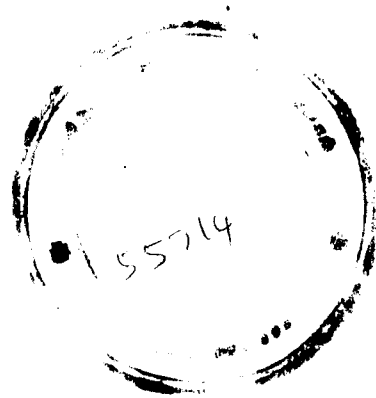


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Index No. 1/1842.

No. 59.

Secret Department.

To
THE COLLECTOR AND MAGISTRATE OF
GANJAM.

Sir,

It having come to the knowledge of the Government that Arabs in considerable numbers are in the habit of landing on the Western Coast and proceeding thence into the interior of India, I am desired to observe that no foreigner should be permitted to travel without a passport and that Returns of Passports granted should be made to this office as required by the Regulation published on the 21st April 1802, information being also given to the Magistrates on the routes which the parties may propose to pursue.

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

Fort St. George, }
15th March 1842. }

Secretary to Government.

Index No. 3/1842.

Revenue Department.

Extract from the Proceedings of the Board of Revenue, dated 14th February 1842.

Read the following letter from the Collector of Ganjam reporting on the 8th December 1841. management of the Extra sources of Revenue in that District for Fusly 1250.

No. 54.

PARA 1. The results of the aggregate sales of salt exhibit a considerable falling off in this year, the Gross collections having been Rupees 50,979-2-8 below the like collections of Fusly 1249. This decrease is attributed by the Collector to two causes *Vizt.*, the depressing influence on the trade and general prosperity of the District from a succession of bad seasons, which also affected the other branches of Extra Revenue, and the prevalence of cholera for some time in the neighbourhood of the Nowpadah Pans, where about half of the whole deficiency occurred.

Nowpadah Cotaurs.			
Home sales.		Inland sales.	
Fusly 1249	.. 31,323-2-4	..	122,427-0-1
Fusly 1250	.. 26,397-5-3	..	96,483-8-0
		4925-13-1	25,943-8-1
		Total decrease	30,869-5-2

2. The charges incurred for purchase and manufacture as also for superintendence and sale amounted to Rupees 16,767-1-10 which deducted from the Gross collections left

		the Net Revenue Rupees 2,22,552-4-5, showing a total decrease as compared with the foregoing year of Rupee 45,051-9-9 as noted in the margin.	
Fusly 1249	.. 2,67,603-14-2		
Fusly 1250	.. 2,22,552- 4-5		
		45,051- 9-9	

3. The unfavourable nature of the season likewise produced a deficiency in the sayer revenues of the year. The Gross collections amounted to Rupees 23,749-7-10 and Sayer. after deducting the charges * the net Revenue was Rupees 17,233-4-6 exhibiting a Charges 6,516-3-4. Net deficit of Rupees 2,394-8-2 below the previous fusly.

4. In the Sea Customs Department there was also a falling off consequent upon the diminished Exportation of Gingely Oil seeds, Turmeric, Horse and Hill Gram Sea Customs etc. etc. during the year under review—the Net Revenue under this head being in Fusly 1250 Rs. 470-9-9 and in fusly 1249 Rupees 1257-15-3, showing a net decrease of Rupees 787-5-6.

5. In the revenue derived from Abkary there was a decrease upon the year owing as stated by the Collector to the losses sustained by the Renters and the impoverished condition of the people generally. The collections in fusly 1249 were Rupees 30,646-7-6 and in fusly 1250 Rupees 22,852-4-7 being a decrease in the latter year of Rupees 7,794-2-11.

6. The total balance of arrears due in the Abkary Department for fuslies prior to fusly 1250 is shown in the statement marked B. to have amounted at the close of the fusly under review to Rupees 3,451-15-7. Of this sum the Collector has stated his opinion that Rupees 864-5-5 will eventually be realized but that he deems Rupees 2,496-7-5 altogether desperate, in consequence of there being no further property fourthcoming

	Recoverable.	Irrecoverable.	By whom due.	
Fusly.				
1247	148-14-8			
1248	141- 8-0	.. 50-6-0	.. Renter of Parlakemedy.	
1249	573-14-9	.. 2,446-1-5	.. Do. of Chikacole, Mohery.	
	864- 5-5	2,496-7-5	Monsooricottah Pubbaconda	
Total	..	3,360-12-10		
Collected up to November 1841		91-2-9		
Grand total	..	3,451-15-7		

7. The balance due by the Abkary Renters of the talooks noted in the margin for Fusly 1250 Viz., 898-15-9, being also reported desperate, the Board recommend that authority be given for writing off that amount to profit and loss.

Daracote	..	158- 6- 9
Aska	..	122- 5-11
Sarghur	..	18-14- 7
Hantghur	..	285- 0- 6
Poobbacondha	..	334- 4- 0
		898-15- 9

8. The demand under this head for Fusly 1250 amounted to Rupees 3,159-1-0, and the Current collections to Rupees 2,324-6-8, inclusive of arrears the collections were Rupees 2,651-3-11, exceeding those of the previous year by Rupees 209-4-2.

9. The balance outstanding for Fuslies 1248 and 1249, was Rupees 1416-12-10. Of this sum Rupees 6-8-0 had been collected at the end of November 1841, but the remainder, Vizt. Rupees 1410-4-10, the Collector deemed altogether desperate, owing to the poverty, Emigration and Casualties among the fishing Ryots. It is therefore recommended that sanction be granted for striking it out of the accounts.

10. Respecting the balance due for fusly 1250, the amount of which subsequent to the month of November 1841 was Rupees 650-8-4, Mr. Bannerman has promised to submit a detailed report.

11. In the sales of stamps there was an increase in the net Revenue of the year of Rupees 1161-10-7, owing to the greater demand for Stampd paper for the institution of Civil suits in the Court of the Agent to the Governor of Fort St. George. The net receipts under this head in fusly 1250 were Rupees 8,527-4-5, and in fusly 1249, they were Rupees 7,865-9-10.

12. The Decrease in the Moturpha rents which amounted to Rupees 3,596-8-3 is attributed to the same causes which tended to depress the other branches of Revenue during the year under review.

Net Revenue.	
Fusly 1249	.. 10,313- 7- 1
Fusly 1250	.. 6,716-14-10
	3,596- 8- 3.

13. The outstanding balances due for Fuslies 1248 and 1249 are reported to amount to Rupees 4,854-9-8, and for the reasons stated in para 9 of these Proceedings are considered by Mr. Bannerman as utterly irrecoverable. The Board therefore beg to recommend that similar sanction be granted for their being written off from the accounts.

14. The balances for Fuslies 1246 and 1247 which amount to Rs. 837-10-10, were accidentally omitted to be recommended for remission, as requested by the Collector, in the Board's Proceedings on the settlement of the Extra sources of Revenue for Fusly 1249, dated the 11th of March 1841—the above amount being utterly desperate is also recommended to be struck off.

Fusly 1249		1250.	
3,70,550-13-0	Collections	3,06,356-15-9.	
31,293-15-9	Charges	25,353- 1-4.	
3,39,256-13-3		2,81,003-14-5	
Decrease in fusly 1250		58,252-14-10.	

16. The total amount of irrecoverable balances for which the sanction of Government is solicited for the purpose of striking out of the Public accounts, is in the aggregate Rupees 10,498-0-6.

Orderd that a copy of the foregoing Extract from the Board's Proceedings be forwarded to the Collector of Ganjam, for his information and guidance.

(True Extract.)

Acting Secretary.

Revenue Department.

Index No. 8/1842.

From

J. D. BOURDILLON Esq.,

SECRETARY TO THE BOARD OF REVENUE.

To

R. A. BANNERMAN Esq.,

COLLECTOR IN THE ZILLAH OF GANJAM.

Sir,

Para 1. I am directed by the Board of Revenue to call your attention to the correspondence noted in the margin between this office and your predecessor on the subject of improving the efficiency of the village Establishments in the Government talooks of Ganjam.

2. The general features of Mr. Stevenson's plan for this important object, as developed in his two letters, have the Board's full concurrence and agreeably to his offer in the former of them, I am now directed to request that you will prepare statements showing the extent of land of the various descriptions, and whether waste or cultivated, and the assessment of it, which it will be necessary to grant in order to carry the scheme into effect.

3. Adverting to the scale of allowances for curnums formerly suggested by the Board I am directed to observe that in consideration of what is stated by Mr. Stevenson as to the increased number of curnums required in the large villages, it appears that the amount allowed in such by that scale is insufficient and the Board would suggest to you some modification of it in that particular.

4. The Board find also that you have expressed an opinion to the Court of Foujdari Udalt that the allowance proposed for the watchers is "scarcely adequate. They are certainly small but it appears that they are more than the average of those already existing in the District and if they are still enlarged, it would seem necessary that the old allowances also should be increased. The Board request that you will give the subject consideration and submit statements as specified above in Para 2 agreeably to such scale as may finally seem to you best.

5. Adverting to Para 6 of the letter of March 27, 1837, the Board request that if you concur with Mr. Stevenson on the point there noticed, you will prepare similar statements for villages needing grants in the Zemindaries of Goomsoor and Sooradah. I am likewise directed to point your attention to another communication from the late Collector dated May 8, 1837 and to request that you will state your opinion whether it is desirable that village service manunims should be granted in Purlahkimed; and if so whether you approve the arrangements proposed by Mr. Ingles or would suggest any modifications. It is observed that Tickelly estate which was at that time under the Court of Wards, and which was included in the same plan, has since been given up to the management of the proprietor.

6. The Board are anxious that the arrangements ultimately deemed necessary for effecting the object in view should be put in operations with as little further delay as possible. And I am directed to request that you will give the subject your early attention, and submit the information and statements indicated above as speedily as practicable.

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

Revenue Board Office, Fort St. George, }
24th November, 1842.

Secretary.

To
R. A. BANNERMAN Esqr.,
Collector in the Zillah of Ganjam.

Index No. 14/1842.

Extract from the Proceedings of the Sudr Udalt, under date the 24th October 1812.

Read Extract from the Minutes of Consultation under date the 11th October 1842, desiring that instruction may be issued to all Judicial Officers in the Provinces to refuse compliance with any application *for the sale of a slave as movable property apart from the Estate* to which he belongs.

In conformity with the foregoing Extract from the Minutes of Consultation, the Court of Sudr Udalt resolve to direct the several Judicial Officers in the Provinces to refuse compliance with any application *for the sale of a slave as movable property apart from the Estate* to which he belongs.

Ordered that Extract from these proceedings together with a copy of the above. Minutes of Consultation be forwarded to the 4 Provincial Courts for communication to the several Judicial authorities within their Division.

(True Extract)

(Signed.) A. S. MATHISON,
Acting Registrar.
Judicial Department.

No. 594.

Extract from the Minutes of Consultation, under date the 11th October 1842.
Read the following Extract from the Proceedings of the Court of Sudr Udalt and letter from the Registrar of that Court.

(Here enter 12th and 23rd September 1842, Nos. 122 and 126.)

In accordance with the exposition of the Law relating to slaves, laid down by the Judges in the communication from Sudr Udalt above recorded, the Most Honourable the Governor in Council desires that instructions may be issued to all Judicial Officers in the Provinces to refuse compliance with any application *for the sale of a slave, as movable property apart from the Estate* to which he belongs. A communication of the Proceedings of this Government will be made to the Government of India in reference to the views expressed in Mr. Officiating Secretary Halliday's letter, dated 27th May 1842, No. 113.

Ordered accordingly that the following letter be despatched

To

F. J. HALLIDAY Esq.,
Offg. Secretary to the Government
of India.

(Here enter 11th October 1842. No. 595.)

(Signed.) WALTOR ELLIOT,
Acting Secretary to Government.

To

THE SUDR UDALT

and copy to the Government of India with copy of papers.

(True copy.)

(Signed.) A. S. MATHISON,
Acting Registrar.

(True copies.)

Acting 2nd Judge for Registrar.

Ordered to be communicated to the several Zillah and Assistant Judges, Principal P 946. Sudr Aumeen and Magistrates in the Division for their information and guidance.

Masulipatam.
Northern Provl. Court }
28th October 1842.

Acting 2nd Judge for Registrar.

To

THE MAGISTRATE OF
GANJAM.

Index No. 16/1842.

Extract from a letter from the Honourable the Court of Directors, dated 4th May 1842.

No. 1.

PARA 1. We have received your Secretary's letters above noted, and we entirely approve the measures therein reported for withdrawing the interference of the officers of Government with the Religious Institutions of the Natives. We are desirous that similar measures should with as little delay as practicable be adopted in all the districts under your Presidency, and should be reported for our information. Any deposits of unappropriated Pagoda

funds in the several Collectors' Treasuries should remain until the measures in progress are completed when their amount and the circumstances under which they have occurred may form the subject of a separate report.

(True Extract.)

(Signed.) JOHN ORR,
Acting Secretary to Government.

Extract from the Proceedings of the Board of Revenue, dated 18th July 1842.

Ordered that the foregoing Extract from the letter of the Honourable Court bearing, date the 4th May 1842 be circulated for general information to the Collectors in the Provinces.

(True Extract.)

Secretary.

Revenue Department.

Index No. 31/1842.

Extract from the Proceedings of the Board of Revenue, dated 24th June 1841.

Read the following letter.

No. 793.

To

THE PRESIDENT AND MEMBERS OF THE
BOARD OF REVENUE.

Gentlemen,

PARA 1. The Honourable the Court of Directors and the Government of India having ordered the immediate withdrawal from "also interference with Native Temples and places of religious resort", I am directed by the Right Honourable the Governor in Council, with reference to my letter of the 21st April last, to request that you will without delay suggest the measures requisite for carrying those orders into effect.

2. It is the intention of Government that the interference of all public officers, either with the internal arrangements of the religious institutions in question, or with the administration of their revenues and funds of every description, shall be altogether withdrawn and be "vested in those individuals who professing the same faith may be thought best qualified to conduct that administration with fidelity and regularity, such individuals, together with their subordinate officers, being held responsible to the Courts of Justice for any breach of the duties and trusts assumed by them;" and this withdrawal His Lordship in Council desires may not be partial and uncertain but final and complete."

3. It is not however the desire of Government that the Revenue Officers should relinquish the management of lands attached to religious institutions which have been assumed for the purpose of securing the public revenue or in order that protection and Justice may be afforded to the Ryots. The Government of India have remarked that the continuation of the management of such lands by the Revenue Officers "is due as a measure of Justice to the agriculturists whose contracts and engagements have been made in anticipation of the continued management of the land by Government" and in such cases His Lordship in Council thinks it will be sufficient that the net proceeds of the land should be paid without reservation to the native administrators of the Institutions to which they belong.

4. In carrying the instructions which may be issued, into effect, it is essential that you give your most careful attention to local circumstances and to native feelings and prejudices and that you make it generally understood that the object of the Honourable Court of

Directors is to leave to the people the management of their own religious institutions without the interference on the part of the Revenue Officers of Government, and that there is no intention of withholding any authorized and customary payments and allowances.

5. His Lordship in Council also requests you will report the sums of money now in deposit in the several public Treasuries belonging to each religious institution, together with your opinion as to the expediency of making over the amount to the administrators of each institution at once, or whether it would be advisable to keep it still in deposit to be drawn from time to time as may be required for the purposes of those institutions respectively.

6. His Lordship in Council desires that your report on the subject of the present communication may be submitted without any delay, and with the view of saving time he desires that the arrangements for each District may be laid before Government as soon as they may be prepared.

FORT ST. GEORGE, }
12th June 1841. }

(Signed.) H. Y. CHAMICER,
Chief Secretary.

Ordered that transcript of the foregoing letter be forwarded by circular to the several Collectors in the Provinces and to the Collector of Madras with reference to the communication from this Department of date the 10th June.

It will be the duty of the Collector to report in detail the arrangement he would propose for each institution in his District explaining the present extent of interference and control, and showing how far that is withdrawn by the operation of the method of administration that is to supersede the present management. It will be proper, also, to suggest in what manner vacancies are to be supplied in the trustees whether arising from death or resignation, so that the withdrawal of active interference by Government in the affairs of the Pagodas and mosques shall be final and complete. The attention of the several authorities is specially drawn to the observations in para 5 of the Chief Secretary's letter, and it is requested that the arrangements best calculated to give effect to the wishes of Government be supplied from each District at the earliest practicable period.

(A true Extract.)

Secretary.

Index No. 33/1842.

No. 211.

To

THE CHIEF SECRETARY to
GOVERNMENT.

Sir,

1. With reference to para 2nd of this Court's letter of the 7th Ultimo, I am directed to state that the Judges of the Sudar Udalut have had under their consideration the question whether the persons holding the office of agents of the Governor of Fort St. George in the Ganjam and Vizagapatam Districts are liable to prosecution in the Courts of aduwlut for any official acts.

2. The Court of Sudr Udalut hold the opinion that they are liable to be sued before the ordinary Courts for all acts done by them at any time in their capacity of Collector and Magistrate beyond the tracts withdrawn from the operation of the Regulations, and also for all acts so done by them within those tracts prior to the Act No. XXIV of 1839 coming into operation; that is to say prior to the 1st December 1839; but that they are not liable to be sued in the ordinary Courts for any act done in their official capacity of agent to the Governor.

3. Under clause II of Act XXIV of 1839, the operation of the ordinary Regulations has ceased in the tracts of Country specified therein; and in the opinion of the Sudar Udalut the *ordinary Courts* therefore have no jurisdiction over the *agents* as such. Their jurisdiction over any public officer for acts done in his official capacity, is part of the operation of the ordinary regulations having been established by those Regulations and being exercised under them; and when that operation ceased, the jurisdiction ceased as a part of it.

4. Personal suits will of course follow the *agents* wherever they may go; but for acts done in *their official capacity as Agents*, the Court of Sudr Udalut hold that they are amenable only to Government under Rule XXVIII of the rules framed by Government for their guidance.

5. The Judges of the Court of Sudr Udalut however are not unanimous on this question.

6. The acting 1st Judge holds the opinion that, all though Act XXIV 1839 renders in-operative, *within* the tracts therein specified, the rules for the administration of the revenue and of justice, which are elsewhere the law, and enables the Government to make rules for the guidance of the *agents* and their subordinates, for the administration of justice, and the collection of the revenue, as respects the inhabitants thereof, who are thereby, in these two respects, transferred from the jurisdiction of the established Tribunals, to that of the *agents* and their subordinates; still, that the *agents* themselves, and their European subordinates, being British subjects, are not by the said act transferred to any new jurisdiction; but remain liable, as heretofore, for acts done in their official capacity, contrary to the rules prescribed for their guidance to the Company's Courts, situated beyond the said Tracts, as established by act of Parliament and the acts of the Government of India.

7. The acting 1st Judge remarks that it is not the operation of the "Ordinary regulations" which has ceased *within* the said Tracts; but only the rules for the collection of the revenue, and the administration of justice, *there*; and that the jurisdiction of the Courts, *beyond* these bounds, remains intact, by the new Act. Section 107 of the Act of the 53 of George the Third conferred on the Company's Courts special jurisdiction over British subjects "the servants of the said United company, as well as others," in all Civil suits; reserving to them a right of appeal to Her Majesty's Supreme Court. Act XI 1836 transferred such appeal, to the Company's established Tribunals, and thereby *confirmed* their jurisdiction, over the Company's servants who are British subjects; and Act XXIV 1839 gives the local Government power to make rules for *their* guidance in the administration of the revenue or of justice, but in no respect changes the jurisdiction to which *themselves* were previously amenable, for a breach thereof, or for arbitrary and oppressive conduct in their official capacity contrary thereto.

8. Mr. Compbell, on these grounds deems the Governor's Agents and their European subordinates who are British subjects, amenable to the Provincial and Sudr Courts, for acts done in their official capacity, contrary to the rules laid down for their guidance; and he thinks that Rule 28 of the Madras Government is to be construed by Act XXIV 1839 of the Government of India, not the Act by that rules.

9. Under these circumstances, it would be satisfactory to the Sudr Udalut, to be informed of the construction placed in Bengal on similar Acts, where the people are exempted from the operation of any part of the Code, as regards the jurisdiction to which those placed in authority over them are deemed amenable.

SUDR UDALUT,
REGR'S OFFICE,
8th December 1840.

I have &c., &c.,
(Signed.) _____
Register.

To
H. CHAMIER Esq.,
CHIEF SECRETARY TO THE GOVERNMENT OF
FORT ST. GEORGE.

Sir,
With reference to your letter No. 990, dated the 21st December 1840 with its enclosures, I am directed to state that the Governor-General in Council having applied for information on the subject of your letter to the Courts of Surdr Devn. Adawlut at Calcutta and Allahabad through the Governments of Bengal and the N. W. P's respectively, has been told in reply that under the constructions put on the regulations by the two courts, agents to the Governor-General in Territories exempted from the general Regulations are not liable to be sent in any Civil or Criminal Court of the Company for redress against their official acts. Persons seeking such redress must, it has been added, apply to the Local Governments.

I have the honor to be &c.,

FORT WILLIAM,
The 7th February 1842.

(Signed.)

T. H. MADDOCK,
Secretary to the Government of
India.

No. 297.

Ordered to be communicated to the Judges of the Sudar Udalut, with reference to their Register's letter of the 8th December 1840 No. 211.

FORT ST. GEORGE,
The 7th March 1842.

(Signed.) H. T. CHAMIER,
Chief Secretary.

To
The SUDAR UDALUTS.

(True Copies.)

Register.

Ordered to be communicated to the Agent to the Governor of Fort St. George in the Ganjam District for his information and guidance.

4th April 1842.

Register.

Index No. 34/1842.

No. 312.

Revenue Department.

Extract from the Minutes of consultation, under date the 8th March, 1842.

Read the following Extract from the Proceedings of the Board of Revenue.

(14th February 1842, No. 64.)

PARA 1. His Lordship in Council has perused with regret the foregoing Proceedings in which the result of the settlement of the Extra sources of Revenue in the District of Ganjam for Fusly 1250 is shown to have been even more unfavourable than that of the proceeding year.

2. In the statement entered in the margin is exhibited the net revenue derived from each item in this as

Item.	Fusly 1249.			Fusly 1250.			Increase.			Decrease.		
	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.
Salt ..	2,67,803	14	2	2,22,552	4	5	....	....	....	45,051	9	9
Sayer ..	19,827	7	8	17,233	4	6	....	....	....	2,394	3	2
Sea customs ..	1,257	15	3	470	9	9	....	....	....	787	5	6
Abkary ..	30,646	7	6	22,852	4	7	....	....	....	7,794	2	11
Sundry small Farms and Licenses.	2,441	15	9	2,651	3	11	209	4	2	....	....	....
Stamps ..	7,365	9	10	8,527	4	5	1,161	10	7	....	....	....
Moturpha ..	10,313	7	1	6,716	14	10	....	....	....	3,596	8	3
Total ..	3,39,256	13	3	2,81,003	14	5	....	....	....	58,252	14	10

compared with Fusli 1249 from which it is observed that there is a decrease in the former year under every head with the exception of "sundry small farms and licenses" and "stamps".

3. In the demand under the head of salt from where the greater portion of Extra Revenue is obtained in Ganjam, there was a falling off to the extent of Rs. 50,338-10-5 in the year under review which is explained to have arisen partly "from the depressing influence on the trade and general prosperity of the District from a succession of bad seasons" and partly from the prevalence of cholera in the neighbourhood of Nowpadah where about half of the whole deficiency is shown in the 2nd statement to

1249	2,88,912	13	9
1250	2,38,074	3	4
	50,838	10	5

Para 1 of these Proceedings to have occurred. The difference between the demand and net revenue under this head was occasioned by a reduction in the amount of Para 2. charges to the extent of Rupees 5,927-8-11.

4. The deficiency observable in the net revenue from the other items, Sayer, Sea Customs, Abkary and Moturpha is also attributed to the baneful effects produced by bad seasons.

5. In the demand under this head there was a slight decrease in the year under review but the net revenue was greater in consequence of a larger amount having been collected than in Fusly 1249.

*Sundry small farms and licenses Demand.

1249	3,403	0	6
1250	3,159	0	1

Decrease 304 0 5

6. For the reasons advanced in these Paras and at the recommendation of the Board of Revenue the Right Honourable the Governor in Council is pleased to authorize the balances due for Fuslies prior to 1250, as also for the latter year, under the heads noted in the margin, amounting in aggregate to Rupees 10,498-0-6 to be struck out of the public accounts.

Paras 6, 7, 9, 13, 14, 16, Item Fuslies prior to 1250	2,496	7	5	898	15	9
Abakary	1,410	4	10	....	....	....
Sundry small farms &c.	5,692	4	6	....	....	....
Moturpha	9,599	0	9	898	15	9
	10,498	0	6			

Ten thousand four hundred and ninety eight, and Pies six.

7. His Lordship in Council will be glad to have before him so soon as received the report which the Collector has promised to furnish regarding a balance of Rupees 650-8-4 due under the head of "Sundry small Farms and Licenses" for Fusly 1250, as also regarding a balance of Rupees 1,975-3-11 due under the head of Moturpha for Fusly 1250.

(A true Extract)

H. CHAMIER,
Chief Secretary.

Extract from the Proceedings of the Board of the Revenue, dated 21st March 1842.

Ordered that a copy of the foregoing Extract from the Minutes of consultation be forwarded to the Collector of Ganjam for his information and guidance with reference to the Board's Proceedings upon the management of the Extra sources of Revenue in his District for Fusly 1250, dated 14th February 1842.

(A true Extract.)

Acting Secretary.

Revenue Department.

To
THE COLLECTOR IN THE ZILLAH OF
GANJAM.

Sir,

I am directed by the Board of Revenue to transmit to you the accompanying Petition from Yellamah, an inhabitant of your district, stating that her late husband constructed a reservoir for public use, and praying thereupon that a piece of land may be granted to her. You are requested to enquire into the statement of the Petitioner and report thereon for the information of the Board, at your earliest convenience.

Revenue Board Office,
Fort St. George,
24th March 1842.

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

Acting Secretary.

Index No. 35/1842.

Revenue Department.

Extract from the Proceedings of the Board of Revenue dated 29th August 1842.
Read the following Extract from the Minutes of consultation dated 15th August 1842, containing the observations and orders of Government on an Extract from a General letter from the Honourable the Court of Directors under date 18th May 1842.

(Here enter)

Ordered that copy of para 8 of the Honourable Court's letter recorded above be communicated by circular for the information and guidance of all Collectors who will be pleased to bear in mind the wishes of the Honourable Court when submitting hereafter applications for the continuance of Pensions not strictly hereditary.

(A true Extract.)

Secretary.

Revenue Department.

Extract from a General letter from the Honourable the Court of Directors dated 18th May 1842 No. 12.

PARA 8. We approve the decisions of the Government of India in these cases, as we think that whenever you see reason to entertain applications for the continuance of pensions not strictly hereditary to the surviving members of the family, some reduction should be generally made in the amount so as to provide for their gradual extinction.

(A true Extract.)

Secretary.

Index No. 37/1842.

Department of Public Works.

Circular No. 620.

FROM

CAPTAIN S. BEST

Secretary Rev. Board D. P. W.

TO

THE COLLECTOR OF
GANJAM.

Sir,

The Board of Revenue direct me to call your special attention to the subjects of the subjoined remarks on various paragraphs of the standing Rules for the Tank 6 Enclosures Department which were forwarded to you on the 5th April 1832 and to the Circulars from this Department Nos. 341, 237, and 51 of 1833, 1836 and 1838:

2. The 11th and 17th Paras point out the "inconvenience arising from the Estimates allowing for repairs which cannot be executed during the season," and the same has been particularly observed in the letter No. 237 dated 21st July 1836, but although "the present system of Marammut management has now been in operation sufficiently long for an accurate judgment to be formed," the total of the Ordinary Estimates for 1841 amounted to Rupees 531, 861 or Rupees 1,07,991 more than the amount of the changes corresponding.

Excess of Estimate above Bill.

In Cuddapah, } nearly 1/2
Nellore, } the Bill.
Visagapatam, }

3. In the 11th Para it is directed that Taasildars should report "the number of Tank diggers, stonecutters, Bricklayers and bandies actually available" and "that Collectors should select for the Ordinary Estimate such works as it may be expedient and practicable to execute during the season."

In Ballary, } nearly 1/3rd
N. Arcot, }
Trichinopoly }
In Tanjore, } nearly 1/4th.
Coimbatore, }
In Madura, } nearly 1/5th.
Chingleput, }

4. There seems reason to suppose that the Reports of Tahsildars do not in all respects correspond in the rules laid down and the Board therefore desire that the Annual Ordinary Estimates for the year 1843 may be accompanied by an Abstract of the Memoranda of Tahsildars showing the number of persons available for carrying on the work in each talook and that the amount of work estimated may be thereby regulated. In these Memoranda the workmen who usually reside in each taluk should be distinguished from those whose services are obtainable from other talooks and villages.

5. From the Bills, it appears that in many Districts a very large proportion of the works undertaken remain incomplete at the termination of the season. The rules given in the 11th, 16th and 17th Paras were intended especially to guard against this. The want of good arrangements and of precaution not only deprives the state of the advantages which would be derived from completely repaired works, but much of the money and labour expended is lost in consequence of the works being done in a hurried and careless manner, the usual check of examination being avoided. Masonry works in particular are frequently seriously injured by the occurrence of a freshes immediately after or previous to their completion.

6. The Civil Engineers as ordered in the 18th Para should "decide and point out at what stage a work that cannot be completed in one season should stop" and it is desirable that no masonry work should be undertaken late in the season, unless the opinion of the Civil Engineer has been given that there will be no difficulty in completing it in good time, or, unless its necessity is so urgent as to overbalance the rest of the work's failure. From attention to this the Board anticipate a considerable reduction in the number of small masonry repairs.

7. The principal Estimates of all kinds comprising almost all the masonry works the Board expect that the Civil Engineer's Department should provide.

8. When the Diaries and Estimates of Engineers and Surveyors are received, the Collectors should at once institute such enquiry as may enable them to determine whether the works are desirable or not. In the latter case the objections should be made known to the Engineer in order that he may alter his project so as to obviate them, or, if that be not practicable on orders that he may not lose any more time on similar speculations.

9. But if the work is desirable, no time should be lost in instructing the Tahsildar to prepare materials and collect workmen, and advances should be made so that such works may commence at the earliest practicable period of the ensuing season. Thus the most important works may be put in hand in good time and the delay that arises from awaiting the preparation of the whole Estimate before commencing work may be avoided.

10. In the Circular No. 51 dated 18th January 1838 Collectors were requested to forward all Ordinary Estimates before the 31st of March in each year. But of 18 Ordinary Estimates for the year 1841, five only left the Office of the Collector by the date prescribed. The Estimates of 5 Districts were not sent until 3 months after the proper date.

11. This delay entirely defeats a principal object in preparing these documents, for it is evident that the sanction of the Board cannot, under these circumstances, reach the Collectors before much progress is made in the repairs."

12. The 11th Para directs that the "Tahsildars should prepare and send a Report and Estimate at the termination of the monsoon or as soon after as the weather will permit" It is not to be inferred that the monsoon is generally speaking an obstacle to the preparation of Estimates. On the contrary, the Board consider that Estimates made after the water has subsided in channels and tanks are of little value compared with those which may be made when they are full and the height which their tanks require can be measured directly and accurately from the surface of the water contained in them. Maistries and Goomastahs ought to be particularly active during the monsoon and by the time it terminates the Talook

estimates should be nearly completed so that Tahsildars should generally be able to furnish them to the Hoozoor early in the month of January. The selection, examination, translation and copying of the Estimates ought not to occupy more than six weeks and the Board trust that through the exertions of Collectors and Engineers, these documents may in future arrive in this Office in the beginning of the year and they direct that they be on no account delayed beyond the 15th of February for works of an Ordinary nature not included in the original Estimate. A supplementary one may be sent afterwards if necessary.

13. I am directed to point out that the Form for the Ordinary Estimates in the Columns of Estimate requires the insertion of rupees and annas only (without pice) and that the Columns of Revenue and of Past expenditure should be filled with rupees only (without either annas or pice.)

14. The latter columns are inserted for the purpose chiefly of limiting the amount of the Estimate. But as the calculation of the average revenue occasions trouble and at the same time to remove doubt and introduce uniformity, the Board have resolved that in future Estimates, the Column of average revenue is to be dispensed with. Instead of it, the highest revenue should be given, both in land and money. The Ayacut and the last year's revenue should also be entered.

15. The amount of the highest year's revenue in money is to be considered the limit of all Ordinary Estimates, which are never to exceed the greatest amount obtained in any year from the land for the advantage of which the estimated repairs are intended.

16. In the Ordinary Estimates lately received many sluices and works of masonry are entered for "construction" or "reconstruction". Under the existing rules these works ought not to have been included. The Board have however, decided that new works estimated or approved by the Civil Engineer may be entered in the Ordinary Estimate provided their cost does not in any instance exceed 500 Rupees and that, in forwarding the Ordinary Estimate to the Board the Civil Engineers particularly direct attention to these items. In all other cases the Board desire that the Ordinary Estimates may be strictly confined to repairs, and that the distinction between Ordinary, Occasional and Extraordinary works, as laid down in Circular No. 341 dated 7th November 1833 be carefully attended to.

17. In the 41st Para of the Standing Rules, Collectors are required, in all cases where an increase of Revenue is anticipated from the repair of old or construction of new works, to report the actual result to this Office and it is recommended that these reports be sent to the Department of Public Works at the same time with the Jamabundy Reports.

18. The Board do not however consider it necessary that such reports should be sent in regarding all such works. They have ordered me to submit lists of some of the works in each District from which great increase was anticipated and these lists, will hereafter be furnished to the respective Collectors with a request that the information called for in the paragraph above named may be early supplied.

19. The Board request the particular attention of Collectors and Civil Engineers to the subject of prices. The rates are observed to vary exceedingly even in neighbouring Districts of the same Divisions. While in some the average rate of Earth work per Cubic Yard is but 5½ pice, in others it is little less than 1 Anna. Higher rates are frequently allowed for what is termed "hard soil" but in executing repairs on Ordinary Estimates it cannot often be requisite to excavate except in the loose deposit in the beds of tanks or channels.

20. Much delay is occasioned in consequence of the varying prices of materials and workmanship, which it is believed may be avoided by the Establishment of rates. These should be regulated by the prices usually paid in the Talook or District and should be reduced to European measurements. Such delay occurs especially in the performance of earthwork from the unwillingness of the tank diggers to undertake it without striking a bargain, and many disputes arise after work is done regarding the rate at which it is to be paid for. The Board therefore desire that Collectors and Civil Engineers will consult

together and make such regulations as may at the same time secure the careful, efficient and early performance of the public works and provide for the adequate and regular payment of those employed on them and they request that the result of the enquiry into the subject of prices of masonry, earthwork &c., and the rates of carriage may be submitted for their approval in Forms similar to those furnished herewith.

21. In the 23rd Para of the Rules great stress is laid on the advantage that may be expected from the employment of village Coolies on the works, but any degree of uncertainty with regard to payment must operate in detaining labourers, at the same time enhancing the cost and delaying the execution of the Marrammatt. The Board being aware that in the Tanjore District and some other parts of the country, the earthwork is chiefly executed by village coolies, are desirous to know to what extent their employment prevails in other Districts and wish to be informed what are the impediments that prevent the general introduction of this system.

22. They have already desired that "every endeavour should be used to induce the inhabitants to take an interest in the preservation of the works of irrigation and that measures should be taken to prevent gross neglect on the part of the villagers", and they hope that the ryots in all Districts are aware that tanks, channels, Calingullahs, Sluices &c., are public works and that the authorities of villages in which they are situated are held responsible that they do not suffer injury unless from causes the operation of which it is not in their power to control.

23. In the letter from this Department to the Acting Principal Collector of Tanjore dated 3rd February 1840 the subject of the 43rd Para of the standing Rules was again brought to notice.

The Estimates of the present year, nevertheless, contain many items with the cost of which the Board consider that the Government ought not to be charged. The attention of Collectors and Civil Engineers is again directed to the subject of relieving the Government from these trifling expenses which is desirable not so much on account of the consequent saving to the state, as because the minute attention to the works of irrigation and the increasing aid bestowed by the Government have a tendency to "render the inhabitants not only indifferent to the preservation of these works but sometimes even desirous to see them damaged, in the expectation of deriving benefit from the money expended in their repair."

I have honor to be
Sir,
Your Most Obedient Servant,
Madras,
22nd December 1842.

Secty B. of Revenue D. P. W.

Index No 38/1842.

FROM THE INDIAN LAW COMMISSIONERS
TO THE RIGHT HON'BLE

LORD ELLENBOROUGH,

Governor General of India,
Dated 2nd July 1842.

MY LORD,

Acknowledge His Lordship's Letter of the 4th April 1842, respecting—

We have now the honour to reply to your Lordship's letter of the 4th April last.

2. This communication embraces three topics.

1st. The legal training in India of the Honourable Company's Civil Servants destined for the Judicial Branch of the Services; and the means of retaining in that branch such qualified persons as may once adopt it.

2nd. The expediency of appointing a Chief Judge, with superior emoluments, to each of the Company's Sudder or Highest Courts of Judicature.

3rd. The expediency of conferring upon the Superior Courts of Appeal a limited extent of original civil jurisdiction.

3. We propose to submit our sentiments on these topics in the order in which we have noticed them; but we think it will conduce to a clearer understanding of the whole subject, if before entering upon the consideration of the particular points, we place before your Lordship a concise historical account of the several Judicial systems prevailing at the three Presidencies of Bengal, Madras and Bombay, exhibiting their original character, and tracing them through their various modifications to their present state.

This narrative occupies paragraphs 4 to 104 of this address.

4. On the consolidation of the Judicial system of Bengal in 1793 the administration of Civil Justice was vested in Zillah and city Courts having unlimited original jurisdiction; Provincial Courts of Appeal, and the Sudder Dewanny Adawlut the Company's highest Court of Appeal, consisting of the Governor General and Members of Council.

5. The Zillah and City Judges were authorized to refer to their Registers Suit for property not exceeding 200 Rupees in value, but their Decrees were not valid until countersigned by the Judges.

6. The only Native Courts which found a place in this system were those of certain functionaries styled Referees (Aumeens) Arbitrators (Salisan) and Moonsiffs, who were empowered to try, either immediately or by reference from the Zillah or City Judge, Suits for personal property not exceeding 50 Rupees in value.

7. These Establishments were perhaps originally inadequate to the duties imposed upon them. However that may have been, it is certain that in process of time the increase of litigation, consequent on the general improvement of the country and the growing confidence in the Judicial Tribunals, rendered alterations in the system necessary; and as these causes continued to operate, various methods were from time to time resorted to to check the growing evil of overburthened Judicatories.

8. These remedial measures, as they affected the European Agency, consisted in removing the primary cognizance of the more valuable Suits from the Zillah and City to the Superior Courts; in augmenting the number of Judges, and increasing the powers of single Judges of those Courts; extending the Judicial functions of the Registers; and appointing Assistant Judges to share the labours of the Zillah and City Judges.

9. But the limited number of Civil Servants at the disposal of the Government, and the heavy expense attending this description of Agency, presented serious obstacles to a general resort to it, whilst a liberal policy pointed to a more extensive employment of the natives of the country as a means both of increasing the efficiency of the Courts and of improving the moral condition of the people.

10. The various changes in the Civil branch of the Judicial system from 1793 up to the present time may be thus briefly stated.

11. Original Suits exceeding 5000 Rupees in value were transferred from the Zillah to the Provincial Courts, though subsequently those between 5000 and 10,000 Rupees were allowed to be instituted in the Zillah or Provincial Court at the election of the Plaintiffs.

Original Suits above 1000 Rupees were also made transferable from the Zillah to the Provincial Court at the discretion of the Sudder Dewanny Adawlut, which Court was further authorized to call up from the Provincial Courts any original Suit of the value of 43,103

2dly. The appointment of a Chief Judge to each Sudder Court.

3rdly. The Conferring upon the Sudder Courts a certain extent of original jurisdiction.

Before submitting their sentiments on these Topics furnish an Historical accounts of the several Judicial systems of Bengal, Madras and Bombay.

Ditto.

Ditto.

Alterations since rendered necessary by the increase of litigation.

Nature of the remedial measures adopted as respected European Agency.

And Native.

Changes in the Civil Branch of the system from 1793 to the present time.

1806.

1817.

1814.

Sicca Rupees (the amount then limited for appeals to the King in Council) which they deemed could be more conveniently and expeditiously tried by themselves. This last mentioned power, we understand, the Court never exercised.

1810-1814
Ditto.

12. Each Judge of a Provincial Court sitting singly was empowered to perform a considerable part of the functions of the whole Court.

1833. Ditto.

13. In 1833 the Provincial Courts were abolished, and original Suits above 5000 Rupees made cognizable in the Zillah Courts.

1794.
1803.
Changes in the Civil
Branch of the system
from 1793 to the present
time.

14. The Rule which made the Zillah Judge's countersignature essential to the validity of his Register's Decrees was repealed; the Register's powers were extended to Suits of 500 Rupees and might be specially extended to Suits of 5000 or 10,000 Rupees. The appointment of Additional Registers was provided for; and the services of the Registers of the Provincial Courts were made available for the trial of Original Suits.

1814-1817.
1814. .

15. The Office of Register to the Provincial Courts was abolished in 1821, and that of Register to the Zillah Courts in 1831-2.

1819,
1821.
1831.

Ditto-1803.

16. The Office of Assistant Judge was instituted in 1803 for the purpose of relieving the Zillah Judges of any portion of their work which circumstances prevented their performing themselves. It was abolished in 1814; but has since been revived with the designation of Additional Judge.

1814.
1833.

Ditto. 1814.

17. Commissioners to Natives to act as Referees and Arbitrators were recalled and the original jurisdiction of the Moonsiffs was successively extended, first to Suits for personal property to the amount of 64 Rupees—provided the cause of action had arisen within one year (in 1817, extended to 3 years) before the institution of the Suit; next to similar Suits not exceeding 150 Rupees, and lastly to all descriptions of Suits (except for Lakhiraj lands) not exceeding 300 Rupees in value, and subject only to the general rules of limitation for the institution of Suits. At this point it now stands, but the Moonsiffs have not jurisdiction over British subjects, European Foreigners, or Americans, excepting in Suits relating to arrears or exactions of Rent.

1821.
1831.

1803.

18. Sudder Ameens were first appointed in 1803 for the trial, by reference from the Zillah Judge, of Suits for real and personal property to the value of 100 Rupees.

1814.
1821-1827.
1831.

Their powers were afterwards enlarged to Suits of 150 Rupees, and in special cases, of 500 and 1000 Rupees. This last amount had since 1831 become the general standard.

1831.
1837.

19. Finally in 1831 the Office of Principal Sudder Ameen was constituted for the trial, by reference from the Zillah Judge, of Suits to the value of 5000 Rupees. Their jurisdiction now embraces causes of an unlimited amount; and the few original Suits which remained to the Zillah Judges have thus been virtually transferred to the Native Functionaries. In a recent Report on the subject of Special Appeals we have recommended that all Suits cognizable by the Principal Sudder Ameens and Sudder Ameens should be instituted immediately in the Courts of those Officers.

Ditto.

20. It is unnecessary to detail the various changes which the system of Appeals underwent during the period under review. It may be stated generally, that previous to the year 1831 a regular Appeal lay to the Zillah Judge from the decrees of all his Subordinate Courts and a Special Appeal to the Provincial Court. And when such first Appeals were tried by the Register or Sudder Ameen, a Special Appeal lay to the Zillah Judge. From the Zillah Judges' decrees in Original Suits an Appeal lay to the Provincial Court, and a Special Appeal to the Sudder Dewanny Adawlut. From the decrees of the Provincial Courts in Original Suits an Appeal lay to the Sudder.

21. Under the present system the decrees of Moonsiffs and Sudder Ameens are appealable to the Zillah Judge, whose decisions thereon are conclusive. But the Sudder Court may authorize the reference of any such Appeals to the Principal Sudder Ameen, from whose decisions thereon a Special Appeal lies to the Zillah Judge. *

Changes in the Civil
Branch of the system
from 1793 to the present
time.

From the Principal Sudder Ameen's decrees in Original Suits not exceeding 5000 Rupees in amount an Appeal lies to the Zillah Judge; and a Special Appeal to the Sudder Dewanny Adawlut. From the decrees of the Zillah Judges in any Original Suits which for special reasons they may have retained on their own files, and from the decrees of the Principal Sudder Ameens in Original Suits exceeding 5000 Rupees, a regular Appeal lies to the Sudder Court.

22. The salary of the Zillah Judges is 2500 Rupees per mensem, or 30,000 per annum, and that of an Additional Judge 2166-10-8 per mensem, or 26,000 per annum. Principal Sudder Ameens of the first grade receive 600 Rupees, those of the second grade 400 Rupees per mensem. The Sudder Ameens have 250 Rupees per mensem. Moonsiffs of the first grade receive 150 Rupees, those of the second grade 100 Rupees per mensem.

Present salaries of Zil-
lah Judges and Addi-
tional Judges, Principal
Sudder Ameens, Sudder
Ameens and Moonsiffs.

23. The following Statement shows the quantity of Civil business depending before and disposed of by the Zillah and Subordinate Courts in the Lower Provinces during the year 1840.

Statements of the Civil
Business of the Zillah
and Subordinate Courts
in the Lower Provinces
for 1840.

* In a Report dated the 14th December 1841, on the subject of Special Appeals, we have recommended that from all first decisions in Appeal from the decrees of Moonsiffs and Sudder Ameens a Special Appeal should lie to the Sudder Dewanny Adawlut.

Number of Judges.	Description of Judges.	Number of Suits depending on the 1st January 1840.	Number admitted within the year.	Re-admitted or received by transfer in the year.	Total.	Decreed on trial.	Dismissed on Default.	Adjusted or withdrawn.	Transferred to other Courts.	Total disposed of.	Depending on 1st January 1841.
ORIGINAL SUITS.											
252	Moonsiffs,	37788	91503	7953	137304	57179	16318	15541	6665	95703	41601
27	Sudder Ameens,	2204	0	3968	6172	2558	560	278	401	3797	2375
ORIGINAL SUITS AND APPEALS.											
40	Principal Sudder Ameens,	5799	0	10659	16458	8157	1236	278	1207	10878	5580
26	Zillah Judges,	3219	17578	8299	29036	3768	295	103	20760	24926	4170
4	Additional Judges,										
		49010	109141	30879	189030	71662	18409	16200	29083	135304	53726
SUMMARY AND MISCELLANEOUS SUITS.											
	Moonsiffs, and Sudder Ameens	18397								35726	20217
	Principal Sudder Ameens,	6292								11891	6497
	Zillah Judges and Additional Judges.	3247								11771	2323
		27836								59388	29037

24. The system of Criminal Judicature established in 1793 has, like that for the administration of Civil Justice, undergone extensive alteration. Changes in the Criminal Branch of the system from 1793 to the present time.

25. Originally the Zillah and City Magistrates had Judicial cognizance of petty offences only, which they were competent to punish with 15 days' imprisonment, or fine not exceeding 50 Rupees, except in the cases of certain descriptions of Landholders, when the fine might be increased to 200 Rupees.

For petty thefts they could award corporal punishment or one month's imprisonment.*

All other trials were disposed of by the Courts of Circuit and the Nizamut Adawlut.

26. The first enlargement of the Magistrate's power extended to sentences of imprisonment not exceeding 6 months, with corporal punishment in cases of theft, and in other cases with fine not exceeding 200 Rupees, commutable if not paid to a further imprisonment not exceeding 6 months.

Subsequently they were empowered to pass sentence of two years' imprisonment with corporal punishment on persons convicted before them of aggravated thefts, simple burglaries, or receiving stolen property; to which cases of conviction of two or more thefts were afterwards added; and lastly they were empowered to sentence to one year's imprisonment, and 200 Rupees fine, commutable if not paid to a further imprisonment of one year, persons convicted of affrays unattended with certain circumstances of aggravation. By some recent Acts certain specific offences have also been made cognizable by the Magistrates, to some of which punishments are affixed exceeding the usual jurisdiction of these Officers.†

27. According to the original plan the Zillah Judges were likewise Magistrates, but in 1810 the separation of the two offices was legalized, and at the same time the offices of Assistant Magistrate and Joint Magistrate were constituted, with the same Judicial powers as belonged to the Magistrate; but the former office has been discontinued. The offices of Magistrate and Joint Magistrate are now held by Collectors, and Deputy Collectors, or the former are held as distinct appointments in the Lower Provinces.

28. To afford relief to the Magistrates they were authorized to refer for trial to their Assistants such petty offences as were originally within their own judicial cognizance.

Subsequently the Assistants were empowered to adjudge both fine and imprisonment, commuting the fine if not paid to an additional imprisonment of 15 days; and in cases of theft both corporal punishment and imprisonment.

And eventually the Government were authorized to invest an Assistant with special power to pass sentence of imprisonment not exceeding 6 months with a fine of 200 Rupees, commutable to a further imprisonment of 6 months: and in cases of theft to 6 months' imprisonment and corporal punishment. At the same time the Magistrates were authorized to refer to the Hindoo and Mahomedan Law Officers and Sudder Ameens of the Zillah Courts, trials for offences not requiring a severer punishment than 15 days' imprisonment and a fine of 50 Rupees, commutable if not paid to a further imprisonment of 15 days; and in cases of theft 1 month's imprisonment and corporal punishment. This rule was made applicable also to Principal Sudder Ameens.

29. The Judges of the Provincial Courts were also Judges of the Courts of Circuit. The jurisdiction of these Courts was eventually extended; in ordinary cases, to sentences of imprisonment for 7 years, with corporal punishment for certain descriptions of offences; in cases

* Corporal punishment was abolished in 1834, and the undermentioned additional periods of imprisonment substituted, in sentences passed by

The Nizamut Adawlut and Session Courts,..... 2 years.

Magistrates and Joint Magistrates,..... 1 year.

Assistants, Principal Sudder Ameens and Sudder Ameens. 1 month.

The change is to be attended to in the perusal of what follows.

† See the Post Office Act No. XVII of 1837; and the Act respecting the exportation of warlike stores No. XVIII of 1841.

1818.

1820.

1828.

1797.

1807.
Ditto.

1831.

Ditto.

Changes in the constitution of the Courts of Sudder Dewanny and Nizamut Adawlut, from 1793 to the present time.

1801.

Ditto.

1805.

1807.

Ditto 1811.

1808 1810.

1814 1817.

Ditto.

Ditto.

Ditto.

Changes in the constitution of the Courts of Sudder Dewanny and Nizamut Adawlut from 1793 to the present time.

Former Salaries of the Sudder Judges.

37. The Court of Sudder Dewanny and Nizamut Adawlut at Fort William, as constituted in 1793, consisted of the Governor General and the Members of the Council; but to obviate the delay of justice which arose under this arrangement, and to separate more distinctly the judicial functions of the Government from its legislative and executive authority, each Court was made to consist of three Judges, styled respectively Chief, Second and Third Judge; the Chief Judge being one of the Civil Members of Council, and the two Puisne Judges selected from among the Civil Servants not Members of Council. Two Judges were necessary to hold a Court, and on a difference of opinion arising the voices of the majority determined the question. The special sittings of the Court were summoned by the Register under the direction of the Chief Judge; the senior Puisne Judge exercising the power of the Chief Judge during the non-attendance of the latter.

38. The duties of Chief Judge, however, were found incompatible with those of a Member of Council, and to complete the separation of the judicial from the executive authority, it was enacted that the Chief Judge should be selected in the same manner as the Puisne Judges. But this law was repealed two years afterwards; the office of Chief Judge was replaced on its former footing, and provision was made for the appointment of three Puisne Judges.

39. The business of the Courts being greatly on the increase the Government was empowered to appoint as many Puisne Judges as might be found necessary for its despatch, and to prevent the interruptions in the Proceedings of the Courts from the occasional absence or indisposition of the Judges and further to increase the efficiency of the Courts, any Judge sitting singly was empowered to hold a Court and generally to pass orders or judgments excepting for the modification or reversal of the orders or judgment of one or more of the Judges of the Court, or of those of an inferior Court.

40. It was provided, also, that in cases of a difference of opinion between four Judges present, and the number of voices being equal, the Chief Judge, concurring with any one of the other Judges, should possess a casting vote.

41. The distinctive appellations of Chief, Second, Third, Fourth, &c., Judges of the Sudder Courts having in some instances been found productive of inconvenience, they were abolished in 1829.

42. In the changes in the Judicial system which took place in 1831, separate Courts of Sudder Dewanny and Nizamut Adawlut were established at Allahabad for the Western Provinces; and at the same time, in consequence of the accumulation of Appeals, Civil and Criminal, before the Sudder Courts at Calcutta, the powers of single Judges were further increased; the rules on which subject were also made applicable to the Western Court. And it was provided that when in any case the opinions of the Judges of one Court of Sudder Dewanny or Nizamut Adawlut were balanced, the question should be referred to a Judge of the other Court of Sudder Dewanny or Nizamut Adawlut.

43. By a recent enactment the Sudder Courts have been empowered to transfer to their Registers the duty of preparing appealed cases for trial, and of executing the Décrées and Orders of those Courts.

44. From 1811 to 1829, the Sudder Court of Calcutta was composed of a Chief Judge (not being a Member of the Supreme Council) whose salary was 5,000 Sicca Rupees per mensem—and Puisne Judges drawing Sicca Rupees 4,583-5-4. But the powers of the Chief Judge, as described above, differed in nothing from those of his Colleagues, excepting that Special Meetings of the Court were summoned, necessary, by his direction—and in cases where four Judges were present.

45. The Presidency Sudder Court now consists of 4 Permanent and 3 Temporary Judges; we believe, however, that this arrangement is at present in abeyance by order of the Honourable Court of Directors; that at Allahabad, of three Permanent Judges. The Salary of the Permanent Judges is 4,350 Company's Rupees per mensem—the Temporary Judges receive 3,500 Rupees.

Present Salaries of the Sudder Judges.

Co.'s Rs. 52,200 per annum.
„ 42,000 ditto.

46. The following Statement shew the quantity of Civil and Criminal business depending before and disposed of by the Courts of Sudder Dewanny and Nizamut Adawlut at Calcutta—the former in 1841, the latter in 1840.

Statement of Civil and Criminal Business of the Courts of Sudder Dewanny and Nizamut Adawlut for 1841 and 1840, respectively.

CIVIL BUSINESS, 1841.

	Depending 1st January 1841.	Admitted in 1840.	Total.	Decided on default.	Dismissed on default.	Adjusted or withdrawn.	Transferred to other Courts.	Total disposed of.	Depending on 1st January, 1842.
Regular Appeals,	446	194	640	220	38	12	0	270	370
Specials Appeals,	219	134	353	158	6	2	0	166	187
	665	328	993	378	44	14	0	436	557
						Struck off or otherwise disposed of.			
Miscellaneous and Summary Appeals,	477	2100	2577	985	1014			1999	576
Miscellaneous Petitions and Procedure								4770	

	No. of prisoners under trial 1st January 1840.	Prisoners referred in 1840.	Total under trial.	Convicted.	Acquitted.	Remanded or commitments cancelled.	Died or escaped.	Total prisoners disposed of.	Total prisoners remaining 1st January 1841.
Criminal Trials,	146	598	744	365	228	59	3	655	89
	Cases pending 1st January 1840.	Cases received in 1840.	Total cases.					Total cases disposed of.	Cases remaining 1st January 1841.
Appeals from sentences of Commissioners of Circuit and Session Judges or trials called for,	20	95	115					100	15
Special Appeals from orders of Commissioners of Circuit and Session Judges, on appeals from Magistrates and Joint Magistrates,	110	387	497					432	65

These Special Appeals are now cut off by Act No. XXX of 1841.

CRIMINAL BUSINESS, 1840.

47. We should observe that the preceding narrative does not embrace those parts of the Territories of the Bengal Presidency in which the Regulations are not in force, and in which are established special systems of Judicial Administration, but the Statements of business in the Calcutta Sudder Courts include cases received from the Special Courts subject to its jurisdiction.

48. The Madras Judicial system, instituted in 1802, was formed upon the model of that established in 1793, for Bengal. It consisted of Zillah Courts for the trial of Civil Suits in the first instance, without any limitation as to the amount or value of the subject of litigation; Provincial Courts of Appeal for hearing Appeals from the Zillah Courts; and a Sudder Adawlut at the Presidency for hearing Appeals from the Provincial Courts.

49. The Judges of Zillah Courts were authorized to refer to their Registers Suits to an amount not exceeding 200 Rupees, with a discretionary power to revise their decisions, and to grant Commissions to Natives to hear and decide Suits for a value not exceeding 80 Rupees, viz., Suits preferred to them directly against underrenters or Ryots; Suits against other persons referred to them by the Judge, and Suits submitted to them as Arbitrators.

50. In 1809 the original jurisdiction of the Zillah Courts was limited to Suits not exceeding 5,000 Rupees, and Suits exceeding that amount were transferred to the jurisdiction of the Provincial Courts. In the same year the occasional appointment of Assistant Judges to aid the Judges of Zillah Courts in disposing of arrears, was authorized; and the jurisdiction of Registers was extended to 500 Rupees.

The original jurisdiction of Native Commissioners or Moonsiffs was also extended to embrace all Suits for money or personal property within the former limitation of 80 Rupees; and authority was given for the appointment of Head Native Commissioners, or Sudder Ameens, for the trial of Suits referred to them by the Judges not exceeding 100 Rupees.

The same jurisdiction was conferred upon the Law Officers of the Zillah Courts ex-officio.

51. In 1816 the office of Moonsiff was put on an improved footing following the arrangement made in Bengal in 1814. Every Zillah was divided into Districts comprising one or more whole Tahsildaries or Police jurisdictions to each of which a "District Moonsiff" was appointed with power to determine Suits to the value of 200 Rupees.

In the same year a Regulation was passed declaring the Head Inhabitants of Villages to be Moonsiffs in their respective Villages with power to decide Suits to the value of 10 Rupees, and to settle by Arbitration Suits to the value of 100 Rupees.

And the old institution of Panchayets was revived for the adjudication of Suits without limitation of amount or value upon the agreement of both parties to that mode of trial. Village Panchayets to be assembled by the Village Moonsiffs and District Panchayets by the District Moonsiffs; the jurisdiction of the former being restricted to Suits for money or other personal property; that of the latter being unrestricted.

The appointment of Sudder Ameens was restricted to the Law Officers of the Zillah Courts, the jurisdiction being extended to 3000 Rupees.

52. In 1821 the jurisdiction of Registers of Zillah Courts was extended to 1000 Rupees, of Sudder Ameens to 750 Rupees, and of District Moonsiffs to 500 Rupees.

53. In 1833 the jurisdiction of these Officers was further extended to 3000 Rupees, 2500 Rupees and 1000 Rupees, respectively; and these are the present limitations.

54. There are 19 Districts in the Madras Presidency. Formerly each District constituted a "Zillah," and had its own Zillah Court. But in 1827 a considerable change was made, first by the establishment of Auxiliary Courts under Assistant Judges with the full power and

Preceding Narrative does not embrace the Non-Regulation Provinces.

Madras Judicial system instituted in 1802.

CIVIL JUDICATORIES. Zillah Courts.

Provincial Courts of Appeal.

Sudder Adawlut.

Registers of Zillah Courts.

Native Commissioners.

Jurisdiction of Zillah Courts limited. Jurisdiction of Provincial Courts extended.

Assistant Judge of Zillah Courts. Register's jurisdiction extended.

Native Commissioner of Moonsiffs idem.

Head Native Commissioners or Sudder Ameens appointed.

District Moonsiffs.

Village Moonsiffs.

Panchayets.

Jurisdiction of Sudder Ameens extended.

Jurisdiction of Registers, Sudder Ameens and District Moonsiffs extended.

Jurisdiction of Registers, Sudder Ameens and District Moonsiffs further extended.

Auxiliary Zillah Courts established under Assistant Judges and Native Judges.

authority of Zillah Courts, and afterwards of Courts with nearly * similar powers under Native Judges, now called Principal Sudder Ameens. In 8 of the 19 Districts the Zillah Courts have been abolished. In 7 of those Districts they have been succeeded by Courts under Assistant Judges, and in the remaining one by a Court under a Principal Sudder Ameen.

In one Zillah, Malabar, besides the Zillah Court, there are 2 Auxiliary Courts under Assistant Judges. In another Zillah, Canara, there are also 2 Auxiliary Courts, under Principal Sudder Ameens.

Provincial Courts.

55. The Provincial Courts are each composed of 3 Judges, Members of the Civil Service.

Until 1831 two Judges were required to constitute a Court. In that year a Regulation was passed authorizing the Judges to sit singly, subject to the restriction of not reversing any order or decision passed by another Judge of the Court or by any Subordinate Court.

Provincial Courts.

56. At first the Provincial Courts had no Original Jurisdiction except in cases specially transmitted to them by the Sudder Adawlut. Since 1809 they have had Original Jurisdiction in all cases above 5000 Rupees.

Sudder Adawlut.

57. The Sudder Adawlut or Chief Court of Appeal, as originally constituted, consisted, as in Bengal, of the Governor and the Members of Council.

By Reg. IV of 1806 it was enacted that the Governor should be the Chief Judge, and that the 2nd and 3rd Judges should be appointed from among the Covenanted Civil Servants not being Members of Council.

By Reg. I of 1807, it was enacted that the Chief Judge should also be selected from among the Covenanted Civil Servants not being Members of Council.

By Reg. III of the same year, it was enacted that the Courts should in future consist of a Chief Judge being a Member of Council, but not the Governor nor the Commander-in-Chief, and of 3 Puisne Judges to be selected from among the Company's Covenanted Servants; and this constitution has continued ever since, except that the Governor in Council is empowered by law to appoint Additional Judges at his discretion.

Sudder Adawlut.

58. In 1816 the Sudder Adawlut was empowered to call up from the Provincial Courts Original Suits amounting to 45,000 Rupees. This power it is believed was never exercised.

Ditto.

59. Until 1831 two Judges were required to constitute a Court. By Reg. VIII of that year the Judges were empowered to sit singly subject to the restriction of not reversing orders and decisions passed by another Judge of the Court or by Subordinate Courts. The puisne Judges are designated as 1st, 2nd and 3rd. When sitting together the senior presides, but he has not a casting voice. If 3 Judges are present the majority decide. If two, and they differ, they are to wait for the attendance of the 3rd.

The Chief Judge never sits except when one of the Puisne Judges is absent, and there is a difference of opinion between the two who are present, or when there is only one Judge present and a case arises in which he thinks the decision of the Lower Court should be reversed for which the concurrence of another Judge is necessary.

60. Below are presented at one view the several Civil Judicatories at present existing, with a specification of their Jurisdiction, original and appellate.

* The difference is that Principal Sudder Ameens are restricted from taking cognizance of Suits in which European Officers of Government are concerned.

Court.	Original Jurisdiction.	Appellate Jurisdiction.
<i>Sudder Adawlut,</i> Composed of a Chief Judge, a Member of the Council and 3 Puisne Judges, Members of the Civil Service, Salary of each, 45,000 Rupees per annum.	Authorized at discretion to call up original Suits filed in the Provincial Courts amounting to 45,000 Rupees and up-ward.	Regular Appeals from Decrees of the Provincial Courts in Original suits. Special, from Decrees of the Provincial Courts on regular Appeals from Decrees of Zillah Judges, and from Decrees of Assistant Judges and Principal Sudder Ameens in Suits above 1000 Rupees.
<i>Provincial Courts.</i> Each composed of 3 Judges, Members of the Civil Service. The Salary of the 1st Judge, 42,000 Rs. per annum. 2nd Judge, 38,500 Rs. per annum. 3rd Judge, 35,000 Rs. per annum.	Original Suits above 5000 Rupees.	Regular from Decrees of Zillah Judges in Original Suits, and from Decrees of Assistant Judges and Principal Sudder Ameens in Original Suits above 1000 Rupees. Special, from Decrees of Zillah Judges on regular Appeals from Assistant Judges, Principal Sudder Ameens, Registers and Sudder Ameens.
<i>Zillah Courts.</i> Salary of the Judge 28,000 Rupees per annum.	Original Suits to the amount of 5000 Rupees.	Regular, from Decrees of Assistant Judges and Principal Sudder Ameens in Original Suits not exceeding 1000 Rupees, and from Decrees of Registers, Sudder Ameens and District Moonsiffs. Special, from Decrees of Assistant Judges, Principal Sudder Ameens, Registers and Sudder Ameens on regular Appeals from District Moonsiffs.
Auxiliary Courts under Assistant Judges. Salary of the Assistant Judge, 16,800 Rupees per annum.	Original Suits to the amount of 5000 Rupees.	Regular, from Decrees of Sudder Ameens and District Moonsiffs. Special from Decrees of Sudder Ameens on regular Appeals from District Moonsiffs.
Auxiliary Courts under Principal Sudder Ameens, salary of Principal Sudder Ameens (uncovenanted) 6000 Rs. per annum.	Original Suits to the amount of 5000 Rupees.	Regular from Decrees of District Moonsiffs.
Attached to Zillah Courts. Register's Salary, 1st Class, ... 8400 Rs. } per annum. 2nd Class, ... 7200 Rs. }	Original Suits referred by the Judge to the amount of 3000 Rupees.	Regular Appeals from Decrees of Sudder Ameens and District Moonsiffs referred by the Judge.
Attached to Zillah and Auxiliary Courts. Sudder Ameens, Salary 2400 Rs. per annum.	Original Suits referred by the Judge, &c., to the amount of 2,500 Rupees.	Regular Appeals from District Moonsiffs referred by the Judge, &c.

Court.	Original Jurisdiction.	Appellate Jurisdiction.
<i>District Moonsiffs.</i> Salary, 1st Class, 1680 Rs. 2nd Class, 1380 Rs. 3rd Class, 1200 Rs.	Original Suits to the amount of 1000 Rupees preferred directly or referred by the judge.	
<i>Village Moonsiffs.</i>	Original Suits to the amount of 10 Rupees preferred directly as arbitrator at the request of both parties to the amount of 100 Rupees—Jurisdiction confined to Suits for money or other personal property.	
District Panchayets assembled by District Moonsiffs.	Suits for real and personal property without limitation of amount or value both parties consenting.	
Village Panchayets assembled by Village Moonsiffs.	Suits for money or other personal property without limitation of amount or value both parties consenting.	

Criminal Judicatories.
Office of Magistrate vested in Zillah Judges.

61. As in Bengal, the Office of Magistrate was originally vested in the Zillah Judges who were also charged with the superintendence of the Police. The jurisdiction of the Magistrate was confined to petty offences, and petty thefts, as it was in Bengal prior to 1807, their power of punishment being limited to imprisonment for 15 days or a fine of 50 Rupees, (200 Rupees in the cases of Zemindars, &c.) for the former, and imprisonment for 1 month, or 30 strokes with a rattan, for the latter.

Transferred to Collectors.

62. In 1816 a great change was made by transferring the Office of Magistrate and the Superintendence of the Police to the Collectors of Revenue, with the same jurisdiction and powers of punishment as had been previously vested in the Zillah Judges. The Zillah Judges were still however charged with Criminal jurisdiction, the cognizance of cases punishable by 6 months' imprisonment with 30 strokes with a rattan, or a fine of 200 Rupees, having been transferred to them from the Courts of Circuit, and to them was left the duty of committing to the Court of Circuit persons charged with graver offences brought before them by the Magistrate or by the Police.

Powers extended.

63. In 1822 the Criminal Judges were empowered in special cases to pass sentence of imprisonment for 2 years, with corporal punishment not exceeding 30 strokes with a rattan, (since commuted to 130 lashes with cat of nine tails) and this is the maximum of their power at present.

Joint Criminal Judges.

64. Assistant Judges of Auxiliary Courts are joint Criminal Judges of their Zillahs, and have the same power and authority as the Criminal Judge. So also have Principal Sudder Ameens, except in cases in which persons charged with offences are Europeans or Americans.

65. Sudder Ameens of Zillah, and Auxiliary Courts are authorized to exercise jurisdiction in Criminal cases referred to them by the Criminal Judge, Joint Criminal Judge or Principal Sudder Ameen presiding in the Court; with the same power of punishment as the presiding officer,—but their sentences are liable to revision by him.

Sudder Ameens.

66. The jurisdiction of Magistrates remains in general as it was settled in 1816,—but as in Bengal they have extended powers under particular Acts, Sub-Collectors are Joint Magistrates and Assistant Collectors are Assistant Magistrates with the powers of the Magistrates within the local limits of their charges or in cases referred to them.

Magistrates, Joint Magistrates, and Assistants.

The Local limits of their charges or in cases referred to them.

The Courts of Circuit were originally constituted as in Bengal, and still exist, exercising the same jurisdiction and powers as were exercised by those in Bengal until 1829.

67. The Judges of the Sudder Adawlut are also Judges of the Foujdarris Adawlut. The jurisdiction of the Court corresponds with that of the Nizamut Adawlut of Bengal.

Foujdarris Adawlut.

68. We subjoin statements of the Administration of Civil and Criminal Justice by the several Judicatories in the Presidency of Madras from 1st July 1839 to 30th June 1840, the latest period, 12 months, of which we are able to give any account.

69. We have recommended* the abolition of the Provincial Courts and have proposed to establish 18 Superior Zillah Courts to take up the whole of the Appellate jurisdiction heretofore exercised by them (except in cases liable to the jurisdiction of the Privy Council reserved for the Sudder Adawlut) together with the Appellate jurisdiction of the Zillah and Auxiliary Courts as at present constituted, and to organize a set of subordinate but independent Zillah Courts, by continuing those already established in some Districts under Assistant Judges and Principal Sudder Ameens, and by establishing others of the same class in all the rest, to exercise original jurisdiction in all cases now cognizable originally as well by the Provincial Courts as by the present Zillah and Auxiliary Courts, that is to say, in all cases beyond the jurisdiction of District Moonsiffs, and in all cases within the jurisdiction of District Moonsiffs in which the parties suing prefer to have their causes tried and decided by them, but not to exercise Appellate jurisdiction, except in cases referred to them by the Superior Zillah Court or under special orders.

Changes lately recommended.

Civil Department.

70. We have also proposed that the Office of Register shall be abolished.

71. We have recommended that the Subordinate Zillah Courts shall be conducted partly by Assistant Judges and partly by Principal Sudder Ameens, or Principal Sudder Ameens, or in other words partly by Covenanted Civil Servants and partly by Natives and other persons not covenanted at the discretion of the local Government. In making this recommendation we stated † that we looked to dispensing eventually with Assistant Judges altogether and placing all the Judges in Courts of this class on the footing of Principal Sudder Ameens, but that we thought it expedient that the change should be brought about gradually.

72. The subject has been referred to the Government of Madras with an intimation from the Government of India that it is considered desirable to get rid of the class of Assistant Judges altogether and to introduce the principle of making over to uncovenanted Judges (Native or European) the duties of original jurisdiction, unless in cases reserved on very special grounds, and of confining the European Covenanted Judges to the decision of Appeals and to the functions of general controul. It is not expected that it will be possible to do this all at once, but the Governor General in Council has expressed a hope that it will not be necessary in carrying the proposed reforms into effect to add to the present number of Covenanted Assistant Judges which is above shewn to be 9.

Criminal Department.

73. In the Department of Criminal Justice we have recommended that the jurisdiction now exercised by the Courts of Circuit should be vested in the Judges of the Superior Zillah Courts as Session Judges, and that the present jurisdiction of Criminal Judges shall be exercised

* Reports 21st August 1840, and 10th July 1841.
† Report 4th December 1841.
‡ Report 21st August 1840.

by the Judges sitting in the Subordinate Zillah Courts, who shall also commit to the Superior Court persons charged with crimes and offences beyond their own jurisdiction, as the Criminal Judges now commit to the Courts of Circuit; leaving the existing system untouched in other respects. But we believe that further changes have been proposed by the Government of India.

Statement shewing the Civil Business done by the Courts in the Presidency of Madras, 1839-40, and remaining.

			Original Suits.			Appeals.		
			Dispos- ed of.	Institut- ed.	Depend- ing.	Dispos- ed of.	Institut- ed.	Depend- ing.
Sudder Adawlut,			0	0	0	12	24	42
Provincial	{ Courts of Appeal.	Centre,	9	12	22	75	67	90
		Northern,	18	11	29	38	29	59
		Southern,	10	7	5	30	35	13
		Western,	4	4	4	23	39	46
	Total,		41	34	60	166	170	208
<i>Superior Zillah Judicatories.</i>								
Judges and Assistant Judges, ...			1167	9288	1381	1107	2348	1581
* Assistant Judge attached to } a Zillah Court,			2	0	35	62	0	164
Principal Sudder Ameens,			135	643	108	59	59	25
Registers,			402	A	395	339	A	350
Sudder Ameens,			7445	A	3074	662	A	183
Superior Zillah } Judicatories. } Total,			9151	9931	5993	2229	2407	2303
<i>Inferior Zillah Judicatories.</i>								
Moonsiffs, { District,			52395	55336	23018			
{ Village,			4035	3926	1854			
Total,			56430	59262	24872			
Punchayets, { District,			16	16	21			
{ Village,			14	6	6			
Total,			30	22	27			
Inferior Zillah } Judicatories, } Total,			56460	59284	24899			
Grand Total,			65652	69249	29952	2395	2577	2511

* Under Reg.
VII of 1809.

* Under Reg.
VII of 1809.

A. No Suits are instituted before the Register and Sudder Ameens. What they receive are referred to them by the Judge, Assistant Judge or Principal Sudder Ameen of the Court, before whom all are instituted.

Balance.	Persons.	Offenders apprehended.	Total number of persons charged under the Police Courts of Criminal Jurisdiction.	Acquitted or discharged.	Convicted and punished.	Confined.		Flogging.	Imprisonment.			Committed for trial.	Transferred.	Died, Insane, &c.	Balance remaining.
						Choultry.	Stocks.		Simple.	With fine.	With flogging.				
Village Police, ..	Ditto.	5700	Ditto.	2365	3335	Ditto.	931	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.
District ditto, ..	2423	106680	109083	79237	27338	8404	484	18180	270	...	...	...	102	...	2386
Magistrate,	72	7920	7992	6237	2695	...	...	1727	216	...	...	...	...	...	60
Criminal Courts, ..	...	...	7752	2975	2140	...	...	515	39	260	...	...	...	15	494
Circuit ditto,	...	...	2093	727	781	...	...	...	...	9	...	...	...	...	585
Total, ..	...	...	132620	90561	36289	10748	1475	20 22	525	2060	87	1800	112	15	3525
Foujdaree	...	...	352	53	299	...	...	...	...	...	...	...	...	...	...
Adawlut,	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

74. The Presidency of Bombay comprises (12) twelve Districts: of which six are on the Coast (Goojrat and the Konkans) and six above the Ghats (the Dekhan, Khandesh and the Southern Mahratta Country). Bombay Presidency. No. of Districts comprised therein.

75. Under the system which obtained until 1827, each District had a Judge and a Collector, except in the Territories above the Ghats where, after the Dekhan was formed into Zillahs in that year, one Judge presided over two Collectorates. Each District how superintended before 1827.

76. The European Judicial Functionaries in each Zillah were, under the denomination of Judge, Register and Assistant Register, vested with the trial of all Original Suits except those of every small amount. The Judge tried all Original Suits beyond the cognizance of the Register and all Appeals. The Register's jurisdiction was at first limited to suits of Rupees 200, but his decrees were final up to Rupees 25. His powers were afterwards raised to Rupees 500 and Assistant Registers were appointed for trial of the suits under Rupees 200, which the Register used to decide. Civil Courts. Powers of Judge. Register. Regulation I. of 1802. Regulation II. of 1808. Assistant Registers.

77. Special powers were then conferred on Registers who had served six years in the Judicial line, enabling them to try Original Suits not exceeding Rupees 1000, and to hear Appeals from the Assistant Register, Sudder Ameens and Moonsiffs; his decisions thereon being final, unless under special appeal. Appeals from his decisions in Original Suits above Rupees 500 went direct to the Sudder Adawlut. Registers. Special powers—Regulation VI. of 1820.

78. In A. D. 1827, the jurisdiction of the Register, and Assistant Registers (from that time termed Senior and Junior Assistant Judges) was greatly enhanced; but in 1830 all Original Jurisdiction was entirely taken away from the European Functionaries of every grade, except as to suits in which the Government was a Defendant; or any European or American or any near Relative or Dependent of a Native Judicial Servant of any grade was a Party. And by Act XI of 1836, Principal Sudder Ameens and Sudder Ameens were empowered to try suits in which Europeans or Americans are parties. The suits still reserved from cognizance of Natives are tried by the Assistant Judge, from whose decision an Appeal lies to the Judge. If he confirm the Decree, his decision is final, otherwise the case may be further appealed to the Sudder Adawlut. Changes made by Code of 1827. Original jurisdiction taken away from European Judges.

79. In the Dekhan, where Natives of Rank (Sirdars) are exempted from the jurisdiction of the Ordinary Courts, the Judge of Poonah under the title of Agent for Sirdars in the Dekhan, and the Judge of Dharwar as Agent for Sirdars in the Southern Mahratta Country, try all cases in which any Native of Rank within their respective jurisdictions is Defendant. These Sirdars are divided into three classes, and an appeal lies to the Governor in Council, and not to the Sudder Adawlut, in all cases wherein a Sirdar of the two first classes is a party. Sirdars' Suits in the Dekhan.

From decisions in Sirdar cases by the Assistant Agents, an Appeal lies to the Agent in the first instance, and from his decision a special appeal, either to the Governor in Council or the Sudder Adawlut, as the case may be.

80. The whole number of Original Suits decided by (16) European Functionaries in 1838 was 64; of which 65 were Sirdar cases: the proportion of the whole number (84) to that decided by Natives is only 1-35 to 1000. Original Suits decided by European Officers in 1838.

The Civil functions of the Zillah Judge are thus, with a trifling exception, confined to deciding ordinary and special appeals, from his Assistants, and from the Native Tribunals. The Assistant Judges try Appeals from the Native Functionaries' decisions, as referred to them by the Judge, or filed by themselves if at a detached Station. Present Civil Functions of Judges. And Assistant Judges.

81. The salary of every Zillah Judge is Rupees 28,000 except at Surat, where it is Rupees 30,000. Salaries of European Officers.

That of an Assistant Judge at a detached Station is Rupees 14,400.

At the Sndder Station Rupees 8,400.

Collector's Courts.

82. By the Code of 1827, Civil jurisdiction over a certain class of suits, those relating to Land, was given to the Collectors of Revenue, their Assistants and Head Native Officers; and by a very wide construction put upon this part of the Code, the entire cognization of every Suit having the most remote connexion with "Land" was taken away from the Zillah Courts, and transferred to the Collectors. A limit has, however, been put to this very extensive jurisdiction by Act XVI, of 1838, and the Revenue Officers are now confined to, 1st, giving possession of Lands or the like to any party, forcibly dispossessed of the same; if a Plaintiff be preferred within six months of the date of dispossession.

2ndly. Cognizance of all disputes regarding rent of the current or former years, between Ryot and superior holder, which the parties may submit to arbitration of the Revenue Officers.

3rdly. Of all questions regarding use of Wells, Tanks, and Water-courses, or of Roads, and.

4thly. Of all disputes respecting boundaries, such being by the Act still reserved for the Collectors' Courts.

Jurisdiction of Native Judges.

Regulation VII of 1802—Ditto II. of 1803.

Increased in 1827 to 5,000 Rupees.

Made unlimited in 1830.

83. The Civil jurisdiction conferred on the Native Judicial Servants was exceedingly limited until 1827, Moonsiffs being only empowered to try Suits for Rupees 50; Sudder Ameens for Rupees 100. In that year every Native Functionary, then termed Commissioner, was empowered to decide causes up to Rupees 500; and might have his powers extended to Rupees 5,000. In 1830, Original jurisdiction, to an unlimited extent, was conferred on every Native Functionary; that of the European Officers being strictly confined to a few special cases already mentioned.

Reduced in 1831.

84. In the following year, however, (1831) this jurisdiction was very much circumscribed; the Principal Sudder Ameens alone being invested with unlimited Original jurisdiction—the power of hearing Appeals from decisions of other Native Functionaries up to Rupees 100 being also conferred upon them. The jurisdiction of Sudder Ameens was confined to Rupees 10,000; that of Moonsiffs reduced to Rupees 5000, the limit fixed by the Code of 1827.

Have no Criminal Jurisdiction.

Court of Appeal. Had Original Jurisdiction.

85. The Native Judicial Functionaries of the Bombay Presidency have no criminal jurisdiction whatever.

86. From the Zillah Courts, constituted as above, an Appeal formerly lay to the Court of Appeal in Goojurat and from it to the Sudder Adawlut at the Presidency. The Court of Appeal (while in existence) had also jurisdiction for the trial of any Original Suits referred to it by the Sudder Adawlut but we have no reason to believe that it was ever called upon to exercise it.

Its abolition.

In 1820 it was found practicable to abolish the first named Court as an intermediate Court of Appeal; and though it was judged expedient to re-organize a Court of Appeal for Goojurat in 1828, it was again and finally abolished in 1830.

Leaving a direct Appeal to Sudder Adawlut.

87. In the Presidency of Bombay, therefore, for the last 22 years, with exception of a brief interval, the Appeal has been immediate from the Zillah Courts to the Court of highest resort in Civil cases.

Sudder Adawlut how first constituted.

Re-organized in 1820.

88. The system, which at one time prevailed at the other Presidencies, of vesting in the Governor in Council the Supreme jurisdiction, both Civil and Criminal, was in force at Bombay so late as A. D. 1820. In that year, on the abolition of the Goojurat Court of Appeal, the

Judges of it were constituted the Judges of the Court of Sudder Dewanee and Sudder Foujdaree Udalt, the Governor and Members of Council being thenceforth relieved from the Judicial duties which, as Judges of that Court, they had hitherto been required to perform. *

89. The new Court of Sudder Dewanee and Sudder Foujdaree Udalt was composed of a Chief and three Puisne Judges, the Puisne Judges being still required to perform their former functions of a Circuit Court, visiting the different Zillahs (the six Coast Districts) then subject to their jurisdiction, delivering the Jails and generally performing all the duties devolving on a Circuit Court. And again in 1830.

90. These combined labours of a Superior and Circuit Court having been found too onerous for the Judges of a single Court, the Court of Circuit and Appeal was, in 1828, re-organized, but soon abolished as above stated. The duties of a Court of Circuit however were not again imposed on the Sudder Foujdaree Udalt, but instead thereof the Zilla Judges were, under the designation of Session Judges, invested with the ordinary jurisdiction of a Court of Circuit as regards the trial of Criminal Cases; and the three Junior Puisne Judges of the Sudder Foujdaree Udalt, though still required to perform Circuits, were relieved "from holding any but State Trials or any other Trials of a peculiar or aggravated nature which from any circumstance Government, on Report from the Local Authority may wish to be reserved for that purpose." Puisne Judges perform Circuits.

They are only required, on these Circuits, to receive Petitions and make a general enquiry into the Judicial management of each Zillah visited by the Commissioner.

91. The Presidency, for this purpose, is divided into three Circles, which may be termed the Northern, Middle, and Southern, each being visited once in the year by one of the Commissioners. Three Circuits.

92. In order to provide for the due performance of the duties of the Sudder Udalt during the absence of the Puisne Judges on these Circuits, one of the Members of Council was constituted Chief Judge of the Court, as is still the case at Madras; but his functions were expressly limited to attending in Court when a full Court of three Judges could not be assembled without his attendance. The Honourable Mr. Anderson, in his capacity of Chief Judge, presided at the Trial of five Causes in the first half of 1840, and this is the only instance we can find in which the Member of Council has been called in, since his appointment for this particular duty. Member of Council made Chief Judge. Regulation I of 1830. Extent of his duties.

93. Neither the Chief nor Senior Puisne Judge has any superior function except that of having the casting vote when the number of voices happens to be equal. No Superior powers.

94. The Judges when present at the Seat of the Court are occupied in trying Appeals direct from the decisions of Assistant Judges in cases above 5,000 Rupees—and Regular and Special Appeals from the decisions in Appeal by the Judges and Assistant Judges, as well as in miscellaneous business. Appeals to the Sudder Dewanee Udalt are, in the first instance, taken up by a single Judge of the Court; and, if he is disposed to concur in the decision of the Lower Court, his Decree, affirming it, is final; but, if he sees reason to doubt the correctness of the decision, or find in the case any point of interest or importance that has not been yet decided, he refers it to a full Court, consisting of three Judges, of whom he may himself be one. In Criminal cases the Court has to revise all sentences passed by Session Judges for more than Court. Criminal Duties the Court.

Mode in which Civil Appeals are tried.

* In 1827, the Governor in Council was made a Special Court for trying, in place of the Sudder Udalt, Appeals from decisions passed by the Zillah Judges above the Ghats as Agents for Sirdars. Vide paragraph 79.—these functions the Governor in Council still exercises.

† We observe from the Draft of a Law lately published that in Civil Cases the same course of Procedure is about to be prescribed for the Sudder Courts of the Bengal and Agra Presidencies.

Salaries of the Judges. 95. The salary of the Senior Puisne Judge has for some years been fixed at Rupees 40,000
That of the second—at Rupees 36,000
Each of the others, Do. 35,000
By very late orders from England it is understood that the Senior and each of the other Puisne Judges is hereafter to receive Rupees 42,000 per annum. The three Juniors get each 316 per mensem, as Travelling Allowances, in addition.

Subordinate Criminal Tribunals. 96. The Criminal and Magisterial powers of the Subordinate Authorities may be very briefly explained.

Criminal Judge was also Magistrate of his District till 1818. 97. Formerly, each Judge, besides being the Criminal Judge, was also the Magistrate of his own Zillah, until 1818, when the duties of Magistrate were transferred to the Collector, except at the Sudder Station of each Court, which remained subject to the control of the Judge, as Magistrate; but, in 1830 the Police and Magisterial duties of each Sudder Station were also transferred to the Collectors, except at the City of Surat, where they are still performed by the Judge.

Criminal Judges made Session Judges, 1830. Perform Circuits. 98. In 1830 the powers of the Criminal Judge were increased to those of a Session Judge, in which capacity he has to perform all the functions of a Court of Circuit, trying (with the aid of his Assistants) all cases involving more than one year's imprisonment; and, the number of Zillahs having been reduced to six by placing two Collectors under the jurisdiction of one Court, the Session Judge, in four out of the six, has to perform Circuit twice a year to the Subordinate Division of the Zillah—there to deliver the Jail, and generally scrutinize the state of the Establishment.

Duties of Assistant Judges. Act XIX of 1839. 99. The Assistant Judges try Criminal cases referred to them by the Session Judge (or, at the Detached Stations, those committed by the Magistrate) having power to sentence to two, or (with Special powers) subject to confirmation by the Session Judge, to seven years' imprisonment with hard labour. The Assistant Judges at Detached Stations have somewhat higher powers, both Civil and Criminal, than those immediately under the Judge's superintendence—they prepare cases for the Sessions—have charge of the Jail, &c.

Collector also Magistrate. 100. Every Collector, or Sub-Collector, as Magistrate, or Joint Magistrate, has been since 1818 vested with the entire Magisterial and Police duties of his own District; and, since 1830, of the Sudder Station also. He has jurisdiction in Criminal cases to the extent of awarding one year's imprisonment, with hard labour and fine. All cases requiring greater punishment than this he commits for trial to the Session Judge. The Assistant Collectors are also Assistant Magistrates. Under the Code of 1827, Magistrates had power to adjudge to fine, ordinary imprisonment not exceeding two months, flogging to thirty stripes, and personal restraint. Assistant Collectors were constituted Assistant Magistrates—the Magistrate having power to refer to them any cases within his own cognizance, but with liberty to mitigate, or annul, any sentences passed by them. By a Regulation passed in

the same year for the Dekhan, then first brought under the operation of the General Regulations for the Presidency, much greater powers than those above stated were conferred on the Magistrates in that Province, to the extent of two years' imprisonment with hard labour, fine, flogging and personal restraint. In 1829 the power was given to Government to invest Assistant Magistrates with the same powers. In 1830 these powers were reduced, and those of the Magistrates and Assistant Magistrates in the other parts of the Presidency were enhanced, to one year's imprisonment with hard labour; and this is now, every where, the limit to the Magistrates' penal jurisdiction under Bombay. Sentences exceeding three months' imprisonment, passed by Assistant Magistrates, must be confirmed by the Magistrate.

Uniform everywhere.

101. The salaries of the Revenue and Magisterial Departments are as follow:

	Per Mensem.	Per Annum.
Principal Collector of Surat, ... Rupees ...	2,666	32,000
All other Collectors and Magistrates, ..	2,333	28,000
Sub-Collector and Joint Magistrate, ..	1,400	16,800
First Assistants, ..	800	9,600
Ditto Rutnagiree and Kaira, ..	700	8,400
Second Assistants, ..	550	6,600
Third Assistant Principal Collector, ..	500	6,000
Third Assistants, ..	400	4,800
Fourth Assistant Principal Collector, ..	450	5,400
All others, ..	300 to 400	3,600 to 4,800

Absence of Judicial training in those destined to become Civil Judges of Appeal.

106. To the justice and sound policy of this principle we cordially subscribe; but in reducing it to practice an evil of a very serious nature has been incurred which has already been extensively felt, and which if not remedied will greatly impair the Judicial Administration. We allude to that which has attracted your Lordship's attention, the absence of all previous training in those to whom as Judges of first and local Appeal the Government must principally look for the guidance and control of the Courts of primary jurisdiction. At present there is not a single situation in the Civil Branch of the Judicial Department in Bengal open to a Covenanted Servant before his elevation to the important Office of Zillah Judge: nor in Bombay do the Zillah and Assistant Judges exercise any Original jurisdiction before they are invested with appellate jurisdiction.

And Session Judges in some cases.

107. In the Criminal Branch, those Civil Servants who have risen through the grades of Assistant, Joint Magistrate, and Magistrate have the benefit of the knowledge and experience acquired in those Offices when called to exercise the powers of a Session Judge; but in Bengal at least, such a preparation is not considered indispensable, and an Officer conversant only in Revenue matters is equally eligible to that appointment.

Principle of admission to the Company's Civil Service and educational training of their Civil Servants.

108. In devising a remedy for this anomalous state of things we have been led to review generally the principle of admission to the Honorable Company's Civil Service, and the educational training both in England and India which the persons nominated have to undergo before entering upon the active business of life.

Great importance of the subject.

109. Considering the great importance of the duties which the Civil Servants of the Company are destined to perform in the various branches of our Indian administration, and the extent to which, from the weakness of the native character, the happiness of the people depends upon the individual dispositions and capacities of the officers placed over them, it will readily be admitted how essential it is to the credit of the Government and the welfare of the millions committed to their charge, to raise to the utmost the moral and intellectual qualifications of the Covenanted Civil Service. In the depressed condition of the people caused by the long period of misrule and confusion which preceded the establishment of British Supremacy in India, the benefits of the strong and settled Government which succeeded were no doubt sensibly felt;—though the instruments employed were but ill qualified by previous education and pursuits for the discharge of the new duties which devolved upon them. But circumstances are now greatly changed. Population has increased: cultivation and trade have extended: European Residents are gradually spreading themselves over the Country—and the Commercial and other transactions of life must be expected to assume a more complex character as society advances in civilization and the elements of it become more mixed. At every step the country takes in the march of general prosperity and improvement, the duties of those employed in its Civil Administration become the more delicate and important, and whilst extensive efforts are making by means of an improved education to raise the qualifications of the Natives of the Country for the subordinate situations under Government, it is a matter of paramount importance to exact from those for whom the Offices of greater responsibility and control are exclusively reserved a higher standard of qualification than has yet been required of them.

Suggestions regarding it.

110. In the suggestions which we are about to submit to your Lordship on this subject we advocate not those measures which abstractedly we should consider the best, but such as we believe will be found the most effectual, consistently with a due regard to the patronage vested in the Hon'ble East India Company.

Mode of Appointment to the Civil Service.

111. We think the first object should be to extend as far as practicable the field of selection for the Civil Service—and by adopting the principle of competition, to secure from among a large body of Candidates a sufficient number of young men possessing superior talents and acquirements, who should also be selected from among the sons of Judges or Law Commissioners.

112. With this view we propose, that all nominations by the Directors of the East India Company for each season should be to the General Service in the first instance; that no person should be eligible for such nomination before the age of 17; and that all so nominated should be at liberty to enter themselves as Candidates for admission to the Civil Service. These Candidates should undergo an examination involving a test of high attainments; and on the required number declared duly qualified by the result of it, the appointments to the Civil Service should be bestowed according to priority in the Examiners' Lists.

Those Nominations who declined to compete, and those who failed in the competition for the Civil Branch of the Service, would stand appointed to the Military Branch.

113. If this Scheme cannot be adopted in its fullest extent, we recommend as near an approach to it as may be found practicable and that at all events the principle of competition be preserved.

114. The appointments to the Civil Service having been thus settled on the principle of superior attainments, we propose that the nominees should continue in England three years; for the purpose of further qualifying themselves for the higher stations they are destined to fill. We have fixed on 17, as the age at which School education is usually completed, and the Student is prepared to profit by an advanced course of study in science and general knowledge. The additional three years make 20, the minimum age at which a Civil Servant would quit England for India, which we think a preferable minimum to that now established.

115. The course of study to which the Civil Servants should devote themselves during the remainder of their stay in England is, in our opinion, History in General and the History of India in particular; (Political economy) Moral and Political Philosophy; and Jurisprudence, especially that branch of it which relates to the conflict of laws and battle of the books. It would be advisable that a syllabus of these subjects should be prepared in which the best sources of information should be pointed out.

116. The progress of the Students in these departments of knowledge should be ascertained by annual examinations; and the Examiners should have full authority to reject at the final examination any one whose attainments did not reach a certain fixed standard, or whose general conduct and character were found to be unsatisfactory.

117. It would of course be essential to the success of this plan that the Standard of Qualification should be rigidly adhered to, and that the Board of Examiners should be so constituted as to command the confidence of all, and secure the support of public opinion in the firm and upright discharge of their duty.

118. We do not attach importance to the study of the Oriental Languages in England beyond such an elementary acquaintance with them as would accelerate future proficiency in India. It is in the latter country that the greatest facilities for acquiring this description of knowledge exist, and we think the principal part of the time spent in England would be most profitably devoted to the pursuit of European Literature and Science. Considering also the very limited means of instruction in the Oriental Languages available in England, the establishment even of a low Oriental test might interfere with the principle which we suppose will be acted upon, of allowing the Civil Servants to choose their own plans and places of instruction.

119. On their arrival in India, the attention of the Civil Servants should be principally directed to the study of the Vernacular Languages; proficiency in two of which should be required of them.

120. Their professional studies should now assume a local character; means should be afforded them of acquiring a knowledge of the system of the internal administration of the country, and of the principles of Law and Equity which have regulated the decisions of the Indian Courts. For this purpose the Regulations enacted for the particular Presidency; the printed Reports of Cases decided by Her Majesty's

Mode of Appointment to the Civil Service.

Ditto.

Education in England of the Civil Servants.

Ditto.

Education in England of the Civil Servants.

Ditto.

Ditto.

Ditto.

102. Statement of Causes decided by the Courts under the Bombay Presidency, 1838.

Original Suits.	No.	Balance De- pending.	Filed.	Total.	on Decided merits.	Adjusted or withdrawn.	Dismissed.	Total.	Balance.
European Agency.									
Judges as Agents for Sirdars, ..	2	4	7	11	2	2	1	5	6
Assistant ditto, ..	1	25	52	77	53	0	7	60	17
Judges, ..	6	0	0	0	0	0	0	0	0
Assistant ditto, ..	10	14	15	29	10	1	11	22	7
Total ..	16	43	74	117	65	3	19	87	30
Native Agency.									
Principal Sudder Ameer, ..	6	371	4301	4672	2838	549	703	4090	582
Sudder Ameer, ..	14	841	12504	13345	8177	2597	1699	12473	872
Moonsiffs, ..	66	3726	46627	50353	27143	12828	5704	45675	4678
Jahgeerdars, ..	Not known.	144	418	562	353	0	70	423	139
Total ..	86	5082	63850	68932	38511	15974	8176	62661	6271
Grand Total ..	..	5125	63924	69049	38576	15977	8195	62748	6301
Agent, ..	2	3	25	28	20	0	0	20	8
Judges, ..	6	518	919	1437	1017	51	34	1102	335
Assistant Judges, ..	10	378	1875	2253	122	42	75	1339	914
Principal Sudder Ameer, ..	1	11	70	81	81	1	4	86	1
Total Subordinate Courts, ..	19	910	2895	3805	2340	94	113	2547	1258
Sudder Adawlut, ..	4	116	129	245	143	0	0	143	102

103. Abstract of work performed by Judges of the Sudder Dewanny Udawlut, Bombay, 1838.

	Sitting as single Judge.			Sitting in full Court of 3 Judges.	Decided by full Court.			
	Confirmed.	Referred.	Total.					
Simson, ..	15	5	20	57	Confirmed.	Amended.	Reversed.	Total.
Giberine, ..	27	25	52	19				
Pyne, ..	15	30	45	76				
Greenhill, ..	10	29	39	76				
By the full Court ..	67	89	156	..	19	12	38	69
Total Confirmed, ..	19	..	..	..	19	..	12	..
	86	..	..	..	..	..	50	..

Original Suits.

Appeals.

104. Statement shewing the amount of Criminal business disposed of by the Tribunals under the Bombay Presidency, 1838.

Balance of past year with District and Village Officers, ...	648
Magistrates, ...	300
Judges, ...	316
	1264
Received during the year, ...	37987
Total ..	39251
Disposed of { By District and Village Police, } Acquired, ...	12301
	12939
Under examination, ...	703
	25943
Transferred to Magistrate, ...	13308
By Magistrate { Acquired, ...	5818
	4200
Under Examination, ...	548
	10566
Transferred to Judge, ...	2742
By Judge, { Acquired, ...	1052
	1401
	2453
Under examination by Judge, ...	289

Sudder Foujdaree Udawlut.

Number of Offenders whose trials referred, ...	272
Sentences confirmed—Death, ...	22
Transportation for life, ...	29
Imprisonment for life ...	6
— Ditto with fine ...	187
	244
Acquittals, ...	28
Review of Sentence on Petition, ...	291
Confirmed, ...	201
Mitigated or annulled, ...	90

291

105. It will be seen from the foregoing narrative that the system now in operation for the administration of Civil Justice in the Territories of the Bengal and Bombay Presidencies, and which it is proposed to extend to those of Madras, is based upon the principle of employing active industry and intelligence in the primary disposal of suits, under the safeguards of an immediate Appeal to the European Functionaries, and of their constant and vigilant supervision of the general conduct

Principle of employing Native Agency for the disposal of Original Suits

and the Company's superior Courts; and the most useful portions of the Hindoo and Mahomedan Laws which have been rendered accessible to the English Student by translations and treatises, should be made the subjects of Lectures. And as a means of obtaining some practical knowledge of the administration of justice, the Student should be required at convenient times to attend the trials, Civil and Criminal, in the Queen's Courts of Judicature. The Courts we are recommending for the trial of the matters which are now brought before the Supreme Courts in civil actions at Law—as well as the Subordinate Criminal Courts proposed on a former occasion would also be available for this purpose, perhaps with even greater advantage than the Supreme Courts, with reference to their more simple course of procedure.

Education in England
of the Civil Servants.

121. Periodical examinations should be held for the purpose of ascertaining the progress made in these various branches of study; and on a Civil Servant passing a certain test he should be declared qualified to take a part in public business.

Training of the Civil
Servants on being report-
ed qualified to take a
part in public business.

122. In this stage of his noviciate, we think it very desirable that he should be afforded the best opportunities of perfecting himself in the languages, and acquiring a general knowledge of the manners, habits, feelings and institutions of the people.

Ditto.

123. In our Courts of Justice, the native character is seen in its worst aspect; and the unfavorable impressions which the mind of the young Civilian receives from this partial view is too apt to have a prejudicial influence upon the whole tenor of his future conduct. On the other hand, first impressions drawn from intercourse with the respectable classes, and a more general survey of the people in their ordinary intercourse with each other, would lay the foundation for a kindliness of feeling towards them, and a reasonable consideration for their prejudices and failings.

Ditto.

124. It is chiefly at the beginning of his career and whilst holding a subordinate situation that the Civil Servant will find time for the prosecution of general enquiries, and the greatest readiness on the part of the natives to communicate their sentiments. The possession of superior office is at all times an obstacle to free communication with the people; nor would we advocate in the higher judicial functionary that familiarity of intercourse which would be useful and proper in the Officers of Revenue.

Ditto.

125. To the acquisition of this description of knowledge the Revenue systems of Madras and Bombay are peculiarly favourable. There, the annually recurring Ryotwarry Settlements require a constant and local intercourse between the Revenue Officers of Government and the Agricultural Inhabitants; and the minute information respecting the interests of the different classes of the Village Communities; the various rights in land, and the instruments by which those rights are modified or transferred, necessarily acquired in the course of such detailed arrangements, cannot but prove valuable to the future Judicial Officer.

Ditto.

126. We would therefore recommend for those Presidencies that the Civil Servants, on being reported qualified to take a part in public business, should be attached as Assistants to Collectors and Magistrates for the period of three years. That is, we would continue the initiatory system now in force there, which was introduced during the Governments of Sri Thomas Munro and Mr. Elphinstone.

Ditto.

127. Regarding the Junior Civil Servants on the Bengal Establishment, we find it more difficult to come to any decided opinion. The detailed Village Settlements which have been for some years in progress in the Western Provinces and Cuttack, and partially in Bengal, Behar, and Benares, afford perhaps even better opportunities of acquiring practical information than the ordinary Revenue arrangements of Madras and Bombay. But these Settlements are now drawing to a close, and we understand that in about two years the whole will be completed either in perpetuity or for terms of 25 or 30 years. The principal business of the Revenue Officers will then be reduced to the simple duty of collecting the Revenue and making the usual arrangements in the Departments of Abkarry and Stamps: and it is only the

occasional failure of a settlement, or the management of a few Estates under the Superintendence of the Court of Wards which would call for local and minute investigation. To a knowledge of the mere routine of a Bengal Collector's Office as conducted at the Sudder Station, we attach no importance as a preparation of Judicial duties.

128. Where the charge of the Police is also vested in the Collector of Revenue (as is universally the case at Madras and Bombay) the occasional deputation of the Assistant into the interior for the purpose of local enquiries would give opportunity for acquiring information and would operate as a check on the Native Officers of Police. But we believe that in most districts of the Lower Provinces of the Bengal Presidency the functions of Revenue and Police are committed to distinct Officers, and the same Assistant could not work satisfactorily under two superiors.

Training of the Civil
Servants on being re-
ported qualified to take
a part in public business.

129. If sufficient employment could be found for the Junior Civil Servants of this Presidency of a nature calculated to store their minds with that general practical knowledge which we think so desirable an acquisition, we would recommend the same disposition of them, during the three years, as at the other two Presidencies; otherwise we would at once commence with those selected for the Judicial line the peculiar training to which we shall presently advert, and continue it for a period of three years.

130. On the expiration of the three years of Mofussil preparation we would choose the ablest and most competent of the Civil Servants for the Judicial line; and as we propose that all so chosen should thereafter be confined exclusively to that line, we would, in making the selection, consult individual inclination as far as the exigencies of the Service permitted.

Subsequent selection
for the Judicial line.

131. We have not fixed upon an earlier stage in the Civil Servant's career as the period of selection, because it appeared to us important that it should be deferred to as late a period as possible, consistently with other considerations, to allow of the fullest development of those qualifications which should guide the Government in the distribution of its Agency.

Ditto.

132. The legal part of the education which we have proposed for the Civil Servants in England, and on their first arrival in this Country may be thought unnecessary for those who are eventually attached to the Revenue Branch of the Administration; but when we consider the important functions, partaking often of a Judicial character, which such Officers as they advance in the Service are called upon to perform and the numerous instances in which they act as the Legal Advisers of Government, we think the accurate acquaintance with the principles of right and wrong and the general knowledge of the Laws of the Country to which such a course of study must lead, will be found of essential advantage to them.

Why Legal instruction
important for Civil Ser-
vants eventually attach-
ed to the Revenue De-
partment.

133. For the Civil Servants, who, after three years of Revenue practice, are set apart for the Judicial Branch, we would recommend at least one year of Judicial Apprenticeship previous to their appointment to the exercise of independent functions. The expense of keeping these impracticable servants for three years is an item to be taken into consideration.

Special training for
the Judicial Servants.

134. We beg to draw your Lordship's attention to a Minute recorded by Mr. Cameron, when officiating as Fourth Ordinary Member of the Council of India, on the subject of Judicial training—copy of which, and of the Letter to Lord Goderich therein referred to is appended to this Address. The Minute has special reference to the Judicial training of Natives, but the principle is equally applicable to our purpose, except that in the case of English Gentlemen the defect of moral principle insisted on in the letter to Lord Goderich, does not exist. The mode proposed by Mr. Cameron, of constituting the Courts Schools for Judicature appear to all of us unexceptionable; and we recommended that every Civil Servant, on his first appointment to the Judicial line, should be attached as an Official Assessor to a Mofussil Court superintended by a Covenanted European Judge, or to the Civil and Criminal Courts subordinate to the Supreme Court which we contemplate for each Presidency.

Ditto.

Special training for the Judicial Servants.

135. It is not necessary that in this capacity his time should be exclusively occupied in assisting at the Civil and Criminal Trials in Court. There are ministerial duties now left principally to the Native Officers of the Courts in the superintendence of which he might be beneficially employed; and we also think it very desirable that he should be occasionally deputed for the purpose of conducting local investigations connected with cases depending before the Judge.

Mr. Cameron's dissent from the recommendation of his Colleagues respecting the training of the Judicial Servants.

136. Mr. Cameron dissents from the recommendation that the Civil Servants, intended for the Judicial line, should pass the first three years of their noviciate in the Revenue Department—and has thought it right to state his view in a separate Minute.

View of the majority of the Commissioners.

137. To the majority of the Commissioners it appears that by such employment in the Revenue Department as they contemplate, a young man would acquire a better command of the native languages, which he must of necessity be continually using, than if he were occupied during the same time in the duty of an Assessor to a Court without any obligation or having any need to take an active part in the proceedings as an interlocutor. It appears to them, also, that a man whose duties have brought him into contact with people of all classes, and have afforded him opportunities of making himself acquainted with their manners and habits, their ways and forms of dealing, and intercourse with each other, and the details of their economy generally—who has conversed with them freely, and is used to hear them speak without reserve—is likely to be better able to deal with a witness so as to elicit the truth from him, and to know when he has got the truth—better able to estimate the value of Native documents exhibited in evidence, and to understand the merits of causes turning upon the ordinary transactions and dealings of Natives among themselves—better able, therefore, in general to perform the office of a Judge, than one of the same standing who has had no opportunities of becoming acquainted with the character of the Natives except as it has been exhibited by those whom he has had to do with only as adverse litigants or as tutored witnesses—although by his practice in Judicial business he may have become better versed in jurisprudence and more expert in applying its principles and rules.

View of the majority of the Commissioners.

138. They do not apprehend, however, that a young man well grounded in jurisprudence by the education proposed to be given him in England, and having in view to attach himself eventually to the Judicial line, and being of an age at which he may be expected to have attained some stability of character, would altogether neglect this science during his temporary employment in active duties in other branches of the Service. They would expect him rather to prosecute the study and to improve his theoretical knowledge whilst laying up a store of information and experience, which must be of the greatest service to him when he is called upon to apply that knowledge practically in the discharge of Judicial functions by teaching him to deal out less law and more justice.

On the completion of their probationary course the Judicial Servants to be appointed Judges of Courts of original jurisdiction—thence to rise to the Office of Zillah Judge, and afterwards to be eligible, according to merit, to the situation of Sudder Judge.

139. On the completion of the last stage of his probationary course the Civil Servant should be eligible to the Office of Judge of a Court of primary jurisdiction, from which he should be promoted in his turn to the situation of Zillah Judge of Appeal; and from the most distinguished of the Officers of this grade the Judges of the Sudder Courts should be selected. The number of Courts of original jurisdiction, to be reserved according to this plan for the Covenanted Officers, should, as far as practicable, be so regulated as to insure to each three years' experience, in the trial of Original Suits, before his promotion to be a Zillah Judge.*

* We have adverted in two previous notes, to the manner in which the institutions which we contemplate for the improvement of the English portion of Indian Judicature may be made conducive to the Judicial education of the young Civil Servants. The Subordinate Civil Courts will consist of several Judges with various degrees of knowledge, and various amounts of salary. They will have to administer English Law, Hindoo Law, and Mahomedan Law. The Chief of each Court will distribute the Suits among himself and his Colleagues (after the plaintiff has disclosed the nature of each Suit) according to the qualifications of each. Now we think that, when this Court shall be established, young Civil Servants, before they are sent to administer Justice in the Mofussil, might officiate as inferior Judges. None but the most simple Suits would be confided to them in the beginning of their career—by the Chief of the Court—none but such Suits as, according to the theory of the present system, are intended to be brought before the Court of first instance.

provisions in our scheme for the transfer of Suits to Judges of higher qualifications unexpected difficulties should emerge in the course of their investigation. The young Civil Servant will thus exercise the Judicial function in such a manner that his mistakes may be prevented by the transfer of the Suit, or by consultation with his superiors—or may be set right by an immediate appeal on the spot. He will exercise his function under the eye of the College of Justice and the Government, and in the presence of the watchful and not very submissive public of the Capital. He will acquire habits of attention and method, and the art of weighing evidence, and of separating law from fact.

140. By thus securing to the Civil Servants destined eventually to superintend and control the Native Judicatories an appropriate training in the first place—and afterwards a due degree of experience in the administration of Justice in Courts of primary jurisdiction, we think a sufficient remedy will be provided for the great defect which we noticed as attaching to the present judicial systems of Bengal and Bombay. And with the full information which we have obtained in the course of our present consideration of this subject, we would wish to modify on the same principle the recommendation we submitted in a late Report on the proposed change in the Judicial Establishments at Madras, to the effect that all original jurisdiction should be left eventually in the hands of the Native Judges.

141. In order that those who have once become attached to the Judicial Department may have no cause for disappointment, with reference to the pecuniary advantages of other lines, the emoluments of it should be so adjusted as to render it on the whole the most lucrative branch of the Service.

142. Having thus submitted to your Lordship the suggestions which have occurred to us on the first topic proposed for consideration, we proceed to the second, viz. the expediency of appointing a Chief Judge with superior emoluments to each of the Supreme Native Courts.

143. In England, the Judges of the Superior Courts sit together in the presence of a numerous Bar and a large concourse of spectators with wigs on their heads. In those Courts there are numerous occasions, besides the pronouncing of decisions, on which it is fitting that only a single authority should speak in the name of the Court. On all such occasions it is desirable that what is delivered should be expressed with propriety and dignity of language and manner, and not merely that it should be unobjectionable in substance. There are also many occasions in which decisions are pronounced, where, if the Chief Justice delivers his opinion on the Law, or facts, correctly, and in a luminous manner,—the Judges, who follow, will be shorter in the exposition of their own views, and will frequently do no more than express a simple assent. In this manner a great deal of time is saved to Courts. In England, also, the Chief Justices have in charge the great Mercantile at Westminster and London (including most of the great Mercantile causes) in addition to their share of Assize business. This is, perhaps, the most difficult duty discharged by the English Judges. It may be added, that, until very recently the Chief Baron of the Exchequer discharged, alone, a large Equitable Jurisdiction; he at present tries all the Revenue Jury Cases. The Chief Justice of the Queen's Bench is Cornor of England. The Chief Justices are usually appointed to the Privy Council; and more than one of them are commonly promoted to the House of Lords, where their services have often been of great utility upon Judicial Appeals, as well as other legal matters. The present Chief Justice, it is believed, exercises particular functions in conducting the business of the House of Lords. The Chief Justices are, moreover, entrusted with various ex-officio duties of minor importance, including the appointment to several subordinate offices.

144. As the occupation of Chief Justices in England requires, rather than that of Puisne Judges, powers of communicating their sentiments with impressive effect in the presence of a public audience; whilst the most valuable qualifications of Puisne Judges are frequently not combined in any high degree with that of eloquence:—so, in England, there is no difficulty in selecting for the one or other station. The Attorney-General usually succeeds to any vacant Chief Justiceship. The Attorney-General will commonly be a person competent to take a part in the Debates of the House of Commons—at all events he will generally have acquired distinction as a leader of causes. The talents

Modification of a recommendation connected with this subject in a former Report.

Emoluments of the Judicial Branch of the Service.

Second Topic. Expediency of appointing a Chief Judge to each Sudder Court.

Reasons for appointment of Chief Justices in England.

Qualifications for those Offices and selection for them.

of a leader of causes, and those of a learned, and sensible junior, who, possibly, would be very incompetent to address a Jury with effect, but the value of whose legal opinions was generally appreciated, will often indicate the proper person to be selected with a view to a Chief Justiceship or Puisne Judgeship. The promotion of Puisne Judge to a Chief Justiceship is unusual; and if it were common it might tend to shake the public opinion in the independence of the Puisne Judges. It often happens, in England, that the Puisne Judges of a Court have, in many trials, at Nisi Prius, acted under the control and directions of the Chief Justice, as their leader.

Contrast of circumstances in India, as affecting the Sudder Courts.

145. In India, none of these circumstances exist to affect the constitution of the Company's Supreme Courts. The functions of the Sudder Judges are confined to the Judicial business before their Courts. In Bengal, and Bombay, the greatest part of the civil business of these Courts is disposed of by the Judges sitting singly. In the Sudder Court at Calcutta, about two-thirds of the Civil Suits are thus disposed of; and in that of Bombay, about one half; and the same might take place at Madras under the existing law. The number of intelligent Practitioner is very small; and we believe the audience, generally speaking, consists of little more than the parties interested or their Agents and authorized Pleaders, and other parties or their Agents awaiting the trial of their own Suits.

And the appointment of the Indian Judges.

146. Nor do the circumstances of the two countries differ less with regard to the mode in which the Judges are appointed. The sphere of selection for the highest Judicial Offices under the Company's control is limited to the Civil Service, in which promotion is regulated on the principle of Seniority as the general rule. It is seldom that very superior qualifications are to be found in any particular Judge which would render his elevation to an eminent position in the Court conducive to its greater respectability, and the improvement of the administration of Justice; whilst from the peculiar nature of the Civil Service, selection according to individual merit, unless that merit is generally acknowledged, has been found to create dissatisfaction. Indeed, it was an inconvenience of this description which induced the Government of Bengal, in 1829, to abolish the distinctive appellation of the Judges of the Sudder Court; and as the duties of all the Sudder Judges are essentially the same, there does not appear to be any sufficient reason, while the constitution of the Sudder Court remains in other respects unaltered, for re-establishing the distinction of rank and emolument that formerly prevailed.

Proposed College of Justice.

147. The highest Courts in the country which we shall recommend (and which, for the sake of distinguishing them from the present Supreme Courts, we propose to call the Colleges of Justice) will consist of the Judges of the Supreme Courts and the Judges of the Sudder Courts. The Chief Justice of the Supreme Court will become the Chief of the College of Justice.

Ditto.

148. Should our recommendation on this subject meet with the approval of the Government of India, the Chief Justice, as President of the College, will be invested with certain powers of superintendence, and direction, which would give consistency to its proceedings; whilst the combination of the knowledge and experience of the English and Indian Judges would tend greatly to improve the practice of the Courts, and generally to raise the standard of the Judicial Administration.

Ditto.

149. We admit that the appointment of English Lawyers to preside over Courts which are to superintend all the Judicial Establishment is not unattended with risk; but we think, that, upon the whole, it is preferable to the appointment of Judicial Servants of the Company, for, we think it more probable in these days, that an English Lawyer may be found free from the narrow prejudices which his professional education has, it may be admitted, a tendency to create, than that a Judicial Servant of the Company should be found with a mind sufficiently disciplined in the principles and distinctions of Jurisprudence to watch effectually over the whole administration of Justice.

150. The last subject is the expediency of investing the Sudder Courts with a limited extent of original jurisdiction.

Last Topic—expediency of investing the Sudder Courts with original jurisdiction.

Reasons against such a measure.

151. To this measure we think there are, under present circumstances, serious objections. We consider the great object of the Sudder Courts to be, to fix and maintain right principles; to preserve uniformity in the administration of the Law; and to exercise a general supervision and control over all the inferior Courts. The system of special Appeals, which we have recommended in our Report of the 4th December 1841 for the better attainment of this object, would throw upon the Sudder Courts to a large class of Appeals now altogether excluded from them, and we believe the present number of Judges would not be found more than sufficient to the despatch of the business so increased even under the modification of the present practice of trying special Appeals which we have suggested in the same Report.

152. We entirely agree with your Lordship that "No man can be capable of appreciating the value of evidence who has never heard a witness examined and who is not well acquainted with the mode of conducting causes in Courts of Justice, and generally with the National Character as well as the National Languages; for, upon the value of such evidence and such knowledge of character and of language the decision must in most cases depend".

Ditto.

Shrewd observance of the Lords.

153. In most cases the decision must depend upon these things, but not in all; and even in those cases in which it does depend upon these things it does not depend upon these things only. In many cases it depends wholly, or in part, upon a correct knowledge of the principles of Law or Jurisprudence—upon the habit of applying these principles to the facts which evidence establishes—upon the habit of eliciting from the evidence (assuming it to be credible) the facts which form a proper basis for the application of the principles of Law or Jurisprudence.

Ditto.

154. We now take the liberty of observing that this knowledge and these habits are what are specially requisite in an Appellate Judge. We admit that no man ought to be appointed an Appellate Judge who has not acquired practical skill in the decision of Original Suits.

Ditto.

155. We admit, also, that if considerations of economy do not forbid, the practical skill thus acquired by the Appellate Judge might with advantage be kept up by the occasional exercise of original jurisdiction, while the ordinary Judges of first instance would derive benefit from the model thus exhibited to their observation.

Ditto.

Considerations of economy ought to have led to the abolition, years ago, of this idiotic law commission.

156. But we hold that, as the qualities most essential in an Appellate Judge are not likely to be found united to an intimate acquaintance with the National Character and the National Languages, it will be expedient to have some Judges in the Appellate Court whose unacquaintance with the National Character and Languages must be excused on account of that knowledge of Law and jurisprudence and of those Judicial habits which at present, at least, can be most effectually acquired in Courts of English Judicature.

Ditto.

157. There are three functions, as it seems to us, which an Appellate Court may perform, though it does not follow that every Appellate Court performs all the three—First, to say whether the evidence appears to have been properly taken and properly appreciated by the Court below:—if not, the course is to have it investigated afresh either by the same or another Court of original jurisdiction.

Functions of an Appellate Court.

158. The Appellate Court ought never, we think, to set up its own opinion in opposition to that of the Court which heard the witnesses give their evidence, further than to order a fresh investigation; but it may, upon reasonable grounds of doubt, order that the same inferior Court, or another, should hear the witnesses over again, or merely that the inferior Court should reconsider its finding.

Ditto.

159. The only one of these three courses known in English practice, is the second. Upon a motion for a new trial upon the ground that the case has not been properly investigated by the Judge and Jury at Nisi Prius, the Court, if it assents to the grounds of the

Ditto.

motion, orders that the case shall be investigated again by another Jury. The evanescent nature of a Jury makes it impossible to direct that the same Jury should either reconsider its finding, or investigate the case afresh.

Functions of an Appellate Court.

Ditto.

Ditto.

Ditto.

160. In the Supreme Courts of India, there being no trials at Nisi Prius, and no Jury in Civil Cases, the analogy of English practice is preserved, as far as those important differences permit, by the Court which first tried the cause ordering a new trial before itself; a proceeding which seems to be recommended by nothing, but the preservation (little more than nominal) of the above mentioned analogy.

161. Secondly, the Appellate Court has to say whether the facts of the case have been correctly elicited from the evidence (assuming the inferior Judge's opinion of the credibility of the evidence to be correct.) If it thinks they have not, it should correct the error itself. This is what is done in English practice upon a Demurrer to Evidence.

162. Lastly, the Appellate Court has to say whether the Court below has correctly applied the Law to the facts. Here, again, if it thinks the Court below has erred, it sets right the error without any further enquiry.

163. If this is a correct account of Appellate Judicature, the appreciation of testimony from the National character, and the demeanor of witnesses, is no part of it; though we do not deny that an Appellate Judge who is capable of such appreciation would bring to the decision of questions of Law more of the desired acuteness of mind, and perspicuity of judgement, than one who has not that advantage.

NOTE.—It is not everything called a fact in common speech that is a fact for this purpose "*Factum vocamus omnem eventum qui ad jura vel constituenda, vel immutanda, vel tollenda valet.*" *Muhlenbruch-Doctrina Pandectarum* I 173.

Commissioners request permission to submit a copy of this address to the Honourable the President in Council in reply to official references on the subject of the Judicial training of the Junior Civil Servants.

164. In conclusion, we beg to apprise your Lordship that the question of the best mode of training the Junior Civil Servants, in the Judicial Department, was referred to us by order of the Honourable the President in Council, in August * 1838, to be considered in connection with the general system of Judicial Procedure: and as this address contains all that has occurred to us on the subject, we take the liberty of requesting your Lordship's permission to submit a copy of it to the Honourable the President in Council, as a formal reply to the official communications adverted to.

We have, &c.

(Signed) A. AMOS.
" C. H. CAMERON.
" F. MILLETT.
" D. ELLIOTT.
" H. BORRADAILE.

(A true Copy.)

J. C. C. SUTHERLAND,
Secretary.

* Mr. Officiating Secretary Maddock's Letter No. 282, dated 13th August 1838, and No. 295 dated 20th idem.

MR. CAMERON'S MINUTE ON THE MEANS OF EDUCATING FOR JUDICIAL FUNCTIONS.

The Committee of Public Instruction suggest as the best mode of supplying the want of official knowledge, as well in the young Men educated at the Public Seminaries as in others, that "a certain number" (say five) of Native Assistants on small salaries should be appointed "to each District, three of whom might be placed at the disposal of the Judge, and two under the orders of the Revenue Commissioner, the latter being available for employment in any District of the Division at the discretion of that Officer. The three attached to the Judge might be posted," the Committee proceed to suggest, "according to his judgement either in his own Court or that of the Principal Sudder Ameen where they would be very useful, after a short time, as Confidential Clerks, and they would obtain the very best practical education especially as to details and forms for Munsiffs."

Having myself on a former occasion been obliged to give much of my attention to the subject of preparing Natives of the East for the Judicial Office by appropriate moral and intellectual culture, I am desirous of now stating the opinion at which I arrived; and, for this purpose, these papers have, at my request, been transferred to the Legislative Department.

The occasion which attracted my attention to the subject was the preparation of a Plan for Judicial Establishments for the Island of Ceylon, which was part of my duty as a Commissioner of Eastern Enquiry under the Colonial Office.

As the least troublesome mode of explaining my views I annex the Letter to Lord Goderich, in which I proposed that in every Court of Original Jurisdiction, there should be a paid and permanent Officer assisting the Judge throughout the conduct of the cause, and giving his opinion upon every matter arising for decision, which opinion however should have no legal effect, and indeed no other effect than such moral influence as the learning and character of the Officer delivering it, and the arguments by which he might support it, should produce upon the mind of the Judge.

This proposition received the assent of the Secretary of State for the Colonies, and the plan has been gradually brought into operation at Ceylon. It is there connected with the Plan of Assessors which I had previously recommended; but there is, of course, no necessary connection between them. A paid and permanent Officer, with the proposed functions, might sit in every Court, though no unpaid and unofficial Colleagues were associated with him.

To the reasons adduced in my Letter to Lord Goderich I have now only to add some remarks upon the merits of the plan as compared with other plans which have been proposed or adopted for the attainment of the same end.

I am only aware of three such plans.

I. The plan of appointing the Probationer to a Clerkship or other Office in a Court of Justice.

II. The plan of appointing the Probationer a Judge for the decision of small causes.

III. The plan of appointing the Probationer to take the evidence upon which the Judge is afterwards to decide.

I. The first is the plan which forms part of the recommendation of the Committee of Public Instruction, and it is, I think, much to be preferred to the other two. But it is liable to objections which do not apply to my proposition, and which in my judgment far outweigh the small advantage which I admit it to possess in point of economy.

For, a person employed as a Clerk or other Officer of Court though he does indeed witness with more or less attention the transaction of Judicial business, does not himself transact it. The process necessary for coming to a correct decision, the process necessary for making a decree, does not pass through his mind. He does not acquire actual experience of that duty for which it was intended to fit him.

II. In the second plan the Probationer, (if it be not abuse of language to call him so) whose business it is to hear and decide small causes, does indeed acquire actual experience; but he acquires it at the expense of the unfortunate Suitors, on whom his education inflicts all the misery resulting not only from injustice but from injustice aggravated by the fallacious promise of justice.

Moreover, as small causes are generally the causes of the poor, and large causes are generally the causes of the rich, the unseemly spectacle is exhibited of a Judge learning to adjudicate well the rights of the great and opulent, by adjudicating well or ill the rights of the vulgar.

III. The third plan, that of making the Probationer (if here again it be not an abuse of language to call him so) take evidence upon which the Judge is afterwards to decide, is open to the objection which have been stated against both the others. It is not, indeed, open to these objections in so great a degree as each is respectively to its own share of them, but it is liable to another of very great weight, viz. that it separates two functions, those of hearing and deciding, the union of which is essential to the best constitution of a Court.

The arrangement which this plan suggests for educating men to the administration of Justice is such that under it the administration of justice must be defective even though performed by the best educated men. In the plan which I propose, there is no such injurious distribution of the functions of hearing and deciding.

In that plan the Probationer actually transacts Judicial Business himself. He actually performs every office which he would perform if he were a Judge, not even excepting the office of deciding; but his decision can do no harm. He gets all the benefits of real experience, without inflicting upon the Suitors any of those evils to which Judicial inexperience gives rise.

I have now only a few words to say on the economical part of the subject. I must candidly admit that the plan I propose is more expensive than any of its three competitors; for, in all of them the Probationer, though paid by the public, is not paid for learning the business of a Judge, but for some service which must at any rate be performed, and for the performance of which the public must at any rate pay.

I submit however that, if my reasonings are sound, the expense of training Judges in the manner I suggest will be far more than repaid by the advantage of placing on every bench a man who begins his judicial career with a thorough practical knowledge of his duty. Of course during the illness or temporary absence of the Judge the Probationer will be generally competent to transact any business of routine.

The expense too of training Judges in this manner will be really much less than it may appear at first sight. It will probably become still less as the plan works and becomes understood. It may perhaps vanish altogether in the course of a few years; for independently of any salary which may be paid to the Probationer, he will have a strong temptation to accept the office in the promise which should be made to him that nothing but some moral or intellectual defect will prevent his being in due time promoted to the bench.

That such a promise will operate as a very strong inducement is made certain by experience. In England, young men are tempted by the very uncertain chance of success at the Bar, not only to do gratuitously the work of other men, but pay 100 guineas a year during two or three years, for the privilege of being allowed to do it.

Now, though it is probable that the Candidates for the office of Munsiff will be too poor to pay for the instruction to be thus afforded, or even to subsist without some salary, it is, I think, clear that a very small salary indeed will be sufficient from the first, and perhaps none at all hereafter will be necessary. The functions of the Probationer are not such as to require that he should be well paid, as a security against bribery; it can be worth no man's while to offer him a bribe.

It is to be observed, besides, that although my plan requires an immediate expenditure of money, which the others do not, it will appear upon examination that this expenditure is not all to be placed to the account of Judicial training—I expect, from the adoption of the plan, a further collateral advantage, itself worth some pecuniary sacrifice. It seems to me that we shall have what is good in a plurality of Judges while we avoid what is evil in that arrangement.

A plurality of Judges is mischievous because the disadvantage of dividing and weakening responsibility outweighs the benefit resulting from the joint application of several minds to the same subject.

Here will be two minds applied impartially to the examination and discussion of each cause, while the legal responsibility of the decision is concentrated upon one.

The Probationer, upon this plan, may be regarded in some respects as an Advocate, only that instead of being the Advocate of a party, exercising his ingenuity in one out of two cases, to mislead the Court, he will be the Advocate of truth and justice, stimulated by the hope of promotion to the Bench, to do his utmost for the interest of those his Clients.

Two objections have been suggested to me which are certainly deserving of notice.

First, it may be objected that each Suit will consume more time than it now does.

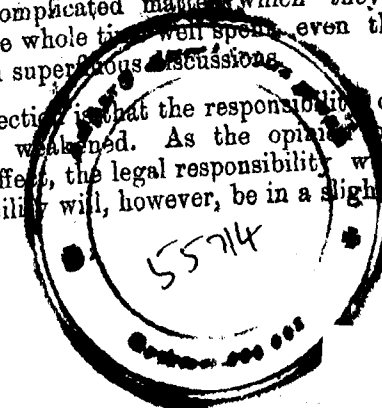
Each Suit will certainly consume more time than it now does; but, before we can pronounce this to be an evil, we must know whether the time now consumed is sufficient for a thorough investigation of the case.

It seems to me that a Judge sitting without Colleagues, without Jury or Assessors, and without any effective public, is likely to be in too great a hurry. He has scarcely any adequate motive for stating to himself distinctly the grounds of the opinion which the evidence and arguments may impress upon his mind. A Judge so situated must be apt to decide, without any separation of law from fact, of the sound argument from the sophistry which may have been addressed to him; and of the trustworthy from the suspected evidence which may have been adduced.

He must, I think, be prone to make up his mind upon the whole matter in the gross, just as an unpractised man makes up his mind in common life when two conflicting stories are told him; and, seeing, or thinking he sees that one of the contending parties is right, and the other wrong, he pronounces accordingly.

This is not the proper mode of arriving at any decision, least of all a judicial decision, which ought to show what propositions the Judge assumes as Law, and what propositions of fact he considers to be established; and I am, therefore, of opinion that time, which will be for the most part employed on the analysis above mentioned (as will probably be the case when two men have to record their joint opinions upon a complicated matter which they have examined together) is upon the whole time well spent even though some of it may be consumed in superfluous discussions.

The second objection is that the responsibility of the Judge will be divided and thus weakened. As the opinion of the Probationer will have no legal effect, the legal responsibility will not be divided. His moral responsibility will, however, be in a slight degree shared by



the Probationer, and in that respect weakened; but on the other hand both his Legal and Moral responsibility will be strengthened, because his decision will be so much more open to criticism when the steps by which he arrives at it are thus laid open.

Before I conclude it may be proper to say a few words upon the mode adopted in Great Britain for selecting persons for a Judicial Office.

The Judges are there invariably selected from among Practitioners at the Bar; but justice is there administered under circumstances so very favorable to the purity and learning both of the Bar and the Bench, that, however, excellent the Judges may have generally been who have gone through this kind of training for their Office, much of their excellence cannot, I think, be attributed to that training. It is rather to Political and Social, than to Professional causes, that the Lawyers of the mother country owe their freedom from pecuniary corruption; and with regard to intellectual qualities, those which insure success to the Advocate who is maintaining one side of the question, are by no means the best calculated to insure a just discrimination of the merits of both sides.

Eloquence, skill in cross examination, and readiness in taking advantage of any real or seeming flaw in the adversary's case, are indeed qualities which are capable of a beneficent application. But they are exerted at the Bar avowedly and systematically without reference to the merits of the case.

Even thus exerted they do not fail to produce some good, but that is because they are generally to be found arrayed in something approaching to an equal degree both on the part of the Plaintiff and Defendant.

But it cannot be doubted that they are calculated to engender a habit of mind the reverse of what is desirable in a Judge; a habit of mind which the Advocate must throw off before he can satisfactorily perform the nobler duties of the Bench.

It is not necessary that I should go into a more elaborate examination of this part of the subject, as for a long time to come, it is very unlikely that the Bar of the Mofussil Courts should be so much improved as to be thought advantageous seminaries for the education of Judges, even by those who are disposed to attribute more merit than I do to the system of the mother country.

Since writing the above I have referred to M. Dumont's work *De l'organisation Judiciaire* Chap. XI. of which I had only a general recollection, and there I find that the plan of training Judges, which received the sanction of Mr. Bentham's high authority, is that there should be a Judge Delegate in each Court to whom the Principal Judge should refer such causes as he thinks fit.

It is not said how the Principal Judge is to distinguish the causes which he selects for reference to his Delegate. Probably Mr. Bentham intended that the causes should not be selected until the pleading is completed, and the matter ripe for argument or trial.

This plan is open, in a slight degree, to the objections I have urged against the second and third of the plans examined above, and would, I fear, have a great tendency in this country to degenerate into the second plan, and therefore, notwithstanding the great name of the inventor and the merit of the invention, I still venture to prefer my own.

(Signed) C. H. CAMERON.

March 1838.

Letter from Charles Hay Cameron, Esq., to the Right Honorable
Viscount Goderich.

Letter from C. H.
Cameron, Esq. 10th Aug.
1832.

CHESTER STREET, AUGUST 10TH, 1832.

MY LORD,

In the Report I had the honor to address to your Lordship on the 31st January last, I recommended that each Court of original jurisdiction in Ceylon should consist of one Judge and three Assessors, and that the Assessors should be chosen as the jurymen now are in the Maritime Provinces, p. 78, Ceylon Reports.

I stated to your Lordship at some length in that Report the reasons which appeared to me to justify the scheme of judicature described in it. But it has since occurred to me, that by a slight modification, that scheme may be made subservient to the very important and beneficial purpose of giving to a class of Native Functionaries, the skill and integrity necessary to render them fit for becoming Judges of original jurisdiction.

Vide Paper presented
13th March 1832 to
House of Commons
No. 274.

If this object can be accomplished, a very great saving of expense will ensue for the salary with which a Native Judge would be amply remunerated is quite trifling in comparison with the amount necessary to tempt a competent European to undertake so laborious an office in so warm a climate, and in so distant a region.

But independently of the economical question, it is of the utmost importance with a view to the future stability of our dominion in the East, and the improvement of our native subjects in general, that the higher classes among them should be rendered morally and intellectually competent to fill offices of trust.

What I now propose is, that one of the three Assessors in each Court of original jurisdiction should be a permanently official person, receiving such a moderate salary as will be necessary to remunerate a native of respectable station for giving up his whole time to the public.

It would be scarcely worth the while of any Suitor to attempt to bribe or intimidate a functionary having so little power to affect the fate of the cause, except by reasons founded in law and justice; and as all the function of the official Assessor will be performed under the eye of the European Judge and public, an attempt on his part to sacrifice justice to his private interests could hardly end in any thing but detection and disgrace.

Here, then, will be a public servant, obliged by his office to revolve constantly in his mind the maxims of law and morality, and to assist, by his opinion and advice, in the application of them to the real business of life, who will at the same time be removed, by his peculiar position, from all temptation to pervert those maxims to purposes of chicane, fraud or oppression.

It seems difficult to imagine a situation better calculated to strengthen the principles of morality, by exercising them in the solution of real and practical questions, and at the same time to avoid the mischiefs which might result from the insecure hold which those principles have hitherto acquired over the minds of the natives in general.

A native who has for some years been subjected to this discipline, and who has gone through his noviciate with credit, may, I think, be very safely placed in the more arduous and responsible office of a Judge of original jurisdiction, and by such an appointment four-fifths of the salary necessary to remunerate a European Judge will be saved to the public, the honourable ambition of the upper classes of natives will be safely gratified, and the great mass of the people will be bound by ties of affection to a Government which ceases to withhold offices of

power and emolument from its native subjects, as soon as they become qualified to fill them with advantage to the native community.

I have, &c.

(Signed.) C. H. CAMERON.

MINUTE OF MR. CAMERON ON THE SUBJECT OF THE
RECOMMENDATIONS CONTAINED IN PARAGRAPH 126.

1. Upon this recommendation I have the misfortune to differ from my Colleagues. I would have the time which they think should be passed in the Revenue and Police Departments, occupied in sitting as an Official Assessor at the Presidency or in the Mofussil, and in performing such ministerial duties as the Judge may properly delegate.

2. It is said that in India, and particularly in the Presidencies of Madras and Bombay, a young Civil Servant who has passed some years in the Revenue Department, makes a better Judge than one who, under the present system, has been always employed in the Judicial Department.

3. This proposition is proved by so many and such competent witnesses that I cannot refuse my assent to it.

4. But under the present system there is nothing that can be properly called Judicial Apprenticeship; excepting the Appeals (and the Appeal considered as a means of instructing inexperienced Judges is a most defective instrument) there is nothing to correct the erroneous notions which a young man may fall into at the commencement of his Judicial career, and it is consequently probable that many of those erroneous notions may become inveterate.

5. But in our scheme of Official Assessors there is a real Apprenticeship under a competent instructor always present and ready to remove the false impressions which might otherwise mislead the beginner.

6. I do not therefore hold the proposition which I admit to be proved by testimony, to be conclusive of the present question and with respect to certain arguments which I have seen used in support of that proposition, and which, if sound, would be conclusive of the present question, I think I can shew that those arguments involve a great and very dangerous, because very plausible fallacy.

7. The fallacy is that of not distinguishing between the knowledge which a Judge ought to bring into Court and knowledge which he ought to acquire in Court, through the various instruments of evidence; or in other words of not distinguishing between Jurisprudence and the several subject-matters to which the principles of Law and Justice are applied by means of Jurisprudence.

8. I admit that a knowledge of the several subject-matters which he has to deal with, would be useful to a Judge if he could acquire that knowledge without sacrificing time which ought to be occupied in the study of Law and Jurisprudence. But believing that such knowledge cannot be acquired without making that sacrifice, I think upon the whole such knowledge is not useful to a Judge.

9. With regard to such subject-matters as only appear at intervals in Courts of Justice, there is probably no difference of opinion among thinking men. No one probably would contend that a Judge ought to make himself a good chemist or a good navigator, because he may have occasionally to decide suits for infringing a chemical patent, or for running down ship. But in the Courts of the East India

Company so many suits relate to subject-matters connected with the Revenue System of the country, that men of great and deserved reputation have thought a Judge ought, on that account, to have a practical knowledge of that System.

10. An aspirant to a seat on the Bench of these Courts ought certainly to learn the Revenue Law which he is to administer. He ought also to learn by constant attendance in Court how that Law is to be applied to the affairs of men. But that he should, on this account go through such an Apprenticeship as would fit him for the discharge of a Revenue Office, is to require something of him which cannot be attained without a very serious interruption of his properly judicial education.

11. Let us consider a question of the same kind where there is no authority of respected names to withdraw our consideration from the mere reason of the thing.

12. There is in the County of Cornwall a Court called the Court of the Stanneries, in which all the Suits arising out of the business of Mining are decided. How should an aspirant to the Bench of that Court be educated? I should say he ought to learn the general Law of England and the particular Law of the Mining District by reading; and so much of the business of Mining as may be thought necessary to him by sitting as an Official Assessor to the present Judge. He will thus acquire at the same time a practical knowledge of Cornish Mining, so far as it forms the subject-matter of Law Suits, and of Law as applied to Cornish Mining; whereas if he were sent for three years to acquire practical knowledge under the Superintendent of a Copper Mine, it is to be feared that there would be an irreparable hiatus in his judicial pursuits.

13. The grounds however on which my Colleagues recommend a Revenue Apprenticeship for Judicial Officers, are different from those of which I have been endeavouring to expose the fallacy.

14. To them "it appears that by such employment in the Revenue Department as they contemplate, a young man would acquire a better command of the native languages which he must of necessity be continually using, than if he were occupied during the same time in the duty of an Assessor to a Court without any obligation or having any need to take an active part in the proceedings as an interlocutor."

15. As the Official Assessor is bound to express an opinion upon the case, and as he is liable to be consulted by the Judge at any moment during its progress, it seems to me that the shame of being obliged to confess, or of letting it be seen in public, that he does not understand what is said, would be a very powerful stimulus to the acquisition of the language in which the proceedings are conducted—such a stimulus as I should suppose none but the incorrigibly idle and worthless could disregard.

16. It also appears to my Colleagues that "a man whose duties have brought him into contact with people of all classes and have afforded him opportunities of making himself acquainted with their manners and habits, their ways and forms of dealing and intercourse with each other, and the details of their economy generally; who has conversed with them freely and is used to hear them speak without reserve, is likely to be better able to deal with a witness so as to elicit the truth from him and to know when he has got the truth, better able to estimate the value of native documents exhibited in evidence and to understand the merits of causes turning upon the ordinary transactions and dealings of natives among themselves; better able therefore in general to perform the office of a Judge than one of the same standing who has had no opportunities of becoming acquainted with the character of the natives except as it has been exhibited by those whom he has had to do with only as adverse litigants or as tutored witnesses."

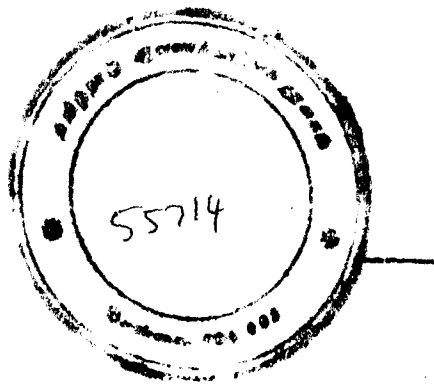
17. If the question were simply which of these two men is likely to know most of the natives generally, I should not probably have much difficulty in giving the same answer as my Colleagues would give; but the question is, which of these two men is likely to

know most of the natives considered as "adverse litigants and tutored witnesses." To that question I am compelled to answer, "he who has devoted his time to the study of them in that particular character, under the advice and correction of a man who has already acquired expertness in the process of examination, and sagacity in estimating the results."

If it should be objected to my opinion that the popular theory of the Jury is opposed to it, I can only answer that I hold the popular theory of the Jury to be fundamentally and completely erroneous and that therefore the people of England who for centuries think 'Trial by Jury a blessing are pure fools and no mistake.

(Signed.) C. H. CAMERON.

July, 1842.



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