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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.G.O. No. 1Press
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4TH JANUARY 1887, No. 1, FINANCIAL.

GOVERNMENT OF MADRAS.

FINANCIAL DEPARTMENT.

READ—the following paper :—

From J. P. HEWETT, Esq., C.S., Officiating Under Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Calcutta, 9th December 1886, No. 1790.

I am directed to forward herewith a copy of a note by the Finance Committee on the expenditure of the Madras High Court, and to request that the Government of India may be favored with an early expression of the views which His Excellency the Governor in Council may, after such consultation with the High Court as may appear desirable, form on the proposals made by the Committee.

ENCLOSURE.

NOTE BY THE FINANCE COMMITTEE ON THE EXPENDITURE OF THE MADRAS HIGH COURT.

We began our inquiries into the administration and expenditure of this High Court, as in the case of Bombay, by addressing the letters marginally noted to the Secretary to the Government and to the Registrar of the High Court, respectively.

Secretary, Finance Committee, to Registrar, High Court, Madras, No. 147, of 15th June 1886.
Secretary, Finance Committee, to Registrar, High Court, Madras, No. 150, of 16th June 1886.
Secretary, Finance Committee, to Secretary to Government, No. 161, of 22nd June 1886.

2. In our letter to the High Court we referred to the proposal, which has been under the consideration of Government, to transfer certain classes of original suits, the valuation of which was below Rs. 2,500, to another tribunal, and we requested the Honorable Judges to express an opinion as to whether the limit within which such a transfer might be made could safely be raised. A similar question was raised with regard to Insolvency Proceedings. We further invited the Honorable Judges to consider the possibility of economy in the court's establishment, as to the numbers, pay and work of which we requested information; and we raised the question whether any change could be made in the direction of raising the fees levied on the Original Side of the court. With reference to the Appellate Side, we suggested the consideration of the question whether the second appeal to the High Court in the smaller classes of appeals might not be more cheaply provided for.

3. The Honorable Judges replied to our inquiry in the letters marginally noted. These letters contained the information for which we had asked as to the numbers and cost of the establishment on either side of the court, the fees levied on the Original Side and other like subjects, and conveyed the opinion of the Honorable Judges on the various administrative topics to which our letter had referred, for the most part in a sense unfavorable to any change.

Registrar, Appellate Side, High Court, Madras, to Secretary, Finance Committee, No. 2339, of 16th August 1886.
Registrar, Appellate Side, High Court, Madras, to Secretary, Finance Committee, No. 2354, of 17th August 1886.
Registrar, Original Side, High Court, Madras, to Secretary, Finance Committee, No. 222, of 20th July 1886.
Registrar, Original Side, High Court, Madras, to Secretary, Finance Committee, No. 227, of 22nd July 1886.

4. The reply of the Government was conveyed in the letters noted in the margin. The first dealt with the constitution of the Sheriff's office and certain arrangement proposed in modification of the existing arrangement. In the second we were informed that they agreed to the appointment of an Official Receiver, but did not approve any further raising of the limit for original civil cases to be transferred to the Small Cause Court, nor the creation of Subordinate Appellate Court, nor any enhancement in the scale of fees.

5. On arriving at Madras we obtained the Chief Justice's permission to interrogate the various officers of the court, and had interviews with Mr. Ross and Mr. Stevenson, the Registrars on the Appellate and Original Sides, and with the Advocate-General, the Government Solicitor and the Official Assignee. We also took the opportunity of learning the opinion of the other Honorable Judges, and finally we had a personal interview with the Honorable the Chief Justice and consulted him as to the several changes which the facts before us suggested to be advisable.

6. We now lay before Government the conclusions which our investigations seem to us to establish, and the changes which we think may be advantageously introduced.

7. The judicial staff, the ministerial establishment, and staff of clerks, translators, and servants are shown in the following table in which all salaries over Rs. 200 are separately specified:—

HIGH COURT, MADRAS—ORIGINAL SIDE.

	Judges.	Registrar, Treasury Officer and Clerk of Insolvency.	Clerk of the Crown; and Crown Prosecutor.	Official Assignee.	Sheriff.	Translators.
Officers	1. Rs. 3,750	1. Rs. 1,600 1. 500 1. 325	1. Rs. 300 1. 500	1. Rs. (Fees)	1. Rs. 898	1. Rs. 400 1. 250 1. 250 1. 40
Clerks	{ 1. 550* 1. 21	18. 626	3. 71	5. 84	4. 218	4. 60
Bailiffs	..	..	..	..	6. 204	..
Peons	3. 54	10. 70	2. 14	2. 12	7. 50	..
Servants	1. 7	13. 85	..	2. 2½	1. 2	..
Court-keepers	3. 142	..	..	..	..	..
Monthly total ..	4,524	3,106	885	98½	1,372	1,000
Yearly total ..	54,288	37,272	10,620	1,182	16,464	12,000

* Plus Rs. 36 to Rs. 40 in fees.

HIGH COURT, MADRAS—APPELLATE SIDE.

	Judges.	Registrars and Deputies.	Translators.	Reporter (b).
Officers	{ 1. Rs. 5,000 1. 3,750 1. 3,750 1. 3,750	1. Rs. 1,600 1. 700	1. Rs. 250 1. 200 1. 200 1. 200	1. Rs. 400
Clerks	..	{ 1. 300 1. 250 49. 1,978	2. 1,050	Allowance 30
Chobdars and peons	28 (a) 217	31. 234 5. 20	..	1. 7
Servants	..	5. 56	..	..
Book-binders, muchis and gumashta	..	..	..	..
Monthly cost ..	16,467	5,138	1,900	437
Yearly cost ..	1,97,604	61,656	22,800	5,244

(a) Includes attendance on Judge of Original Side.

(b) For both Appellate and Original Sides.

MEMORANDUM OF COST.

Original Side.

	RS.	RS.	RS.
Judges	45,000		
Establishment	9,288		
Registrar, Deputy and establishment		54,288	
Clerk of the Crown and establishment		37,272	
Official Assignee's establishment		10,620	
Sheriff and establishment		1,182	
Translators		16,464	
		12,000	
		1,31,826	

Appellate Side.

Judges	1,97,604
Registrar and establishment	61,656
Translators	22,800
Reporters and establishment	5,244
Total ..	2,87,304
	4,19,130

8. In the Civil Estimates of 1886-87 the cost of the establishment as above described appears to be calculated at Rs. 4,21,927, and the total cost of the High Court is estimated at Rs. 4,63,100. The difference consists mainly of contingent expenditure and other small items as shown in the 3rd column of the statement below:—

	Included in above.	Not included in above.	Total Civil Estimates.
1	2	3	4
Judges (less annuity deduction)	Rs. 2,40,000	Rs. — 3,600	Rs. 2,36,400
Appellate Side—			
Contingencies	..	38,006	1,31,700
Other charges	93,694	..	..
Original Side—			
Accountant-General's establishment	..	3,090	97,000
Contingencies	..	5,677	..
Other charges	88,233	..	..
Total ..	4,21,927	43,173	4,65,100

Original Side.

1884.

Fees realized in stamps	61,687
Accountant-General's commission	2,194

Total receipts from litigation .. 63,881

Appellate Side.

Fees on appeals and second appeals	62,969
Fees on appeals from Original Side and Miscellaneous	11,514
Process-fees	2,962

Total receipts from litigation .. 77,445

Probate and Administration duty .. 71,418

9. Against this expenditure are to be set the receipts from litigation in the High Court, which amounted in 1884 (see paragraphs 5 and 37 of the Report) to Rs. 1,41,326. The total net expenditure of the court is therefore about Rs. 13,20,000. Heavy as this expenditure is, we do not find it possible to recommend any considerable reductions in it.

ESTABLISHMENT—ORIGINAL SIDE.

10. The ministerial business of the court on the Original Side is conducted and supervised by the following officials:—

	RS.
The Registrar, who is also Commissioner, Receiver, Taxing Officer, and Chief Clerk of the Insolvency Court	1,500
1st Assistant Registrar and Commissioner	500
2nd do. do. and Manager	325

11. The Registrar acts as Registrar of the court in all its original civil jurisdictions. In addition to this work, he performs certain duties such as the admission or rejection of plaints which the court by an order under section 657 of the Code of Civil Procedure have pronounced

to be quasi-judicial and handed over to him. As Clerk of the Insolvent Court, he sits in court on Insolvency days, takes a note of the Judge's orders, and draws up the necessary record of them. He also attends the court on Issue days, takes a note of the Judge's orders and draws up the necessary decree. As Taxing Master, he sits on Tuesdays, Wednesdays and Fridays to tax costs.

12. In their letter of 23rd July 1885 to the Government of India, the Madras Government proposed to place both Sides of the High Court under a single Registrar, allowing him a Deputy Registrar on Rs. 1,000 a month, and we understand that the Chief Justice agrees with this suggestion, provided the Original Side is relieved of work in the manner suggested. We think this arrangement is quite practicable and should be adopted, although it is possible that if a large quantity of quasi-judicial work is thrown upon the Registrar in the manner proposed below, the post might become almost too onerous. But we do not see the necessity of providing a Deputy on so large a salary. The Deputy Registrar on the Appellate Side receives only Rs. 700, and as there is more work on that than the Appellate Side, a similar officer should be sufficient on the Original Side. This would lead to the reduction of the present Registrar and the two Assistant Registrars on the Original Side.

13. It will be seen from the figures in paragraph 7 that the office consists of 18 clerks drawing Rs. 626. We cannot but think, regard being had to the amount of work to be done, that this staff is unnecessarily large. During the month of September 1886, as shown later on in paragraph 25, an Original Court sat for only 11 days to try civil cases: the other kinds of work performed that month can have given but little trouble to the office establishment. We think that a material reduction should be effected in the number of clerks employed, and we recommend that the Chief Justice be invited to consider the question and to appoint one of the Puisne Judges or any other competent person to revise the establishment and apportion its strength more closely to the work it has to do.

JUDGE'S CLERK'S OFFICE.

14. The officer, styled Judge's Clerk and Commissioner, receives a salary of Rs. 550 per month besides Rs. 30 or Rs. 40 in fees for attending to the business of suitors out of Court. He has a copyist on Rs. 21 per month and a peon on Rs. 7. His duties are to be present at all applications made at Chambers or elsewhere than in court before a single Judge, and to draw up the orders then passed; to arrange for and attend all hearing of references; to swear affidavits and enquire into the sufficiency of bail; to take security for the administration of estates and to pass receiver's accounts. This officer receives, we think, a salary quite disproportionate to the importance of his duties, and the Honorable Chief Justice informed us that he concurred in our views as to this point. Either he ought to be compelled to retire, or some work should be found for him suitable to his abilities and to the salary he receives, and the post of Judge's Clerk should be filled by a native on Rs. 200 or Rs. 300 a month.

THE CLERK OF THE CROWN AND THE CROWN PROSECUTOR.

15. The Clerk of the Crown receives a salary of Rs. 300 per mensem. He prepares and maintains the jury lists, considers and, if necessary, amends the charges on which prisoners are committed to the Sessions, attends at the trial, arraigns the prisoners and performs other functions of a like nature at the trial. This office was till recently combined with that of the Crown Prosecutor. The Crown Prosecutor's duties are to conduct all prosecutions at the Sessions except those on capital charges and coinage cases in which the interests of Government are concerned, and which are conducted by the Advocate-General. His salary is Rs. 6,000 per annum. On the death of the last holder of the combined offices, they were divided, the clerkship of the Crown being conferred on Mr. J. G. Kernan, the Crown Prosecution on Mr. J. H. S. Branson.

16. The Criminal work at the Sessions of the High Court is extremely light. The number of committals in 1884 was 74, involving 98 persons, and occupied the time of a single Judge for 21 days. This is somewhat above the average: in 1885 there were 67 cases. Of the 69 cases committed from the City of Madras, no less than 49 were cases in which, there having been a previous conviction, the accused was committed only in order that the court might pass the heavier sentence provided for a second conviction. The salaries of the Clerk of the Crown and the Crown Prosecutor are practically earned by attendance in court for 21 days, for the other duties of the post can scarcely involve more than a few hours' labor.

17. We think that the formal duties performed by these two officers are not such as to justify emoluments which may be reckoned at Rs. 270 in one case and Rs. 285 in the other for every day of actual service. The task of framing the charge has, as the law now stands, become one of great simplicity. The responsibility for its correctness under the English system was heavy, when the indictments were lengthy and when any inaccuracy might be fatal to the case; but in India the form of charges is prescribed by the code, and is so simple that they can be drawn up by any person of the most ordinary intelligence. Moreover, the responsibility for the correctness

of the charge rests with the Crown Prosecutor or other officer conducting the prosecution; and further, the court is entrusted with the power of amending it at any stage up to conviction. The importance attaching to the Clerk of the Crown's duties is accordingly much diminished. We think that these duties might perfectly well be performed either, as heretofore, by the Crown Prosecutor or by some officer of the High Court establishment in addition to his other duties. Our suggestion is that the two posts be amalgamated, and that the Crown Prosecutor should undertake the entire responsibility for the framing of the charges and the preparation of the jury lists, and the Government Solicitor for the due attendance of witnesses, and that one of the other officers of the court should attend at the trials to call the jury, arraign the prisoners and act as the officer of the court.

18. The pay of the combined appointment should be fixed at Rs. 500 per month. There is an establishment of a manager at Rs. 35, two copyists at Rs. 18 per month, and two peons, who obviously must be unemployed for almost the entire year. We think that this office should be abolished, the Government Prosecutor being authorised to incur any expenditure on section-writers, which the copying of depositions may render necessary.

SHERIFF'S OFFICE.

19. The Sheriff is responsible for the issuing of all processes from the court, and for the execution of warrants of attachment and arrest, proclamations of sales in execution, and, generally, for the carrying out of the orders of the court. He attends execution sales, receives the purchase-money and gives possession of the property sold. He also summons jurors. He receives a salary of Rs. 10,776 per annum, out of which he pays a Deputy Sheriff, and his office and contingencies involve an expenditure of Rs. 5,870 per annum. The fees which he receives amount to between Rs. 4,000 and Rs. 5,000 per annum and are credited to Government. The Government of Madras have suggested that his duties might be performed by a process officer, who, they reckon, would cost with his establishment Rs. 686 per mensem, as against Rs. 1,372.

the present monthly cost. We think this suggestion ought to be carried out. The work of summoning the jurors ought to be performed by the Crown Prosecutor, and the other processes might be executed by bailiffs and process-servers acting under an official who would perform the duties now performed by the Deputy Sheriff, subject to the direction of the Registrar of the court. We recommend that for the future the post of Sheriff should be entirely honorary; it would probably be accepted on account of the distinction attaching to the post, or, if not, might be held by some officer of the court.

ESTABLISHMENT—APPELLATE SIDE.

20. The establishment on this side is under a Registrar, who is a Civilian (and who according to the proposal in paragraph 12 will be the Registrar for both sides of the court), and an Assistant Registrar on Rs. 700, and consists of 51 clerks and 13 translators, besides some temporary clerks. This establishment was described to us as in need of reorganization. A custom has prevailed under which officials have been allowed to draw higher pay, on the occurrence of a vacancy, irrespective of their capacity to perform the duties of the higher post; the consequence is that it frequently happens that an officer is drawing the pay of a post different from that the duties of which he performs. A scheme of a revised establishment on the Appellate Side has been prepared by the court and is, we understand, about to be submitted for the sanction of Government. This scheme divides the office into two departments—(1) the Judicial, dealing with the Bench work proper of the Court; (2) Administrative, dealing with correspondence, accounts and statistics. The effect of the change will be to raise the number of the clerical staff from 63 to 94 with a slight increase to the menials also, the cost being raised from Rs. 4,955 to Rs. 5,300. The Judges propose to meet this increase of Rs. 345 by foregoing Rs. 200, now allowed for section-writing, and contributing Rs. 210 from the Translation Fund, thus making, on the whole, a gain to Government of Rs. 65 per mensem. We have not thought it our business to criticise this scheme closely, but we have little doubt that it will be an improvement on the present irregular state of things, while at the same time we incline to think that it is unnecessarily expensive and that the need of so large an increase has not been demonstrated. It is obvious that if there are any savings in the Copyists' or Translators' Department, they ought to be credited to Government and cannot be treated as a set-off against increased expenditure on establishment.

OFFICIAL RECEIVER.

21. There is at present no Official Receiver, and we recommend that such an officer should be appointed; the Government of Madras and the Judges support this recommendation. As proposed in paragraph 13 of our note on the Bombay High Court, the duties of the post might be entrusted to the Official Assignee, and the remuneration might consist of the fees earned up to a certain amount. We have no data from which to calculate the profit which would accrue to Government, but it would not probably be large.

MENIAL ESTABLISHMENT.

22. There is a staff of twelve chobdars, four of whom attend on the Honorable Chief Justice and two on each of the four Puisne Judges. A duffadar also attends at the Chief Justice's house and one at the office. We think that a reduction in chobdars, similar to that which we recommended in the case of the Bombay High Court, might be effected. Four peons attend at the Chief Justice's house and three at each of the Puisne Judges' houses, besides four who act as guards and eight who attend in the courts. The whole number of peons employed is 47; we think that the Honorable Chief Justice might be invited to consider whether this number might not be reduced without risk of inconvenience to the Judges, or detriment to the dignity of the court.

23. These remarks complete our suggestions as to possible economies to be carried out in the establishment of the court; and they may be recapitulated thus:—

	Immediate. RS.	Ultimate. RS.
Abolition of Registrar, Original Side, and two Assistant Registrars, and substitution of Deputy Registrar at Rs. 700 (paragraph 12)	..	1,625
Further saving in establishment, Original Side (paragraph 13)	..	Not estimated.
Abolition of Judge's Clerk, abolition (paragraph 14)	..	250 to 350
Amalgamation of Crown Prosecutor and Clerk of the Crown (paragraph 17)	..	300
Abolition of office establishment (paragraph 18)	..	1,020
Sheriff and establishment (paragraph 19)	8,232	..
Menial establishment (paragraph 22)	..	Not estimated.

WORK OF THE COURT.

24. We commence our remarks on this branch of the subject by saying that what proposals we have to make will not tend so much to direct economy as to the prevention of future increase of expenditure, since it appears to us that the court is in such a state that if a considerable change of procedure is not effected, there will soon be an urgent demand on Government to appoint an additional Judge to enable the court to clear off and keep down arrears.

25. There being a Chief Justice and four Puisne Judges in the court, the theory is that there should be one Original Court and two Appellate Benches sitting every court-day. In practice, however, the distribution of the work, Original and Appellate, is generally as follows:—There is, as a rule, an Appellate Bench of two Judges for five days in the week, and a second Appellate court for two days. There is no court, Original or Appellate, on Saturday; two Judges do not attend court on Tuesdays and Thursdays. Thus four out of the five Judges only sit four days in the week. These arrangements involve the result that the work on the Original Side is conducted with frequent intermissions, and we find, on looking at the cause list for September last, that an Original Civil court sat only for the hearing of civil suits on 11 days. The Insolvency Court sat on four days; a Court named the "Issue Court," in which issues are settled and undefended suits disposed of, sat four times; a Judge sat on references to take accounts on two days. During the month of September, thirty-one Appellate Benches of two Judges sat, namely, one bench on twenty-two days and a second bench on nine days. There was one sitting of the full bench. The statistics of the court indicate that, as at present constituted and administered, the court disposes of far less work than in 1884; that it does not cope with the current litigation; that there has been already a serious increase of arrears; and that still further increase is inevitable. The following table shows the amount of appellate work, civil and criminal, pending at the close of the first quarter of the years 1884, 1885 and 1886, and disposed of in the first quarters of the same years:—

Appeals and other cases pending and disposed of.

	First appeals.	Second appeals.	Original Side appeals.	Civil mis- cellaneous appeals.	Civil revision petitions.	Civil mis- cellaneous second appeals.	Criminal appeals.	Criminal reviews.
Pending at end of								
1884 ..	145	648	14	76	187	20	53	59
1885 ..	88	432	9	63	85	13	65	65
1886 ..	133	837	18	110	112	24	50	98
Disposed of, 1st								
1884 ..	75	512	6	63	179	30	192	308
1885 ..	56	513	11	65	255	15	186	260
1886 ..	45	234	17	62	86	10	268	298

26. These figures are considered, in the administration report for 1885, to indicate "a return to the more normal rate of disposal of business, as compared with the exceptional efforts made in 1884." To what causes this return may be attributable it is not for us to inquire; but it seems clear that there has been in 1886 a marked diminution in the amount of work done, and a corresponding increase of arrears on the Appellate Side, while on the Original Side the work has been somewhat intermittent. A change of some sort is imperative; we shall now proceed to consider in what manner relief could be most effectually afforded if the necessity of creating an additional High Court Judge is to be obviated.

REDUCTION OF WORK ON THE ORIGINAL SIDE.

27. We think that the Judge's work on the Original Side is susceptible of curtailment in several important particulars. A great deal of work is now done by the Judge which might be—as in an English court it habitually is—performed by a subordinate officer of the court. The Acting Government Solicitor informs us that, in his opinion, fully half the Judge's time is so occupied: and whether this estimate is excessive or not, there is no doubt that a very important fraction of the Judge's time is occupied in matters which a Registrar or clerk is perfectly competent to dispose of.

REFERENCES TO TAKE ACCOUNT.

28. One of these is the disposal of references to take accounts. We understand that it is the practice, whenever a decree for an account is made, for the account to be taken either by the Judge who made the decree, or by some other Judge, and that a very considerable portion of the Judge's time is thus occupied in work which a ministerial officer would certainly be quite competent to perform. There is no such officer at Madras as a Commissioner of Accounts, and the consequence is that the whole of this work, for the discharge of which no judicial capacity is required, is thrown upon the Bench.

29. This might be remedied by the creation of an officer, to be styled Commissioner of Accounts, to whom all references to take accounts would go for disposal. The services of the Registrar, or of the present Official Assignee, might be utilized for this purpose, and we understand from the Chief Justice that he thinks the latter would be a proper officer for the post. It appears from the administration reports for 1884 and 1885 that one Judge's time was thus occupied for 41 days in the one year and 40 days in the other. If this change had the effect of setting the Judge, thus employed, entirely at liberty, the saving would amount to one day's work for every working week of the year.

30. The office should be paid by fees and should be self-supporting, if not remunerative to Government. If the work continues as at present, an income of Rs. 500 per month would, probably, be considered a sufficient remuneration, and any fees in excess of that sum might be credited to Government.

DISPOSAL OF NON-CONTENTIOUS SUITS.

31. The recommendation which we made in our Note on the Bombay High Court * as to such an amendment of section 637 of the Civil Procedure Code as would legalize the authorization of an officer of the court for the disposal of non-contentious proceedings, is equally applicable to Madras. Such a change would, apparently, affect nearly half the litigation of the court. We understand that some duties of this character have already been entrusted to the Registrar under this section, but the legality of such a procedure having been doubted elsewhere, it would be desirable to place it beyond the possibility of dispute. If the duty is not made over to him, it might be entrusted to the Chief Judge of the Presidency Small Cause Court referred to below.

INSOLVENCY.

32. An Insolvency Court now sits once a week. Much of the work in this court is of the pettiest description, neither in amount nor character calling for a tribunal of the importance of the High Court. We have satisfied ourselves that at least four-fifths of it might with certain safety be relegated to an officer of the standing of a Small Cause Court Judge. The list of insolvents of 1885, given in the margin, shows the class of persons who sought relief: the amount of the debts in respect of which relief was sought in 1885 was Rs. 8,05,694. We recommend that all cases up to Rs. 5,000 shall be transferred to the court whose creation we recommend below.

	Suits.	Per cent.
Of 438 suits disposed of in 1884—		
Without contest	201	45.89
After contest	237	54.11
Of 370 suits disposed of in 1885—		
Without contest	174	47.03
After contest	196	52.97

INVESTIGATIONS OF PAUPERISM.

33. There is another class of work of which we think the court might advantageously be relieved. We understand that a considerable portion of the Judge's time on the Original Side is occupied by investigations, under section 409 of the Code of Civil Procedure, into the circumstances of persons who claim to sue as paupers. The point to be ascertained is simply whether the applicant does or does not possess property to the amount of Rs. 100. To employ a High Court Judge upon it is a waste of judicial power which, we think, should be put a stop to, by such a change in the law as would either empower some inferior tribunal, such as a Small Cause Judge, to hold the enquiry and give a certificate of pauperism, or—which seems to us the better plan—empower the court to authorize one of its officers, such as the Registrar or Deputy Registrar, to perform this duty as a *quasi-judicial* act.

TRANSFER OF JURISDICTION.

34. We now come to consider the question of the desirability of transferring a portion of the Original Jurisdiction of the court, in certain classes of suits, to an inferior tribunal. This project was first suggested by the Court itself, and has already been brought by the Madras Government to the notice of the Government of India. It has, we understand, been generally approved and a Bill drawn to give it effect. We recommend that the necessary legislation be forthwith taken in hand. The only question is as to the limit of valuation at which the transfer should take place. The Court's proposal was to fix it at Rs. 2,500, but we would suggest the limit being raised to Rs. 5,000.

Amounts not exceeding	Rs.	
Exceeding Rs. 50 and not exceeding	100	1
Do. " 100 do. "	500	2
Do. " 500 do. "	1,000	30
Do. " 1,000 do. "	2,000	54
Do. " 2,000 do. "	2,500	64
Do. " 2,500 do. "	5,000	33
Do. " 5,000 do. "	10,000	82
Do. " 10,000 do. "	50,000	48
Do. " 50,000 do. "	1,00,000	57
Exceeding	1,00,000	3
Value not estimable		4
		361

35. From the figures given in the margin, it appears that only 111 suits in 1884 were for amounts over Rs. 5,000, while 266 were for sums below that figure. Only 43 suits were for sums over Rs. 10,000. In 1885, the number of suits instituted for amounts over Rs. 5,000 was 135; those for less amounts numbered 213. Supposing the jurisdiction up to Rs. 5,000 to be conferred on another tribunal, this would, we imagine, so materially relieve the court as to make it perfectly easy for one Judge to dispose of the work on the Original Side.

36. We found the Chief Justice not unwilling to entertain the suggestion that the limit should be placed at Rs. 5,000, and we recommend that it should be carefully considered. Provision might, possibly, be made for giving a co-ordinate jurisdiction to the High Court and to the new court in suits for amounts between Rs. 2,500 and Rs. 5,000, power being in every case reserved to the High Court, either on the motion of the parties or at its own discretion, to take up any case which it deems well to try before itself.

37. The proposal of the Madras Government is that this work should be entrusted to the Chief Judge of the Presidency Small Cause Court, another Judge being added to the staff of the Small Cause Court on a salary of Rs. 800.

We are not satisfied that the four Judges of the Small Cause Court will be unable to dispose of this extra work without addition to their number, but if such an addition is found absolutely necessary, it will be economical, considering that it obviates the creation of another High Court Judgeship.

The proposal therefore commends itself to us as practical and economical, and we believe that there is no doubt that whatever officer is selected to fill the post of Chief Judge in the Presidency Court would be competent to discharge, to the satisfaction of the public, the duties which it is proposed to lay upon him.

38. The changes indicated above would, we think, render it practicable for a single Judge to dispose of all the remaining original work of every kind, including the Criminal Sessions, and thus to leave the two Appellate Benches to sit continuously without interruption.

THE APPELLATE SIDE.

39. We now proceed to consider the means by which the Appellate Side may be rendered more capable of keeping pace with the work. We cannot overlook the probability that the Original Court, to which we propose to relegate the less important part of the original work, will tend to increase the number of regular appeals and thus to impose a heavier task on the Appellate Bench. It is desirable, accordingly, to provide for lightening the work wherever it

can be done without risk of a miscarriage of justice. If the year 1885 be taken as a standard, we find the amount of work calling for disposal, and the amount disposed of, to have been as follows.

		First appeals.	Second appeals.
Not exceeding Rs. 10	..	61	262
Do. " 50	..	1	155
Do. " 100	..	10	324
Do. " 500	..	10	95
Do. " 1,000	..	21	71
Do. " 2,500	..	41	11
Do. " 5,000	..	26	1
Do. " 10,000	..	20	..
Do. " 1,00,000	..	2	..
Exceeding " 100,000	..	56	135
Not capable of valuation..	..		
Total ..		187	1,115

40. The value of the appeals instituted in 1885 is shown in the margin. It will be seen that of 1,115 second appeals, 478 were for sums not exceeding Rs. 100, and 802 for sums not exceeding Rs. 500. The value of the property involved in first appeals—excluding two appeals for 21 lakhs and 8 lakhs respectively—was only 8 lakhs; the value in second appeals Rs. 3,15,000. Of 1,396 appeals from decrees and orders disposed of in 1885, 154 were rejected summarily or otherwise disposed of without trial, and 174, though they came to trial, were not contested, leaving 1,068 appeals decided after contest.

41. It does not appear that this number of cases, or even a number somewhat in excess of it, represents a greater amount of work than two benches sitting continuously can get through. The Chief Justice informed us that he calculated that he could on an average try 8 contested second appeals in one day. At this rate a single bench would easily dispose of all the appeals of this class, leaving the other bench less than one first appeal per diem to try in addition to the criminal appeals.

42. At the same time the court admits that business is falling into arrears and that it is not keeping up with the influx of work. If this is the case, and if the relief we have proposed on the Original Side does not remove the difficulty, the only further remedy which we can suggest, to avoid the appointment of an additional judge, is to be found either in a restriction of the right of second appeal or in relegating the appeals for small amounts to a cheaper tribunal. If, for example, the limit were taken at 100 rupees, this would relieve the court of 478 special appeals, and the court would, we should think, be easily able to cope with the residue.

43. We do not propose to discuss the subject at length on the present occasion. The Chief Justice, though much impressed with the smallness of the amounts—sometimes only a few annas at the removal of the second appeal would prove inexpedient. The Government is subject has received in Bengal and of the out the desired reform. Whenever the consideration that the valuation of a suit is a very imperfect index to the real value of where the assessment, which regulates the valuation, often bears an infinitesimally small proportion to the value of land.

ORDER—dated 4th January 1887, No. 1, Financial.

The Honorable the Judges of the High Court will be requested to favor the Government, at an early date, with such remarks as they may wish to offer on the proposals of the Finance Committee.

(True Extract.)

Ag. Chief Secretary.

To the Honorable the Judges of the High Court, with C.L.

Exd. A. Raitt.

Financial Department
8P

C.No. 1792.

Order 4 January 1887, No. 1.

The Hon'ble the Judges
of the High Court will be
requested to favor the
Government with such
remarks as they may
wish to offer on the
proposals of the Finance
Committee.

22/12

4/1

The Hon'ble the Judges of the High Court with C.L.
Despoty,
R.S.

Govt of (1887) Madras.

FINANCIAL.

Issued

Recd.

Encl.

G.O., 4th January 1887, No. 1.

JANUARY.

Finance Committee.

Requesting the High Court to favor the Government with such remarks as they may wish to offer on the proposals of the Finance Committee regarding their expenditure.

Finance Committee
on the High Court

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C 20/12
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14/9/05

6-14-05

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Financial DEPARTMENT.
G.O. DATED 4 January/87
No. 2

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Despatched in print. 13/1

[Despatch Abstract.]

Finance Committee
Requesting the High Court
to favor the Govt with their
remarks as they may wish
after on the proposals of the
Finance Committee regarding
the expenditure

✓