however, in paragraphs 13 to 15 of its second letter read in G.O. dated 14th May 1887, No. 1026, Judicial. contested the conclusions arrived at by the Finance Committee and the matter was dropped. Now Mr. Shepherd suggests extensions of the powers of the Registrar similar to those recommended by the Finance Committee but he does not explain in detail the manner in which his suggestions could be given effect to. From the remarks made by the High Court in 1887 it would appear that the relief afforded by extending the powers of the Registrars would be comparatively insignificant but, if Her Majesty think fit, the High Court can be asked for a definite expression of opinion on the subject.

Then as to modifying the procedure on appeal.—Attention is invited to the Finance Committee's note (paragraph 42) and to G.O., dated 21st December 1887, No. 2910, Judicial. In the Committee's note it was suggested that no second appeal should be allowed when the amount concerned did not exceed Rs. 100 or that appeal in such cases should be disposed of by an inferior tribunal, but these suggestions seem to have met with the disapproval of the High Court. The G.O. of December 1887 contains a letter from the Government of India wherein it is suggested that a single Judge should have powers to dispose of—

(1) all second appeals up to Rs. 100;

(2) all revision cases under section 622 of the Civil Procedure Code;

(3) all revision cases and references under the Criminal Procedure Code except references in capital cases;

(4) all miscellaneous appeals, and

(5) all second appeals governed by section 551 of the Civil Procedure Code.

These proposals (which apparently would not necessitate legislation) were disapproved by the High Court for reasons into which it is unnecessary to enter and, this Government having agreed with the High Court, the Government of India seems to have dropped the matter. Now Mr. Shepherd suggests that relief should be given to the court by empowering single Judges to dispose finally of trivial appeals. The other Judges have not com-

mented upon this suggestion. Orders are solicited whether they should be asked for their views. It remains to notice a proposal made by Mr. Best. He observes that, instead of giving the City Court jurisdiction in all suits up to Rs 5,000, it should be given powers to try *such suits between Rs. 2,500 and Rs. 5,000 as may be referred to it by the High Court.* This plan would certainly give rise to less opposition than a general transfer of jurisdiction. Perhaps the other judges may be asked what they think of it.

Ans.
5 Apr 1875.

There appears, it is submitted,
a very good case for having
for a fifth Puisne Judge even
though as a temporary measure
only. There can be no question
that the High Court is heavily
in arrears and these arrears
must for the major part be
work of which the City
Courts by any scheme be relieved.
It must be in the character of an
Civil appellate and revisional Court
perform it and it is impossible to transfer it to the Chamber.
There are both two things to observe between - the heavy arrears
delay and consequent discontent on the part of the public
for a fifth Puisne Judge for certainly two or three years. If not
longer.
Increasing the jurisdiction of the City Civil Courts even
both Courts alike, the attraction of fees would not affect the
arrears though the increased revenue that would result might
perhaps induce the S of S to look with more favour than
he otherwise would on the proposal to appoint a temporary
fifth Judge. Taking away the insolvency work even entirely would not
ease down the work of the Court to any appreciable degree and the
Registrar could do nothing as regards appeals to which a Civil & Criminal Court
be disposed of by the Judges themselves and it is on these that the great bulk
of the arrears lie

SS 25/4/75

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7.3.95.

My dear Butterworth,

Your letter reached me after the Court had risen yesterday so I have not been able to reply to it sooner.

The High Court is not likely to address Government regarding the introduction of a new scale of fees until it has learnt the decision of Government in the matter

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of the joint direction of the City Civil Court.

Yours sincerely,

D. Lowis.

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Judicial Department

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(13 lines)

Read concluding portion of para. 4

S. Session

1349-94

நடுநிற்றாங் ஆவணக் காப்பகம்.

(இரண்டாம் தரப் பட்டியல்)

ஆவணங் கிடைக்குங் கோப்புகளின் பட்டியல்.

தொடர் எண்.	இலாகா.
1589-81	Judicial
27-7-1895	High Court.

கையெழுத்து,

பதவி : Asst. Secy.

(1) இந்தப் பட்டியலிலுள்ள ஆவணங்களைப் பார்வையிடுவதற்கு விண்ணப்பம் செய்யும் முறை.

(2) பார்வையிடுவதற்கு விண்ணப்பிக்கும் முறை.

Judicial Department.

28

(13 lines)

Read concluding portion of para. 4 of G.O. dated 26th September 1894, No. 2838 Judicial.

File of printed currents.

ORDER, 27 July 1895. No. 1580.

Note.

I regret the delay in submitting this draft order. The note for orders was prepared by Mr. Pattinson & the subject was entirely new to me when the file came back from circulation. The pressure of more urgent work prevented me from taking it up sooner.

D
27/7/95

Subject & remarks below

W
24 July

22/7/95

JG
23/7

The papers read above deal with four subjects viz.

(1) the reorganization of the establishment of the High Court;

(2) the application to the Original Side of the High Court of a scale of fees based on the Court Fees Act 1870;

(3) the enhancement of the jurisdiction of the City Civil Court, and

(4) the appointment of a fifth Puisne Judge of the High Court.

The ~~fisr~~ first of t hese questions has already been disposed of so far as the Government is concerned in G.O. dated 3 June 1895, No. 1191. The second cannot at present be discussed inasmuch as the Hon'ble the Judges of the High Court have not yet favoured the Government with their views

3

views regarding the matter as requested in paragraph 5 of G.O. dated 26th September 1894, No. 3888 Judicial. It is thus only the third and fourth of the subjects mentioned which now require consideration.

2. They relate to alternative proposals for affording relief to the High Court. Before discussing the comparative advantages of these it is necessary to shew that the High Court is in real and pressing need of relief. The appendix to this proceedings contains statistics of the amount of work received and disposed of by the High Court in the years 1884-1893. The figures which are based on the Civil and Criminal Justice Reports are not quite complete but they contain sufficient information upon which to base a fairly accurate estimate of the work which can be reasonably expected of the Court. In the first four of the years shewn - 1884-1887 - the Court consisted of five judges; afterwards up to April 1893 the number of judges was six. The following statement which is based upon the figures given in the appendix exhibits the average work done by the whole court during these two periods,

the

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three
the last 3 columns show the natural

actual arrears at the close of 1893 & 94

Class of work	1884 — 1887 = 4 years - 5 Judges. Average number of			January 1888 - April 1893 inclusive = 5.4 years - 6 Judges. Average number of			Arrears at the close of 1893 as shown in Civil Justice Report.	Arrears at the close of 1893 as shown in Civil Justice Report.	Arrears at the close of 1894 as shown in Registrar's letter.
	Institutions	Disposals		Institutions	Disposals				
		Total	Per judge		Total	Per judge			
1	2	3	4	5	6	7	8	9	10
Civil Appellate									
1. First appeals	~~189·5~~ 185·00	~~160·5~~ 156·50	~~32·1~~ 31·3	254·92	266·59	44·43	257	283	270
2. Second appeals	1222·25	~~1085·75~~ 1085·00	~~217·15~~ 217·0	1778·77	1675·22	279·2	1919	1827	1779
3. Appeals against orders	~~233·00~~ 235·50	226·50	45·3	151·70	101·00	16·83	138	141	141
4. Revision petitions	379·25	395·75	79·15	527·37	414·29	69·05	631	870	2342
5. Miscellaneous cases	768·50	754·50	150·9	1255·85	1262·37	210·39	180	202	
Criminal Appellate									
6. Referred cases	67·33	65·33	13·06	76·55	76·14	12·69	11	8	5
7. Appeals	536·25	~~470·25~~ 488·50	~~94·05~~ 97·7	602·59	517·52	86·25	80	102	117
8. Revision cases	726·00	730·25	146·05	677·40	678·04	113·0	86	55	104
9. Miscellaneous petitions	"	"	"	150·82	149·06	24·84	5	10	14
Civil Original									
10. Suits	327·50	331·50	66·3	367·18	357·66	59·94	342	331	291
11. Insolvency cases	182·00	184·25	36·85	152·07	151·74	25·29	85	122	119
12. Execution petitions	183·25	119·50	23·9	221·85	127·96	21·33	354	366	365
Criminal Original									
13. Sessions cases	65·25	64·75	12·95	50·81	51·55	8·57	nil	nil	nil
Total	4861·25	~~4572·50~~ 4589·50	~~917·76~~ 917·80	6211·89	5775·96	~~971·83~~ 962·66	4088	4317	5547

A comparison of the totals of columns 8 and 10 shews that the arrears on the file of the High Court at the commencement of the present year considerably exceed the the amount of work which it has been possible for five ~~years~~ Judges to get through in one year. These arrears include a large mass of miscellaneous appellate civil petitions, a class of work which particularly requires prompt disposal; and though some slight reduction in the number of pending original suits has taken place it is to be noticed that the Hon'ble the Judges speak of this result as having been accomplished "only by great "personal exertions and almost total "sacrifice of leisure, which cannot "be indefinitely maintained and which "must, in the long run, be detrimental "to the public interests." How great their personal exertions have been is evident from the comparison instituted in ~~pra~~ para. 4 of the Registrar's letter of 18th January 1895 between the average work of a judge in the Madras High Court, and that of one in the Calcutta Court. Great though the mass of arrears already is, there can be no doubt that it would have been far

greater

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I think at the end of this para we might bring in something as to the effect of want of leisure on the efficiency of the work of the judges. There is no class of officers I think is in more constant need of a certain amount of leisure - without it, it is impossible that they can keep themselves abreast of the times & familiar with the course of decisions in other courts of equivalent authority in India, England, the Colonies & America. In one aspect, the suitors & suitors want of leisure; in another, and not the least important, the public.

Is not this said below in para 4. 2 & 5? W BH JG.

To a certain extent it is. But I should have liked the point brought out more fully

JMM
25/7

but for 48

greater by this time, ~~before~~ the fortunate circumstance that the judges have been able continuously to work at high pressure. This is a state of things which cannot be indefinitely prolonged and the sudden illness ~~disposition~~ of any one judge cannot but be followed by an immediate fall in the amount of work performed by the Court. So far therefore as the judges themselves are concerned there is unquestionably pressing need of relief.

But this is not the only [the] reason ~~for relief~~. It is pointed out by the Chamber of Commerce that the accumulation of arrears, and the consequent delay in disposal of suits deters many litigants from having recourse to the high Court, for redress ~~of their grievances~~. Not only is it impossible, in the existing circumstances, to comply with the reasonable ~~public~~ demand for the prompt disposal of judicial business, but there are grounds for the apprehension that the strain to which the judges are now put ~~will~~ may ultimately cause a deterioration in the quality of the work. Such a result would seriously affect the administration of justice throughout the Presidency as

well

well as the confidence of the public in the High Court itself.

The foregoing considerations shew th the interests of the public, no less than those of the judges themselves imperatively demand that steps should be taken to reduce the arrears on the file of the court, and to ensuring more speedy disposal of business in the future. It now remains to discuss the two schemes which have been proposed with a view to afford relief to the Court. The first is that the limit of jurisdiction of the City Civil Court should be raised from Rs. 3,500 to Rs. 5,000 Three of the five judges express approval of this measure, but it is to be noted that they qualify their approval by the explicit statement that it is only contingent on the Secretary of State's continued refusal to appoint a sixth judge. It is pointed out that the increase in jurisdiction would effect a substantial reduction in the work of the Original Side of the High Court, that there would be no corresponding increase on the Appellate Side owing to the confidence and satisfaction with which the decrees of the City Civil Court are accepted and to the

consequent

consequent low proportion of appeals to the High Court. Further it is represented that the proposed transfer of work would not necessitate any immediate addition to the strength or cost of the City Civil Court. On the other hand ~~the proposed~~ the enhancement of the jurisdiction is open to the following objections.

(i) The City Civil Court has not yet been established for three years, and it is undesirable at so early a date to moot the question of amending Act VII of 1893.

(ii) Though the present judge is perhaps not over worked it is ~~impossi~~ impossible to say that his work will not receive a considerable addition in the future and it by no means follows that his successor will equally able and hard working. An extension of the jurisdiction of the Court might thus result in the judges being unable to cope with the ~~wou~~ work upon which the public would lose confidence in the court and the number of appeals to the High Court would rise .

(iii) The extension in jurisdiction would seriously prejudice the efficiency of the bar.

Mr.

Mr. Justice Sheppard alludes to this objection and the Government is disposed to attach considerable importance to it. The Madras Bar has already been considerably weakened by the operation of the orders of the High Court permitting Vakils to practise on the Original Side . The rule ~~has~~ probably did not interfere with the professional gains, of the barristers who were ~~in establishe practice~~ practising when it was first introduced ; nordo the ability and number of the body of vakils and the low cost at which the services of many of them can be procured ~~it put~~ so much prevent established barristers from making a living in fair accord with their professional merits ~~value~~ and industry, as close the door to the ~~of~~ entry of junior barristers who would be willing to begin with small fees in occasional petty suits in the hope of ultimately securing a more extensive practice and more adequate remuneration. The competition of the vakils however, leaves no opening for them and the consequences is that the Madras Bar promises in a few years to cease to exist. The more business is transferred from the High Court to the

15

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the City Civil Court, the more imminent it is that the catastrophe and the more complete it ~~in the catastrophe~~ likely to be. The maintenance of a strong and independent bar is, ~~has~~, in the opinion of the Government, an object of the first public importance and any measure which tends to weaken [the bar] ~~it~~ is to be deprecated.

it still

(iv) As the memorials from the Chamber of Commerce and Madras Trades Association shew, the enhancement of the jurisdiction of the ~~Chamber of Comm~~ City Civil Court will certainly create popular dissatisfaction which it is desirable to avoid unless the change is imperatively required. These considerations alone are sufficient to render the Government indisposed to support an extension of the powers of the City Civil Court unless it could be shown that the relief to the High Court ~~approved~~ afforded by such a measure would be so great as out weigh ~~the~~ it dis-advantages. But from para. 7 of Mr. Foster's letter dated 18th January 1895, No. 102 it appears that the only reduction in work to be expected is that which would result from the transfer of some 135 original suits per annum from the file of the High Court. This ~~amount~~ reduction is so trifling as compared with the existing accumulation

of

of arrears in the Court, and with the mass of work which has to be got through during the year, that the Government has no hesitation in definitely pronouncing against the scheme . The reduction in work would, as it appears to Government, afford so little relief to the judges that for all practical purposes and for at least several years to come the need for additional aid would be no pressing as it is now.

Having ~~this~~ thus definitely decided that the proposed extension of the jurisdiction of the City Civil Court is open to insuperable objection, the Government has now to consider the alternative ~~scale~~ scheme viz . the appointment of a 5th Puisne Judge. The Hon. the Judges consider the addition to the strength of the High Court necessary; it is advocated in the memorials of the Chamber of Commerce and the Madras Trades Association and in the opinion of the Government the existing accumulation of arrears ~~constitutes an~~ amply justifies it. ~~for the enterta nment of an extra judge.~~ Since the removal of the sixth judge in April 1893 the court has been working at high pressure, but arrears have been continuously

continuously increasing in spite of the fact that each judge disposes on the average of ~~30 per cent~~ far more work than a judge of the Calcutta High Court. In the interests of the public and in justice to judges it is consequently essential that substantial relief should be afforded without delay and the only method by ~~which~~ which this can be done is ~~to be appears to be~~ the appointment of a fifth Puisne Judge. The arrears at the beginning of the current year were sufficient to occupy the whole time of the full court for at least a year; and for the disposal of these arrears alone the services of an extra judge will be required for several years to come, while the statistics of the past decade go to shew that five judges cannot keep pace with the current work of the court. For these reasons the H.E. the Governor in Council is strongly of opinion that nothing short of the permanent appointment of a sixth judge will meet the needs of the case. In deference however to the views of the Secretary of State (as formerly expressed) the Govt. will for the present merely urge the temporary appointment of an additional judge for three years on the understanding that

that the question of his retention, for which a further term, or as a permanent measure, should be considered at the expiry of that period. The Govt. of India will be addressed accordingly.

The Govt. notes that Mr. Justice Sherring considers that if legislation must be resorted to for the relief of the Court, it is preferable that it should take the form of an amendment of the law empowering a single judge, to dispose finally of trivial appeals; he further suggests that the Registrar should be appointed a Commissioner for taking accounts. The Govt. is averse to having recourse to legislation but would be glad to be favoured with the opinions of the other judges regarding both these recommendations.

A copy of the letter received from the Chairman of the Chamber of Commerce dated 28th January 1895 with the Annual Report of the Chamber for 1894, is forwarded for information.

(Sd.) [illegible]
19.7.95

To the Hon'ble the Chief Justice with the Chairman of Chamber of Commerce's letter.

The Hon'ble [illegible]

6

21/7/95

5 Judges | From Jan 1888 to Apr 1893, 6 Judges

	1884.		1885.		1886.		1887.		1888.		1889.		1890.		1891.		1892.		1893.	
	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.	Institutions.	Disposals.
Civil Appellate.																				
First Appeals	145	228	187	141	191	135	227	138	273	251	242	297	254	272	269	264	225	252	284	259
Second ,,	1,041	1,288	1,115	1,054	1,352	907	1,381	1,099	1,894	1,519	1,720	1,781	1,408	1,548	2,082	1,601	1,759	1,816	1,856	1,953
Appeals against orders	181	229	268	201	235	246	248	230	186	153	101	113	132	83	138	75	209	81	133	101
Revision petitions	523	530	347	441	358	263	289	349	345	424	420	310	454	355	501	418	751	549	942	703
Miscellaneous cases	687	710	658	628	832	800	897	880	1,324	1,463	1,365	1,208	1,199	1,122	1,179	1,297	1,209	1,226	1,264	1,252
Criminal Appellate.																				
Cases submitted under sections 307 and 374, Code of Criminal Procedure	..	..	83	69	51	58	68	69	69	71	82	79	80	76	77	76	75	78	76	78
Appeals	516	449	622	532	570	499	437	401	620	521	590	484	565	498	545	485	658	573	690	584
Revision cases	800	811	732	695	787	765	585	650	741	747	645	625	646	635	625	663	739	717	655	686
Miscellaneous petitions	..	..	..	..	..	..	..	..	..	..	..	..	149	145	144	143	149	152	177	167
Civil Original.																				
Suits	361	438	348	370	292	271	309	247	320	454	371	348	374	309	402	313	419	417	242	253
Insolvency cases	199	209	187	186	152	169	190	173	156	167	134	152	163	150	144	143	131	129	233	196
Miscellaneous cases	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
References to Chambers	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Execution petitions	204	145	235	187	155	82	139	64	182	93	230	104	280	215	220	127	222	106	160	115
Criminal Original.																				
Sessions cases	74	73	67	68	56	51	64	67	45	48	33	33	49	51	65	63	64	65	46	46
Total	4731	5109	4849	4572	5031	[illegible]	4834	4367	6155	5811	5923	5534	5753	5459	6391	5668	6609	6161	6758	6393

* Note The information available is so incomplete as to be useless; the columns are accordingly left blank against these items.

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LETTER 27 July 1895. No. 1581.

TO

The Secretary to the Govt. of India,

Home Department.

30 Copies left
30 — Part
Con C/W 282 Dated 14/5/95

SIR,

I am directed to request that the Govt. of India will be pleased to obtain the sanction of the Right Hon'ble the Secretary of State for the temporary appointment of a Fifth Puisne Judge of the Madras High Court for not less than a period of three years. I am to say that this application is based upon the imperative necessity of affording immediate and substantial relief to the High Court and upon the impracticability of securing such relief by any other means than an addition to the strength of the Court.

2. The necessity for assistance is clearly indicated by the figures given in the following table

(Here enter the statement in para.2 of the Order).

3. It will be seen that there has been a sustained increase in the arrears during

Subject to remarks below
W
24 July

BS.
22/7/95

Statement Here (9)

during the last three years. In 1893 the increase was comparatively trifling owing to the fact that for four months in that year the Court had the benefit of the services of Six judges, but in 1894 arrears have bee accumulated at such a rate that it may confidently be affirmed that the pending cases alone would afford sufficient work to occupy the whole time ed of the Court for more than a full year.

It will be seen that there has been a special accumulation of arrears under the head of miscellaneous civil appellate petitions a class of work which particularly requires prompt disposal. Further, though there has been a slight reduction in the number of pending original suits, it is to be observed th that the Hon. the Judges write of this result as having been accomplished ''only by great personal exertions and ''almost total sacrifice of leisure ''which cannot be indefinitely main-''tained and which must, in the long ''run, be detrimental to the public ''interests''. How great the exertions of the Judges have been may be inferred from the following figures which show how

how the quantity of work which they performed during the year 1893 compared with that of the Judges in the Calcutta High Court.

	Calcutta thirteen judges.	Madras five judges.	Cases per Judge	
			Calcutta.	Madras.
CIVIL				
Original suits.....	766	253	59	50
Insolvency cases.....	135	196	10	39
First appeals.....	376	259	29	52
Second appeals.....	2,150	1,953	166	390
Miscellaneous appeals....	378	101	29	30
CRIMINAL				
Sessions cases.....	47	46	4	9
Criminal appeals.....	1,019	584	78	117
Referred trials.....	44	59	3½	12
Criminal revision cases..	1,084	686	83	137

The Hon. the Judges in instituting this comparison do not take into account the fact that for four months in the year 1893 the number of Madras Judges was Six, not Five; but, even if allowance be made for this, the contrast between the work of the two Courts is sufficiently striking.

Great though the mass of arrears already is there can be no doubt that the number of pending cases would have been far higher than it now is but for the fortunate circumstances that the Judges have been able continuously to work at high pressure. This is a state of things which cannot be prolonged without causing risk of deterioration

deterioration in the quality of the work or grave injury to their health The sudden illness of any one of the Judges as has recently been made ~~plain~~, must necessarily cause a serious ~~re~~-- increase in the accumulation of arrears besides creating a temporary block in certain classes of work, owing to the impossibility of having two benches simultaneously.

Apart from these considerations, an additional cogent reason for the recommendation now made is to be found in the fact that many litigants are deterred from having recourse to the High Court for the settlement of their ~~disagreements~~ differences and owing to the impossibility of obtaining a speedy decision upon them.

For these reasons it appears to H.E. the Governor in Council beyond doubt that, in justice to the judges and in order to satisfy the reasonable ~~public demand~~ for prompt and equitable disposal of their legal business, some means of affording substantial relief to the High Court is ~~imperfectly~~--- imperatively demanded. It has been suggested that ~~such relief~~ this should take the form of a transfer of original civil

157 118 188

civil jurisdiction from the High Court to the City Civil Court and the proposal has been made that the limit of jurisdiction of the latter Court should be raised from Rs.2,500 to Rs. 5,000. It is unnecessary here to recapitulate the various objections to which this proposal is open. They are set out at length in the accompanying proceedings of this Government of this date, ~~a copy of which is enclosed, for reference if required~~. It will suffice to remark here that the proposed enhancement of jurisdiction is a measure of doubtful expediency, on the ground of principle, and that the relief which it would afford to the High Court is so trifling that it would be futile to expect it to have any material effect in reducing the rate at which arrears are now accumulating in the Court. ~~For these reasons~~ Therefore H.E. the Governor in Council considers ~~the proposed~~ measure to be inexpedient and altogether inadequate and in his opinion the only alternative is an addition to the strength of the High Court. As has already been remarked ~~that~~ the arrears at the beginning of the current year were more than sufficient to occupy the whole time of a court of five judges for a full year and for this reason alone it is evident that

that there is ample work for a sixth Judge for at least ~~seven~~ nine years to come. It is further to be noticed that the statistics of the past decade go to show that ~~four~~ five judges cannot keep pace with the current work of the court. The two considerations taken together have convinced the Govt. that nothing short of a permanent addition to the number of the judges will meet the exigencies of the case. In view of the Secretary of State's recent refusal to sanction a similar proposal, H.E. the Governor in Council ~~will~~ would however be satisfied with the temporary appointment of a sixth judge for a period of three years, on the understanding that the question of his retention for a further term of years or as a permanent increase shall be considered at the expiration of that period. His Excellency in Council trusts that the Govt. of India will be able to forward this modified proposal with its full support.

9. With reference to the objection which may probably be raised on the score of the additional expenditure which the appointment of a Sixth Judge would involve, I am to draw attention to

I would not base this argument. In the first place, I am not sure whether it will hold water — a very careful examn. of figures, including those of the pension paid to Ind. officers in England, would be necessary in order to the formation of an opinion as to its validity. In the second place, it is an argument, which, if valid, can be made a weapon of attack upon the Govt. People constantly try to use it in this way already. The best said about the letter, I think, is that another Judge can be afforded for the period of the current contract, & I have no objection

I think so too. I purposely refrained from saying anything about it myself for various reasons — and I certainly think it safer & more politic for this Govt. to have alone — and we may feel assured other parties will be sure to do same in

to the increasing profit resulting from the administration of Civil Justice in this Presidency, The surplus as shown in the Civil Justice reports has risen from 5·65 lakhs in 1884 to 14·54 lakhs in 1893. It is true that these figures should be considerably reduced in consequence of the fact that pensions leave allowances & P.W. ~~charges~~ expenditure on buildings do not enter into the charges, but even if allowance be made for this there would still remain a considerable surplus, against which the salary of a Sixth judge would form a legitimate debit.

9. As on previous occasions a copy of this letter is being sent direct to the Secretary of State and I am to request that the decision of that authority may be communicated to this Govt. by telegram in view of the urgency of the need for relief to the High Court.

10. In conclusion I am to enclose at the request of the Chamber of Commerce a copy of a letter ~~rec'd~~ received from the Chairman of that body which embodies five Resolutions recently adopted by it The first and third of these are germane to the subject of this letter and it is unnecessary to discuss them as the view taken by the Chamber of Commerce is similar to

that

that which has already been set forth above. ~~in this letter~~. The second resolution has been dealt with in my letter dated 3 June '95 No. 1192. The fourth relates to a subject not now under the consideration of Govt. and the fifth calls for no remarks.

HD 21/7/95 There is 19.7.95.

The Secy to Govt. with copy of G.O. and Correct 252.

Draft 14/8/95 with Copies of Go 1550-81.

LETTER No 6.

TO

The Rt. Hon. the Secretary of State for India,

My Lord,

We have the honour to forward for your Lordship's information copy of a letter which we have addressed to the Govt. of India on the subject of the temporary appointment of an additional Puisne Judge in the Madras High Court. We request that, upon your Lordship's disposal of the communication of the Govt. of India on the subject, your orders may be ~~communica~~ communicated to that Govt. by telegram.

We have &c.

HD 21/7/95 D 19.7.95

Draft Copy of G.O. & letter to India

Recommend 12th August 1895

Copy Despatch sent to Govt of India - 19-8-95

The Appointment of an additional Judge to the High Court

H.M. & Corr.

For approval

H.M. Hon. Mr. Crosse

HD Resubmitted with para 9 struck out. Draft ref. to H.E. the Lord's note at the close of para. 3, is any further action regarding the loss of Revenue of the Judge required?

See my further note under H.E.'s. But I don't press the point — HD 24/7/95

D 25/7 — 24/7/95

25/7 — Fr H.D.

Print and issue as the order stands; the papers need not be kept confdl except the note for orders (from Govt.'s orders)

D 25-7-95

14/8/09 ✓

12·7 12

15·4 14

12·7 15

8345/81

12/82 RH/82

26.7.04

24b/81R

NO. 92/RN