

- (1) பக்கங்களின் எண்ணிக்கை 58
 (2) புதுக்கித் திருப்பிய நாள் 17 மே 1988
 (3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம் lma

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு.

பித்த JUDICIAL துறை

அரசாணை எண். மு. கோப்புத் தாள் எண்.	260-61	அச்சகம் பலவகை
நாள் :	6-2-1878	188.

மடிக்கலோ கண்டயடி கையாளலோ கூடாது

240-61

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

6th February 1878, No. 260.

Pleaders Act.

Read the following papers:—

No. 36. From T. WEIR, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, dated Madras, 4th December 1877, No. 2797.

I am again directed to address the Government on the subject of introducing Act XX of 1865 (the Pleaders, Mookhtars and Revenue Agents Act) into the Madras Presidency. In their Proceedings, dated 2nd April 1877, Government in disposing of the High Court's letter, dated 25th November 1876, stated that they adhered to their previously expressed opinion that it is undesirable to extend the Act as a whole to this Presidency, and they apprehended that the Government of India would not be induced to re-enact it in the shape suggested, that is to say, with the omission of the provisions relating to Revenue Agents. It was also observed that the question of permitting the local Councils to amend Acts of the Governor-General's Council of a date posterior to the Indian Councils Act was under consideration.

2. Again, in the Proceedings of Government, dated 27th September 1877, No. 2315, Government, referring to certain remarks on the subject of Act XX of 1865 made by the High Court in their Administration Report for 1876, stated that they were not averse from the re-enactment of only a part of it, but whenever the local Councils are empowered to deal with enactments of the Imperial Legislature of a date subsequent to the Indian Councils Act of 1861, the question might then well be brought under consideration. The result of these conclusions is that an alteration of the law, which the High Court consider of great and pressing importance, and in the expediency of which the Government to some extent at least concur, is deferred for an indefinite period. Mean time the evils and the inconveniences pointed out in the High Court's letter of the 25th November 1876 will continue and indeed increase.

3. As a striking illustration of the confusion of the present law on the subject of Pleaders and of the absence of any centralized control, I am desirous to bring to the notice of Government the circumstances of the following case which has recently come before the High Court:—

A Pleader already holding a Sanad in one District Court applied to the Judge of another District Court for a Sanad in the latter Court. The application was persistently renewed time after time and was as often refused for reasons which the District Judge thought sufficient, but which are immaterial for present purposes. It may be stated however that under the existing law the District Judge is the sole Judge as to the sufficiency or otherwise of the number of Pleaders that should be admitted to his Court. The District Judge went to England on leave. During his absence on leave the Pleader renewed his application for a Sanad and finally succeeded in obtaining from the District Judge's *locum tenens* what he had so long applied for in vain to the District Judge himself. Shortly afterwards the District Judge returned from leave and cancelled the Sanad which had been granted by his *locum tenens*. In taking this step, the District Judge seems to have been actuated by the belief that there had been a wilful suppression of the fact that the Sanad had already been frequently refused. Against the order of the District Judge depriving him of his Sanad, that is to say, *disbarring* him, the Pleader has sought to appeal to the High Court. The High Court have, however, no power, whatever view they may take of the District Judge's proceedings, to interfere with the action of the District Judge in

appointing or removing a Pleader of his Court. This is a state of things which, having in view the abuses to which it is liable, ought certainly not to be permitted to continue.

4. Another circumstance which I am desired to bring to the notice of Government is the large number of unqualified Pleaders who are permitted under the existing system to appear and plead in certain of the District Courts. In 1869, Government prescribed certain tests or examinations which should be passed by all persons desirous of holding among other posts the office of Pleader in a District Court. The existing law however leaves it open to the District Judges to admit as Pleaders of their Courts persons whom they may consider duly qualified. This at least is the view of the law that has been held and acted upon in several of the Courts in the Provinces, and in one District Court there are as many as fifteen Pleaders who have not qualified in the manner required by the rules of Government.

5. In their letter of the 25th November 1876, the High Court stated very fully their reasons for desiring the introduction of Act XX of 1865. The High Court earnestly trust that those reasons as well as the additional considerations now brought forward will again receive the consideration of Government and that, in view of them, Government will see fit to reconsider the resolutions announced in their Proceedings of the 2nd April 1877.

No. 37.

No. 3006.

A file of the correspondence will be furnished to the Advocate-General, who will be requested to state his opinion whether the first 18 Sections of the Act can be re-enacted by the Madras Legislative Council as a local measure.

24th December 1877.

(Signed)

D. F. CARMICHAEL,
Chief Secretary.

No. 38.

From the Hon. P. O'SULLIVAN, Acting Advocate-General, to the Chief Secretary to Government, dated Madras, 7th January 1878.

I have the honor to enclose my opinion upon the question referred to me by the Order of Government, dated 24th December 1877, Judicial Department, No. 3006.

ENCLOSURE No. I.

OPINION.

With reference to the Order of Government, dated the 24th December 1877, No. 3006 Judicial Department, I am of opinion that the first 18 Sections of the Pleaders and Mookhtars Act (XX of 1865) cannot be re-enacted by the Madras Legislative Council without infringing the spirit of Section 42 of the Indian Councils Act, 1861. If Act XX of 1865 were amended by authorizing the Local Government to declare the Act or any part thereof, as the Local Government may from time to time determine, to be applicable within the territories subject to such Local Government, the evils pointed out by the High Court might be rectified.

MADRAS,
7th January 1878.

(Signed)

P. O'SULLIVAN,
Acting Advocate-General.

No. 39.

ORDER THEREON, 6th February 1878, No. 260.

The Government of India will be addressed accordingly.

(True Extract.)

D. F. CARMICHAEL,
Chief Secretary.

To the Hon. the Judges of the High Court.

Ed. T. O'Connor.

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4/260-61

JUDICIAL DEPARTMENT.

Pleaders Act.

No. 261.

FROM

THE HON. D. F. CARMICHAEL,
Chief Secretary to the Government of Fort St. George,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

SIR,

It is provided by Section 47 of Act XX, 1865, "An Act to amend the law relating to Pleaders and Mookhtars," that the Act shall take effect in the Lower Provinces and North-West Provinces of Bengal on 1st January 1866; and "may be extended by any other Local Government to its own territories by Notification" at any time.

2. In 1865, the High Court was of opinion that the extension of the Act to Madras was undesirable. In 1875, for the first time, they expressed a change of opinion. As the Act, besides amending the law relating to Pleaders, provides rules for the qualification, admission, enrolment, suspension and dismissal of Revenue Agents, the Board of Revenue were requested to state their views on its introduction. They were averse to it: and the Government, in agreeing with the Board, requested the High Court to consider whether an amendment of Regulation XIV, 1816, regarding the office of Vakils or Native Pleaders in the Civil Courts of this Presidency, would not meet existing inconveniences.

3. The High Court in reply reported that the proposed remedy would be insufficient, and with reference to the objections of the Board of Revenue, suggested "whether the subject might not be laid before the Government of India, with a recommendation that the Act, omitting the provisions relating to Agents in proceedings before the Revenue authorities, be re-enacted and made applicable, after a date to be fixed upon, to the territories under the Government of Fort St. George."

4. The Governor in Council laid the reference aside with the remark that the question of permitting Local Councils to amend Acts of a date posterior to the Indian Councils Act, 1861, was under consideration.

5. This permission not having yet been given, and the High Court having again strongly urged the point; His Grace the Governor in Council now directs me to request that the Government of India may be moved to take the necessary steps in compliance with the High Court's suggestion, above stated, in the Legislative Department. It appears to this Government that a very short enactment amending the extending provision and enabling any Local Government to extend the whole or any portion of Act XX of 1865 to its own territories, would do all that is necessary. His

Copy of 1875

JUDICIAL.

THE HON. THE JUDGES
OF THE HIGH COURT

Lord Emswary, C.J.

Justice

Justice

G.O., 5th January 1875, No. 1301.

SECRETARY,
Nos. 30-40.

Printed and Published by the Government of India, at the Press of the Secretary to the Government of India, at Fort St. George, Madras.

Grace the Governor in Council learns that the Act has never been extended to Bombay by the Government of that Presidency—perhaps from a consideration of the same difficulties which present themselves here.

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

FORT ST. GEORGE,
6th February 1878.

Chief Secretary.

Proceedings of Government in the Judicial Department, dated 12th April 1865, No. 575.

Read the following letter from P. P. HUTCHINS, Esq., Registrar of the High Court of Judicature at Madras, to the Chief Secretary to Government, dated Madras, 1st April 1865, No. 30:—

I am instructed by the High Court to acknowledge the receipt of your letter, dated 11th ultimo, forwarding a copy of a Bill to amend the law relating to Pleaders and Mookhtars, on which the Government desire to have the opinion of the Chief Justice and Judges.

2. In reply, I am directed to state that, in the opinion of two of the three Judges best acquainted with Mofussil practice, whatever necessity there may be for legislation on this subject in Bengal, its extension to this Presidency is neither necessary nor desirable. It is unnecessary; because the High Court already possess the power of prescribing rules for the admission of Pleaders in the lower Courts, and the duties and liabilities of persons admitted to practice are already sufficiently defined. It is inexpedient; because it is not advisable to fetter the discretion allowed to the High Court under existing regulations; because the present rules for the examination of candidates for the legal profession have been found already to operate beneficially; and because any measure which may tend to increase the prevalent disbelief in their permanency is much to be deprecated.

3. The Chief Justice does not wish to offer any observation on the Bill; but Sir Adam Bittleston is of opinion that Section 13 is likely to have a wholesome effect.

To be recorded.

(True Extract.)

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Proceedings of Government in the Judicial Department, dated 7th June 1875, No. 1301.

Read the following letter from T. WEIR, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, dated Madras, 2nd April 1875, No. 749.

I am instructed to address Government on the question of the expediency of extending the provisions of Act XX of 1865 (the Pleaders, Mookhtars, and Revenue Agents Act) to the Madras Presidency.

2. A period of ten years has now elapsed since the High Court were asked by Government (Proceedings of Government, dated 14th March 1865, No. 396.) to express their opinion on the Bill (to amend the law relating to Pleaders and Mookhtars) which was subsequently passed as Act XX of 1865.

3. At that time a majority of the Court was of opinion that the extension of the legislation then contemplated to the Madras Presidency was not required.

The reasons for that opinion were stated in the Registrar's letter, dated 1st April 1865.

4. Recent experience has led the Judges to question the force of some at least of the reasons assigned in 1865 for not introducing the Pleaders' enactment of that year into the Madras Presidency.

5. The power more particularly of appointing, suspending, and dismissing Pleaders, which is, under existing rules, uncertain and ill-defined, is well provided for by the Act, which contains also a convenient procedure for the investigation of charges of misconduct.

6. The objection urged in 1865 against disturbing the then recently-introduced examination rules has by lapse of time lost much of its force. The Pleaders Act has now been in force for some years in other Presidencies, and the High Court have reason to believe that in those Presidencies its operation has been very beneficial.

7. After the difficulties incidental to the introduction of an extensive change have been overcome, the High Court have little doubt that the Act will operate beneficially in Madras. I am accordingly instructed to request that Government may be moved to issue a Notification, under Section 47 of Act XX of 1865, extending the provision of the Act from a date hereafter to be fixed to the territories subject to the Governor in Council of Fort St. George.

8. As it is desirable to give ample notice to all concerned of the change in the law, I am to suggest that the date to be fixed on for the introduction of the Act should be a date not earlier than the 1st July.

9. The rules and arrangements required by the Act will also take some little time to mature.

Referred to the Board of Revenue for an early expression of the Board's opinion.

4th April 1875.

(Signed) W. HUDLESTON,
Chief Secretary.

Proceedings of the Board of Revenue, dated 14th May 1875, No. 1295.

Read the following replies to Board's Proceedings, dated 14th April 1875, No. 920:—

From the Collector of Nellore,	dated 24th April 1875, No. 1085.
" " of Bellary,	" 27th " " " 134.
" " of North Arcot,	" 24th " " " 203.
" " of South Arcot,	" 23rd " " " 169.
" " of Madura,	" 29th " " " 180.
" " of Coimbatore,	" 28th " " " 118.

In Board's Proceedings, dated 14th April 1875, the Collectors of the districts Nellore, Bellary, North Arcot, South Arcot, noted in the margin were requested to report their opinions as to the introduction, proposed by the High Court, of Act XX of 1865 (Pleaders, Mookhtars, and Revenue Agents Act) into this Presidency.

2. Nellore.—The Collector is of opinion that the Act is not called for, that no Revenue Agents will enrol themselves, and that revenue business will go on as usual under Section 35, which provides that any person may commence and prosecute any particular business in revenue offices, under general or special power of attorney, with the general or special sanction of the Board of Revenue or other officer authorized by the local Government in that behalf. It would certainly be necessary if the Act were introduced to confer such general authority upon all Revenue Officers.

3. *Dellary*.—The Pleaders of the Munsifs' Courts at the Divisional Stations are now available as Revenue Agents, and the Collector deprecates the enrolment of a special class. There is not enough business to employ them; they would foster litigation; the procedure in revenue offices is simple, and in many cases, from considerations of expense, the parties would act for themselves as they now do.

4. *North Arcot*.—The Collector is in favor of the Act. The Revenue Officers cannot now legally object to any man, however ignorant, being employed, and many dismissed officials of bad character take to practising as vakeels. A carefully-framed scale of fees payable to Revenue Agents would be a great boon. The Board observe, however, that the scale would only apply to costs awarded to the opposite party under the scale to be laid down, and parties are left at liberty to make their own arrangements with vakeels as regards all other fees.

5. *South Arcot*.—The Collector sees no reason why the Act should not be introduced.

6. *Madura*.—The Collector thinks the Act would be beneficial in all judicial proceedings. But in ordinary matters settled by a Collector under a ryotwari settlement, he is exercising the rights of a proprietor as towards his tenants, and the provisions of Sections 19 and 35, which exclude all but a specially-authorized class of men from appearing before him, would constitute an artificial barrier between the State and its tenants, which would be objectionable.

7. *Coimbatore*.—The Collector has not experienced any inconvenience from the presence of uncertificated vakeels. Revenue cases under Regulation VI of 1831 are simple, and Act VIII of 1865 is not much used in the district. Men can and do plead their own causes. The change will really operate only to exclude uncertificated men from Magistrates' Courts, as such men are already excluded from Civil Courts and from Courts of Session. He can recall no instance of impropriety by uncertificated men, and on the whole sees no reason for change.

8. The Board are of opinion that there is no practical necessity for the introduction of the Act as far as the Revenue Department is concerned, and they are averse to its being brought into force. The framing of rules and tests and scales of fees, such as would not cause great inconvenience in the conduct of work in revenue offices, would be very difficult. The great mass of the work is not of such a character as to necessitate measures to secure qualifications in the agents who conduct it; and when matters in which the assistance of trained Pleaders come before Collectors in their judicial capacities, the services of the Pleaders in the Civil Courts are available. The Board are not aware what inconveniences, which would be remedied by the Act, have been felt in the judicial administration; but so far as they are aware, judging from the past, it has been found possible to secure a body of men sufficiently numerous and well qualified for the work of Pleaders.

9. The Act, of course, does not affect the rights of parties to appear in person in all cases when they may choose.

(A true Copy and Extract.)

(Signed) H. E. STOKES,
Acting Secretary.

The Governor in Council agrees with the Board of Revenue that, as far as the Revenue Department is concerned, the introduction of the Act is to be deprecated. And there would appear to be no power to introduce a portion of it only into this Presidency (Section XLVII); if extended to these territories it must be as a whole.

2. The High Court will be requested to consider whether an amendment of Regulation XIV of 1816 would not meet the inconveniences mentioned in paragraph 5 of their letter of 2nd April last, and what in that case they would propose to enact.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Chief Secretary.

on the ground that they foster petty litigation and are ignorant of English, the latter on the ground of their want of qualification. On this the District Magistrate remarks: "I concur with the Special Assistant Magistrate in thinking that there is not much to be gained by excluding them from practising in Courts, the only harm that can be done by them acting in open Courts being to cause a waste of time, and there being no means, on the other hand, to check their power to do mischief by acting secretly as agents and tutoring the complainants and witnesses. Besides, these agents will help to spread a knowledge of at least the common principles of law amongst the rude inhabitants of country parts, who are so deplorably in want of it. While acting as District Judge of South Canara I had the honor to submit to the High Court my views regarding the employment of unrecognised agents in the Civil Courts. The agents practising in Magisterial Courts do not, as a rule, do any harm; but I am still of the opinion, which I formerly expressed, that one of the crying needs of the country is to have a set of responsible law agents in general practice throughout the country who would hold a semi-official position and who could be consulted by any one having a deed to be drawn up, or a civil suit to be conducted."

Tanjore.—The District Magistrate submits a detailed statement. A few of the agents are described as competent men, a few also as fair. Many are described as having no qualification whatever and as being grossly ignorant. Only a few have passed any tests.

Mr. Forbes, the Assistant Collector and Magistrate, writes: "The majority of the pleaders are entirely under the thumb of the law agents (otherwise called petition-writers) who employ them for hire. Unlike most districts the client rarely, if ever, has any direct dealing with the pleader who appears for him. To please his employer (the petition-writer) the pleader will abandon independent action in the case, following a course which his own better judgment and knowledge in many cases must condemn, the result not being always to the advantage of the client. Another bad consequence is that the pleader often does not take the trouble to master the parts of the case, depending on being coached up at the time by the agent."

Trichinopoly.—In this district the Magistrate of the district states that a few of the agents possess a fair knowledge of procedure.

South Canara.—The District Magistrate states that there are about fifty unqualified law agents. They are generally men of the old school, who, on failing to obtain Government employment, appear to have betaken themselves to this profession, and either possess no knowledge or only a smattering of law, and by their experience make up for their deficiency as well as they can. Only the poorer class of parties engage their services, and that too generally before the subordinate Magistracy.

Vizagapatam.—The District Magistrate gives a detailed statement. The qualifications of the agent are stated to be meagre and very moderate, but on the whole the opinion expressed by the District Magistrate is not unfavorable.

From the above it appears that, while the opinions expressed are in some cases conflicting, the preponderance of opinion is highly unfavorable to the continuance of this class of unqualified law agents.

MINUTE by the Hon. Sir W. ROBINSON, K.C.S.I., dated 28th March 1877.

Of course, it is futile to expect the Government of India to legislate in abrogation and limitation of what they know to be a most beneficial Act wherever it has been brought into operation. The application of the Act to both Revenue and Judicial Courts is I hold salutary; and, I hope may sooner or later operate to force the Act on both classes of Courts with beneficial results, I should be sorry to disconnect them with the danger of leaving the Revenue Courts in their present plight as respects native pleaders.

2. I can scarcely conceive a consensus more complete in condemnation of the existing state of things—under a regulation which the High Court justly show to be quite unsuited to present conditions—than is elicited from the Magistrates and Collectors alike by the reference of the High Court. The introduction of the Act would gradually improve a general evil, as the Court tell us, and I should be quite prepared to join in promulgating it. This is the course I would advise, and I think that Revenue Courts are those which would most benefit by proper regulation of the law Agency of the country.

3. I would refer the High Court's letter to the Board and ask whether they retain the same opinion as before expressed, and on receipt of their reply—agents are but little employed in revenue cases—decide whether the Judicial requirements of the country are to be further sacrificed in deference to the hesitation of the Board in regard to the application of the Act to Revenue Courts.

(Signed) W. ROBINSON.

The Government adhere to their previously expressed opinion that it is undesirable to extend the Act as a whole to this Presidency; and they apprehend that the Government of India would not be induced to re-enact it in the shape suggested.

2. It is observed that the question of permitting the local Councils to amend Acts of the Governor-General's Council of a date posterior to the Indian Councils' Act, 1861, is under consideration.

(Signed) D. F. CARMICHAEL,
Offg. Chief Secretary.

From T. WEIR, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, dated Madras, 4th December 1877, No. 2797.

I am again directed to address the Government on the subject of introducing Act XX of 1865 (the Pleaders, Mookhtars and Revenue Agents Act) into the Madras Presidency. In their Proceedings, dated 2nd April 1877, Government in disposing of the High Court's letter, dated 25th November 1876, stated that they adhered to their previously expressed opinion that it is undesirable to extend the Act as a whole to this Presidency, and they apprehended that the Government of India would not be induced to re-enact it in the shape suggested, that is to say, with the omission of the provisions relating to Revenue Agents. It was also observed that the question of permitting the local Councils to amend Acts of the Governor-General's Council of a date posterior to the Indian Councils Act was under consideration.

2. Again, in the Proceedings of Government, dated 27th September 1877, No. 2315, Government, referring to certain remarks on the subject of Act XX of 1865, made by the High Court in their Administration Report for 1876, stated that they were not averse from the introduction of the Act so far as the regular Courts were concerned. They saw objection however to the re-enactment of only a part of it, but whenever the local Councils are empowered to deal with enactments of the Imperial Legislature of a date subsequent to the Indian Councils Act of 1861, the question might then well be brought under consideration. The result of these conclusions is that an alteration of the law, which the High Court consider of great and pressing importance, and in the expediency of which the Government to some extent at least concur, is deferred for an indefinite period. Mean time the evils and the inconveniences pointed out in the High Court's letter of the 25th November 1876 will continue and indeed increase.

3. As a striking illustration of the confusion of the present law on the subject of Pleaders and of the absence of any centralized control, I am desired to bring to the notice of Government the circumstances of the following case which has recently come before the High Court:—

A Pleader already holding a Sanad in one District Court applied to the Judge of another District Court for a Sanad in the latter Court. The application was persistently renewed time after time and was as often refused for reasons which the District Judge thought sufficient, but which are immaterial for present purposes. It may be stated however that under the existing law the District Judge is the sole Judge as to the sufficiency or otherwise of the number of Pleaders that should be admitted to his Court. The District Judge went to England on leave. During his absence on leave the Pleader renewed his application for a Sanad and finally succeeded in obtaining from the District Judge's *locum tenens* what he had so long applied for in vain to the District Judge himself. Shortly afterwards the District Judge returned from leave and cancelled the Sanad which had been granted by his *locum tenens*. In taking this step, the District Judge seems to have been actuated by the belief that there had been a wilful suppression of the fact that the Sanad had already been frequently refused. Against the order of the District Judge depriving him of his Sanad, that is to say, *disbarring* him, the Pleader has sought to appeal to the High Court. The High Court have, however, no power, whatever view they may take of the District Judge's proceedings, to interfere with the action of the District Judge in appointing or removing a Pleader of his Court. This is a state of things which, having

in view the abuses to which it is liable, ought certainly not to be permitted to continue.

4. Another circumstance which I am desired to bring to the notice of Government is the large number of unqualified Pleaders who are permitted under the existing system to appear and plead in certain of the District Courts. In 1869, Government prescribed certain tests or examinations which should be passed by all persons desirous of holding among other posts the office of Pleader in a District Court. The existing law however leaves it open to the District Judges to admit as Pleaders of their Courts persons whom they may consider duly qualified. This at least is the view of the law that has been held and acted upon in several of the Courts in the Provinces, and in one District Court there are as many as fifteen Pleaders who have not qualified in the manner required by the rules of Government.

5. In their letter of the 25th November 1876, the High Court stated very fully their reasons for desiring the introduction of Act XX of 1865. The High Court earnestly trust that those reasons as well as the additional considerations now brought forward will again receive the consideration of Government and that, in view of them, Government will see fit to reconsider the resolutions announced in their Proceedings of the 2nd April 1877.

Minute by the Hon. W. ROBINSON, R.C.S.I. dated 29th December 1877.

I can add little to my minute of the 28th March 1877 (Proceedings of Government, dated 2nd April 1877, No. 836,) in which I earnestly deprecated seeking, as is now proposed, the enactment of a mutilated Act XX of 1865. I held, and still hold, that the extension of this Act in its entirety to this Presidency will prove a great boon.

2. The Act is throughout an admirable one and adaptable to each class of Court and Agent; and it is calculated to raise the character and efficiency of our Law Agents throughout the country in a manner which is sorely needed everywhere, and more especially perhaps in regard to those Agents who practise in our Magisterial and Revenue Courts.

3. It is greatly to be regretted that Madras officials have shown throughout an unappreciative feeling in respect to this valuable and important enactment, which has already been in beneficial operation in other parts of India for years.

4. At first even the High Court failed to recognize the value of the provisions of this law, and while it was yet under discussion in the Legislature in 1865 reported themselves satisfied with existing legislation (then half a century old). The subsequent communications of the Court in 1875, 1876, and 1877 leave no room to doubt that public interests have suffered sorely by the mistaken advice given to Government by the Judges some ten years previously.

5. The High Court now again earnestly advocate the extension of the law to this Presidency; and do not propose to exempt Magisterial and Revenue Courts in the face of the testimony which the Courts have collected and placed on record in the Proceedings of Government, dated 2nd April 1877, No. 836. The assent of Government should no longer be withheld. I would make and publish the requisite order under Section 47 of the Act at once and apply the Act in its entirety.

6. The Board of Revenue have not been recently consulted; but possibly they may still hang back (as did the High Court some years ago) for they deprecated in 1875 the extension of the law in respect to Revenue Courts. But the evils of existing conditions as respects the Law Agents who hang about our Magisterial and Revenue Courts—though coming little under the view of the Board—cannot be denied or concealed. In no class of public institutions is the regulation, &c., provided by this most salutary law more urgently needed than amongst the Agents who practise in these Courts; and I am satisfied that every public interest claims that both Judicial and Revenue Agents in all Courts be brought under the operation of this enlightened and useful law.

7. I cannot, therefore, be a party to seeking its modification in any form or degree. I am prepared to give it effect at once.

W. ROBINSON.

No. 3006.

A file of the correspondence will be furnished to the Advocate-General, who will be requested to state his opinion whether the first 18 Sections of the Act can be re-enacted by the Madras Legislative Council as a local measure.

(Signed) D. F. CARMICHAEL,
Chief Secretary.

24th December 1877.

From the Hon. P. O'SULLIVAN, Acting Advocate-General, to the Chief Secretary to Government, dated Madras, 7th January 1878.

I have the honor to enclose my opinion upon the question referred to me by the Order of Government, dated 24th December 1877, Judicial Department, No. 3006.

ENCLOSURE No. 1.

OPINION.

With reference to the Order of Government, dated the 24th December 1877, No. 3006 Judicial Department, I am of opinion that the first 18 Sections of the Pleaders and Mookhtars' Act (XX of 1865) cannot be re-enacted by the Madras Legislative Council without infringing the spirit of Section 42 of the Indian Councils Act, 1861. If Act XX of 1865 were amended by authorizing the Local Government to declare the Act or any part thereof, as the Local Government may from time to time determine, to be applicable within the territories subject to such Local Government, the evils pointed out by the High Court might be rectified.

(Signed) P. O'SULLIVAN,
Acting Advocate-General.

MADRAS,
7th January 1878.

ORDER THEREON, 6th February 1878, No. 260.
The Government of India will be addressed accordingly.

(True Extract.)

D. F. CARMICHAEL,
Chief Secretary.

HOME 1878 DEPT.

1. The first part of the document is a list of names and dates, which appears to be a record of some kind. The names are written in a cursive script, and the dates are in a more formal, printed style. The list is organized into two columns, with names on the left and dates on the right.

Nov. 22, 1978.

1. 100

13. 12.

150

June 1892

1900

0. 5.

2000

462

100

...the law relating to ...



I can add little to my minute of the 28th March 1877 (Proceedings of Government, dated 2nd April 1877, No. 836, in which I earnestly deprecated seeking, as is now proposed, the enactment of a mutilated Act XX of 1865. I held, and still hold, that the extension of the Act in its entirety to this Presidency would prove a great boon.

2. The Act is throughout an admirable one and adaptable to each class of Court and Agent, and it is calculated to raise the character and efficiency of our Law Agents throughout the country in a manner which is sorely needed everywhere, and more especially perhaps in regard to those Agents who practise in our Revenue Courts. *W*

3. It is greatly to be regretted that Madras officials have shown throughout an unappreciative feeling in respect to this valuable and important enactment, *which has*

4. At first even the High Court failed to recognize the value of the provisions of this law and while yet under discussion in the Legislature, and in 1865 reported themselves satisfied with existing legislation (then half a century old). The subsequent communications of the Court in 1875, 1876, and 1877 leave no room to doubt that the public has suffered sorely by the mistaken advice given to Government by the Judges some ten years previously.

The High Court again earnestly advocate the extension of the law to this Presidency and the assent of Government should no longer be withheld. I would make and publish the requisite order under Section 47 of the Act at once.

6. ~~Possibly the Board of Revenue may still hang back~~ (as did the High Court some years ago) for they deprecated in 1875 the extension of the law in respect to Revenue Courts. But the evils of existing conditions as respects the Law Agents who hang about our Revenue Courts—though coming little under the view of the Board—cannot be denied or concealed. In no class of public institutions is the regulation, &c., provided by this most salutary law more urgently needed than amongst the Agents who practise in our Revenue Courts; and I am satisfied that every public interest claims that both Judicial and Revenue Agents be brought under the operation of this enlightened and useful law.

7. I cannot, therefore, be a party to seeking its modification in any form or degree. *I am prepared to have it effect at once.*

W. ROBINSON.

And don't suppose I exempt
Magisterial & Revenue Courts, in
the face of the testimony that the
Court ^{have} collected a ~~sum~~ placed on
record in the Proceeds of Gov. dated 2 April 1877 No 872.

The Board of Revenue have not been recently
consulted; but do/

Judicial DEPARTMENT.
9/260-61

The Registrar, High Court, Madras.
Dated 4 December 1877.

FOR ORDERS.

I wish to see
pass a bill
in modification of
Sec. 47. & 48 Act. of
1850. Empowering
local govts. to
extend the prob
18 Sec. of the Act
or the State Act.
at option to the
territories under their
control.

Ind. 1877 Sept

FOR ORDERS.

Fr. No 2357 78

24 Dec 77 / 20306
from order

A file of the cover
foundence will be forwarded
to the Adv. Genl, who will
be requested to state his
opinion whether the first
18 Sections of the Act
can be passed re-enact
ed by the Madras Leg
Council as a local

and 24/2 measure. Dy. 21/12/77
The Advocate Genl
with file of correspondence

10/1/78
H. O. 1/2
M. 1/2

c 5/12 R 23/12

R
A
B

Class

INDIAN TELEGRAPH. *26/2/78*

Local No.

2283

To (Station)

FROM (Station)

Words

Time tendered for transmission

Madras time

OFFICIAL INSTRUCTIONS

To (Person)

FROM (Person)

*Secretary to Government**Judicial Secre-
-tary**Act**1865**to**twenty**not**Bombay**of
extended*

RECD. FROM (L. L.)

SENT TO (L. L.)

AT H. M., on the

AT H. M., on the

By

By

MADRAS 11-1-78

John A. Taylor Telegraph Master.

Chief Secretariat.

July 21 1878.

12
27
2608

My dear Robinson

I sent for the
papers here, to see how
the draft ran - but they
are still in the form.

If you will return them,
I can bring to pencil
tomorrow - or you may
prefer to do so yourself.

Very
Sincerely
D. G.

Received
12/27/78

28-13
260-61

x Papers
x Mr. Sir by Robinson -

WU

Read Draft letter
to the Govt. of India on
the subject of enactment
of a modification of Act
of 1865.

Observe that the
Draft is prepared with
containing a reference
to the Proceedings of the
Government on the letter
of the High Court dated
4 Decr. 1877, of which
my minute of decision
of 29 Decr 1877 forms a part

to the Chief Secy as
was the case the Draft
was for the trans
mission of Decr. 22/7

Desire to know
whether together with
the letter of which a
Draft is circulated.
Full Proceedings
for: in the matter
question are to be
submitted and request
to orders may be
then in Council on
point. Further
request that the
usual course may
be pursued in this
as the Proceedings
are submitted.

Wm. H. Brown
Chairman

29/17
260/61

Received from Mr. Brown
of the Com. of 20 April
all practically be
mitted & have
notes

24/1 Wm

No 2797-15/260-61

From
J. Weir Esquire,
Acting Registrar of the
High Court of Judicature
at Madras.

To
The Honorable D. F. Carmichael,
Chief Secretary to
Government.

Honorable Sir,

I am again directed to
address the Government on the
subject of introducing Act XX of
1865 (the Pleaders, Mooktears
and Revenue Agents' Act) into
the Madras Presidency. In
their Proceedings dated 2^d April
1877 Government in disposing
of the High Court's letter dated
25th November 1876 stated that
they adhered to their previously
expressed opinion that it is

For circular

Recd. Secy. to Govt. 6 Feb 1878
No 260-261

undesirable to extend the Act
as a whole to this Presidency
and they apprehended that the
Government of India would not
be induced to re-enact it in
the shape suggested, that is to
say, with the omission of the
provisions relating to Revenue Agents.
It was also observed that the
question of permitting the local
Councils to amend Acts of the
Governor General's Council of a
date posterior to the Indian
Councils' Act was under consideration.

Again in the Proceed-
ings of Government, dated 27th
September 1877, No. 2315, Govern-
ment, referring to certain re-
marks on the subject of Act
XX of 1865 made by the High
Court in their Administration
Report for 1876, stated that they
were not adverse from the

introduction of the ^{15/10/88} Act so far
as the regular Courts were con-
cerned. They said objection how-
ever to the re-enactment of
only a part of it, but whenever
the local Councils are empow-
ered to deal with enactments
of the Imperial Legislature of
a date subsequent to the Indian
Councils' Act of 1861, the ques-
tion might then well be brought
under consideration. The
result of these conclusions is
that an alteration of the law,
which the High Court, consider-
ing of great and pressing im-
portance and in the expedi-
ency of which the Government
to some extent at least con-
cure, is deferred for an indefi-
nite period. Meantime the
evils and the inconveniences
pointed out in the High Court's

not in the
as we believe he
concern will
be made, and
be local legislation.

2/-
letter of the 25th November 1876
will continue and indeed increase.

As a striking illustration
of the confusion of the
present law on the subject of
Pleadings and of the absence
of any centralized control, I am
desirous to bring to the notice of
Government the circumstances
of the following cases which have
recently come before the High Court:-

A pleader already in
holding a Summad in one District
Court applied to the Judge of
another District Court for a
Summad in the latter Court.
The Application was persistently
renewed time after time and
was as often refused for reasons
which the District Judge thought
sufficient but which are immaterial
for present purposes. It
may

17 18 95061
maybe stated however that under
the existing law the District
Judge is the sole Judge as to
the sufficiency or otherwise
of the number of pleaders that
should be admitted to his Court.
The District Judge went to
England on leave. During his
absence on leave the pleader
renewed his Application for a
Summad and finally succeeded
in obtaining from the District
Judge's locum tenens what he
had so long applied for in vain
to the District Judge himself.
Shortly afterwards, the District
Judge returned from leave and
cancelled the Summad which
had been granted by his locum
tenens. In taking this step,
the District Judge seems to
have been actuated by the belief
that there had been a wilful

suppression of the fact that the
Sunnad had already been fre-
quently refused. Against the
order of the District Judge, dis-
priving him of his Sunnad, that
is to say, disbarring him, the
Pleader has sought to appeal
to the High Court. The High
Court have, however, no power,
whatever view they may take
of the District Judge's proceed-
ings, to interfere with the
action of the District Judge
in appointing or removing a
pleader of his Court. This is a
state of things which, having in
view the abuses to which it is
liable, ought certainly not to
be permitted to continue.

Another circumstance
which I am desired to bring to
the notice of Government is the

X only given a
certain time.

What if he is
under the
the decision of
the District Judge
is final and again
he is allowed of
his own motion
officer.

Quite different
from the case

Why not
report the
Judge to the
who have the
power to
remove him
if he is
any other

No substitution

17.11.1869
Large number of unqualified
pleaders who are permitted under
the existing system to appear and
plead in certain of the District
Courts. In 1869, Government pre-
scribed certain tests or examina-
tions which should be passed
by all persons desirous of hold-
ing, among other posts, the office
of Pleader in a District Court.
The existing law however leaves
it open to the District Judge to
admit as pleaders of their Courts
persons whom they may consider
duly qualified. This at least is
the view of the law
that has been held and acted
upon in several of the Courts
in the Provinces, and in one
District Court there are as
many as fifteen Pleaders who
have not qualified in the manner
required by the rules of Government.

189
260-81

In their letter of the 25:
November 1876, the High Court stated
very fully their reasons for opposing
the introduction of Act XX of 1865.
The High Court earnestly trust
that those reasons, as well as
the additional considerations
now brought forward will again
receive the consideration of our
Government and that in view
of them, Government will see
fit to re-consider the resolutions
announced in their Proceedings
of the 2nd April 1877.

High Court of } I have the honor to be,
Judicature, Madras, } Honorable Sir,
4th December 1877. } Your most obed^t. serv^t,

Edw

Acting Registrar,
Appellate Side.

than ^{20/10/61} ⁷² the effort

Minuti

I can add little
to my minute of the 28th
March 1877 (Copy of which)
2^d April 1877 No. 836) - viz
which is amended by
repealing Section 7, &
is now proposed, by
the enactment of a
multilateral bill of
1865. I hold it to be
that the solution of the
Act in its entirety by
this Presidency would
prove a great boon.

The act is thought to be
an admirable one
It is calculated to raise
the character and
efficiency

2 adapt each track class
of Court & Agent;

27 $\frac{1}{2}$ 10 Dec 1778 Dec 19 5-19
27 $\frac{1}{2}$ Dec 1778 Dec 4-5

Received 1877 Sept 26
2600
Frank Garrison the Rev
of the Registry of the
High Court of Judicature
at Madras

Wm Chapman Secretary to
the Executive Committee

Dec 4th }
Dec 8th } December 1877

No 2797-

13 I agree that for the reasons already stated and for the additional considerations now being brought forward, the Board will be fit to reconsider the re-

15

Efficiency of our
Law is felt throughout
the Country: in a manner ^{that is}
 sorely needed ^{everywhere} more.
Especially perhaps
in regard to those Agents
who practise in our
Revenue Courts.

It is greatly to be
regretted that Madras
Officials have shown
throughout an unappre-
ciative feeling in respect
to this valuable and
important Enactment.

At first - even the
High Court failed to
recognize the value
of the provisions of this
Law & while yet under
discussion in the Legislature
and in 1865 reported

themselves satisfied
with existing legislation
(then half a century old).
The subsequent Communi-
cations of the Court in
1875, 76 & 77 leave no room
to doubt that the public
has suffered sorely by
the mistaken advice
given to Govt by the Judge.
Some ten years previous.

The High Court again
earnestly advocates
the extension of the Law
to this Presidency and
the Assent of Govt should
no longer be withheld.
I would make & publish
the requisite order under
Section 47 of the Act at
once.

Possibly the Board
of

of Revenue may still
hang back (as did the
High Court some years
ago) for they deprecated
in 1875 the extension
of the Law in respect
to Revenue Courts. But
the evils of existing
conditions as respect
the Law Agents, who
hang about our Revenue
Courts - though coming
little under their view of the Board -
cannot be denied or
concealed. In no
class of public insti-
tutions is the Regulation
by, provided by the
most salutary Law
more urgently needed
than

72
I draw ^{28/12/06} against the Agents
who practise in our
Revenue Courts and I
am satisfied that
every public interest
claims that both the Judicial
and Revenue Agents
be brought under the
operation of this
enlightened useful
law.

I cannot therefore
be a party to sticking
its modification in
any form or degree.

29/12 J. W. Robinson

23 19/10/81 31

Madras, 7th January, 1878.

From

No /

The Honorable P. O'Sullivan

Acting Advocate General.

To

The Honorable D. F. Carmichael

Chief Secretary to Government

Fort Saint George.

Sir,

I have the honor to enclose my
opinion upon the question referred to me by the
order of Government dated 24th December 1877,
Judicial Department, No 3006.

I have the honor to be

Sir

Your Most Obedient Servant

P O'Sullivan

Acting Advocate General.

113/12

28/12/77
260-61
leg 1 ✓
9

Opinion

With reference to the order of Government dated the 24th December 1877, No. 5006, Judicial Department, I am of opinion that the first 18 sections of the Pleaders and Mukhtars Act (~~xx~~ of 1865) cannot be re-enacted by the Madras Legislative Council without infringing the spirit of Section 42 of the Indian Councils Act, 1861. If Act ~~xx~~ of 1865 were amended by authorising the local Government to declare the Act or any part thereof, as the local Government may from time to time determine, to be applicable within the territories subject to such local Government, the evils pointed out by the High Court might be rectified.

P. Sullivan
Acting Advocate General.

Madras, 7th January, 1878.

1238

Forwarding opinion report.
on the introduction of
Act ~~xx~~ of 1865 into the
Madras Legislative Council.

Enclosure 1.

28.12.77

Date 7th January.

No. 33.
Dec. 7. - 2. - 1878.

For the Secy.

The Secy. to Govt.

The Acting Advocate Genl.

Recd: 24th Dec. 1877, No. 5006
27th Dec. 1877, No. 195-197
27th Dec. 1877, No. 4-5
27th Dec. 1877, No. 34-37

The P. & A. Secy. will be
advised, accordingly.
25.12.77

PROCEEDINGS of the MADRAS GOVERNMENT.

READ the following letters *from*

From Ag. Registrar High Ct. dt 14 Dec^r 1877. No. 2797.
Minute by the Hon Sir R. Robtson 29 - " - "
From Ag. Adv. General. dt 7 Jan'y 1878. No.

No - Order Recd. 6 July 1862

The Government of India
will be addressed ac-
cordingly.

Smith the Judge of the High Court. *and 1/2*

706-24840 - 6/2/57
Mumukshu
157-24840 - Mumukshu & Co.
2/2/57 Mumukshu

No. 261.

DEPARTMENT.

To

The Secretary to the Government
of India,

Home DEPARTMENT.

Sir,

It is provided by S. 47 of
Act IX, 1865. 'An Act to amend
the law relating to Pleaders & Proctors
that the Act shall apply to the several Pro-
vinces & N. W. Provinces of Bengal on
15 Jan 1866; and may be extended by any
other local Govt to its own territories
by notification at any time. &
~~See the Report~~

take effect in

G.O. 12th April, 1865
no 575

Amending the law
relating to Pleaders,

G.O. 7th June 75
no 1901.

2. In 1865, the H. C. was of opinion
that the extension of the Act to Malwa
was undesirable. In 1875, for the
first time, they expressed a change of
opinion. As the Act, as amended
by the Revenue Dept provides, for the
qualification, admission, enrolment,
suspension & dismissal of Revenue
Agents, the Bd of Revenue were requested
to state their views on its introduction.
They were averse to it; and the Govt, in
reply, requested the H. C. to consider
whether an amendment of Reg. XIV/18, regarding
the office of Valuers or Native Pleaders in the
Civil Ct of this Prov, was not more
inconvenient.

3. The H. C. in reply reported that the
proposed remedy was insufficient, and

Received
 of the
 C. O. 2d April
 1877

C.S. 10-1-87
7-1-87

They had the paper Draft was
again by circulation & then

in question
included among those
which are to accompany the
letter.

4. The Govt. inf. [at the tendered that he
"g. of I. but not to induce to Lytle
in the manner proposed, & prior to
reference aside into its remarks for
the question of permitting local for
to amend Act of a date for
the Indian Councils Act, 1861, was
under consideration.

6-7-11 3/4
 6-7-11 3/4
 6-7-11 3/4

[illegible]

[Faint handwritten notes at bottom of page]

29
260-61

Handwritten notes and stamps at the top of the page, including a date stamp that appears to read "JAN 1871".

To
The Secretary to the
Government of
Department.

No.

187 DEPARTMENT.

Dated 187 .

22. 261
C15/1 R1/2

Cost. of 1874 Stidrus.

To

Jan 1

260.26

Dated 6. }
Recd. 1874. No. 1

Nos. 36-40

Handwritten of J. J. J. J.
- given to take. acc. to
for property. acc. to
1865 - " acc. to
the law relating to
pro. to Handwritten.

_____. Proving that acc. to
may be taken to explain acc.
XX 1865 ☆

- (1) பக்கங்களின் எண்ணிக்கை 58
 (2) புதுக்கித் திருப்பிய நாள் 4 மே 1988
 (3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம் 600

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

திரு. JUDICIAL துறை

அரசாணை எண்.	<u>260-61</u>	அச்சகம்
மு. கோப்புத் தாள் எண்.		பலவகை
நாள் :	<u>6-2-1878</u>	<u>188</u>

மடிக்கலோ கண்டயடி கையாளலோ கூடாது