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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1542 Press ~~Mis.~~

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No. 80. Read the following Report from H. RICKETTS, Esq., Commissioner for the Revision of Civil Salaries and Establishments throughout India.

ON DISTRICT JUDGES AND SUBORDINATE JUDGES OF MADRAS.

There are twenty district Judges, drawing each a salary of Rupees 28,000. The jurisdictions of fifteen Judges correspond with the jurisdictions of the Collectors. In the remaining five Judgeships the jurisdictions differ. Calicut and Tellicherry embrace the fiscal district of Malabar. Honore and Mangalore comprise the district of Canara. The Chicacole Court has jurisdiction over that part of the Ganjam and Vizagapatam districts still under the regulations. Whereas, in other parts, one Civil Court can occasionally perform the civil duties connected with two Collectorates, in Madras, in the cases of Malabar and Canara, two Collectorates require each two Civil Courts.

1	Rajamundry.
2	Masulipatam.
3	Guntoor.
4	Cuddapah.
5	Bellary.
6	Nellore.
7	Chittoor or N. Arcot.
8	Chingleput.
9	Cuddalore or S. Arcot.
10	Salem.
11	Coimbatore.
12	Trichinopoly.
13	Combaconum.
14	Madura.
15	Tinnevelly.
16	Chicacole.
17	Calicut.
18	Tellicherry.
19	Mangalore.
20	Honore.

On the Civil side, the Judges try regular appeals from decrees of Subordinate Judges, Principal Sudder Ameens, Collectors, Sudder Ameens, and District Moonsiffs, and original suits for sums exceeding Rs. 10,000. On the Criminal side, they can pass sentence of fourteen years' imprisonment, and 195 stripes with a cat-o-nine tails, and fine to an unlimited amount. They dispose of appeals from the orders and sentences of Principal Sudder Ameens, Sudder Ameens, Magistrates, and their Subordinates. They review all the sentences passed by these functionaries, and notice any irregularities that may be found in them; and they examine the reports of the Police officers, in order to ascertain the legality or otherwise of their proceedings.

The establishments of each Judgeship are as follows:—

1.	*Rajahmundry*	1 Judge. 1 Subordinate Judge. 1 Muftee. 5 Moonsiffs.
2.	*Cuddapah*.....	1 Judge. 1 Subordinate Judge. 1 Muftee. 11 Moonsiffs.
3.	*Bellary*.....	1 Judge. 1 Subordinate Judge. 1 Muftee. 7 Moonsiffs.
4.	*Chittoor*.....	1 Judge. 1 Subordinate Judge. 1 Muftee. 6 Moonsiffs.
5.	*Salem*.....	1 Judge. 1 Subordinate Judge. 1 Muftee. 8 Moonsiffs.
6.	*Combaconum.*	1 Judge. 1 Subordinate Judge. 2 Principal Sudder Ameens 1 Muftee. 11 Moonsiffs.
7.	*Madura*.....	1 Judge. 1 Subordinate Judge. 1 Muftee. 4 Moonsiffs.
8.	*Calicut*.....	1 Judge. 1 Subordinate Judge. 1 Principal Sudder Ameen. 1 Muftee. 14 Moonsiffs.
9.	*Mangalore*...	1 Judge. 1 Assistant Judge. 1 Subordinate Judge. 1 Muftee. 10 Moonsiffs.
10.	*Chicacole*.....	1 Judge. 1 Principal Sudder Ameen. 1 Muftee. 1 Sudder Ameen. 3 Moonsiffs.
11.	*Masulipatam.*	1 Judge. 1 Muftee. 3 Moonsiffs.
12.	*Guntoor*.....	1 Judge. 1 Muftee. 3 Moonsiffs.
13.	*Nellore*.....	1 Judge. 1 Principal Sudder Ameen. 1 Muftee. 3 Moonsiffs.
14.	*Chingleput*...	1 Judge. 1 Principal Sudder Ameen. 1 Muftee. 3 Moonsiffs.
15.	*Cuddalore*....	1 Judge. 1 Principal Sudder Ameen. 1 Muftee. 4 Moonsiffs.
16.	*Coimbatore*...	2 Principal Sudder Ameens 1 Muftee. 6 Moonsiffs.
17.	*Trichinopoly.*	1 Judge. 1 Principal Sudder Ameen. 1 Muftee. 3 Moonsiffs.
18.	*Tinnevelly* ...	1 Judge. 1 Principal Sudder Ameen. 1 Muftee. 3 Moonsiffs.
19.	*Tellicherry*...	1 Judge. 1 Principal Sudder Ameen. 1 Muftee. 5 Moonsiffs.
20.	*Honore*.....	1 Judge. 1 Principal Sudder Ameen. 1 Muftee. 1 Sudder Ameen. 8 Moonsiffs.

The duties of the Judges are, on the whole, represented to be very heavy. No less than six languages are spoken by the people who attend the Malabar Court, Teloogoo, Canarese, Conkani, Malayalum, Hindoostanee and Mahratta. It might be supposed that in a country, six-sevenths of which was under a ryotwarree system, there could be but little business in the Civil Courts connected with land; but such is not the case. The Judge of Tellicherry writes—"twelve hundred Miscellaneous Petitions were disposed of by the Civil Judge; and, from the "peculiar nature of land tenures and customs, many of these are more intricate, and require as "much labour as regular suits." The Judge of Calicut, or South Malabar, also writes—"the "duties in Malabar are more onerous and trying than in other provinces, owing to the intricacy "of the suits, of which seven out of ten are for landed property, the tenures whereof are nume-"rous, and of a complicated nature." The Judge of Honore says—"a great proportion of these "suits is for land. Land in North Canara is generally worth from fifteen to twenty years' "purchase. The proprietary right to land in this Zillah is with few exceptions, vested in the "people, and not in the Government, as is the case in many districts in the Madras Presidency. "The properties are, for the most part, small, highly cultivated, and being freehold, considerable "sums are laid out on their improvement. Suits regarding the possession of hereditary and "acquired landed property, however small, are here contested with much greater pertinacity; and "from the variety and complicated nature of tenures under which the lands are held, occupy "more time and labour in the investigation than the generality of suits for money. The "peculiar customs of the district, as regards the tenures of land, also render the suits for land "extremely intricate and complicated." And the Judge of Mangalore says—"the civil duties "of the Court are of an arduous character, and the cases of an intricate and difficult nature, "owing to the variety of land tenures, and the peculiar law of inheritance which obtains among "the great body of the people of this district."

The existing Zillah Civil and Sessions Courts date from 1843. Up to that period there were Provincial Courts composed of three Judges and a Register, and a Zillah Civil Judge in each district besides. On the abolition of the Provincial Courts, the powers of the District Judges were increased, to enable them to perform the duties which had been disposed of by the Provincial Courts; at the same time, the office of Sub, or Assistant Judge, with a salary of Rs. 16,800, was created.

Under the supposition that the business in the Courts of the Sessions Judges might be heavy, in consequence of the very limited authority exercised by the District Magistrates, I requested the Court of Sudder Adalut to inform me to what extent the business of the Courts will be reduced when the Magistrates shall be vested with authority to pass sentence of two years' imprisonment under the provisions of the new Code of Procedure. The Court inform me, in answer, that, in their opinion, the labour of the Sessions Courts will not be materially decreased when the Magistrates shall have the enlarged powers contemplated by the Code of Procedure; and that they could not submit any reliable statement as to the effects of this new procedure, until it shall have been some time in operation. It appears from the statements appended to the reports of the Sudder Adalut for 1854 and 1855, that in those years 2420 persons were sentenced to above six months, and not exceeding two years, by the Sessions Courts; but, seeing that the Subordinate Judges, and the Principal Sudder Ameens, have now the power which it is proposed by the new Code of Procedure to vest in Magistrates, it does not follow that increase in the powers of the Magistrates will afford any relief to the Sessions Courts.

The power of the Magistrate appears to have been limited, because it was supposed they would have no time to try cases without a very inconvenient and injurious interruption to their other business of Revenue and Police; because it would be more convenient to the people to attend stationary Courts, than to follow the Magistrate about the country; and because, it being considered questionable whether the officers charged with the superintendence of the Police should not be altogether divested of judicial authority, it would be objectionable to disturb the Madras system under which the judicial power of the Magistrates was limited, and to violate the principle which forbids the union of prosecuting and adjudicating powers in the same person. It was not till 1843, that the limited powers now exercised by the Magistrates were granted. Section 54, Act VII of 1843, increased their power from one month to six months. Under the existing law, when there is a Subordinate Court, commitments cannot be made by the Magistrate,

or any other officers of Police direct to the Sessions Judge; they send accused persons to the Subordinate or Criminal Judge, and the commitment to the Sessions is made by him; but under Section 45, Act VII of 1843, when no Subordinate Court is established, the Police and Magistracy can commit cases direct to the Sessions Court. It is impossible to say how the business of the Sessions Courts will be affected when the Magistrates shall be invested with greatly increased powers, and shall commit cases, not punishable by themselves, direct to the Sessions Courts.

I find no reason for making any difference between the salaries of the Zillah Judges of the Madras Presidency and those of the other Presidencies. I have recommended that in the North West Provinces, Bengal and Bombay, there should be two classes, with salaries of Rupees 28,000 per annum, and Rupees 25,000 per annum. I would introduce the same system in the Madras territory, and place nine in the first class, and eleven in the second class.

There are nine Subordinate Judges, and two Assistant Judges, including the Assistant Judge at Mangalore, lately authorized. All receive a salary of Rs. 1,400 per mensem, or Rs. 16,800 per annum. The powers exercised by these officers are thus described by the Court of Sudder Adaulut—"Assistant Judges dispose of regular Appeals from decisions of Sudder Ameens and "District Moonsiffs, when referred by Civil Judges. Subordinate Judges and Principal Sudder "Ameens dispose of original suits to the amount of Rs. 10,000, and appeals from the decision "of Moonsiffs when referred by the Civil Judges. Assistant Judges have no Criminal powers. "Subordinate Judges and Principal Sudder Ameens, can pass sentence of two years' imprison-"ment, and 150 stripes with a cat-o-nine tails, and fine of Rs. 200, commutable to six months' "imprisonment. All heinous and serious offences occurring in the Zillah, such as the Magis-"tracy and native officers of Police are not empowered to dispose of, are by these officers "forwarded to the Criminal Judge; who, according to the nature of the offence, either commits "the parties for trial before the Sessions Court, or hears and determines the case if within his "own jurisdiction."

The Districts to which Subordinate Judges are appointed are

1. Rajahmundry.
2. Cuddapah.
3. Bellary.
4. Chittoor or North Arcot.
5. Salem.
6. Combaconum. (also an Assistant Judge)
7. Madura.
8. Calicut.
9. Mangalore. (also an Assistant Judge)

The Districts without Subordinate Judges are

1. Chicacole.
2. Masulipatam.
3. Guntoor.
4. Nellore.
5. Chingleput.
6. Cuddalore or South Arcot.
7. Coimbatore.
8. Trichinopoly.
9. Tinnevelly.
10. Tellicherry.
11. Honore.

The quantity of business which devolves on these officers varies much. In some districts it is exceedingly heavy; in some so light that the employment of such expensive agency as a Subordinate Judge cannot be justified. I gather from the returns received from the Subordinate Judges, that the business of their respective offices is as follows:—

	Civil Suits and Appeals in the year.	No. of Trials in the year.	No. of persons tried in the year.	Total.
1 Salem	107	134	273	514
2 Rajahmundry	151	126	221	498
3 Mangalore	89	93	200	382
4 Madura	136	179	596	911
5 Combaconum	222	86	180	488
6 Cuddapah	182	305	720	1,207
7 Chittoor	270	414	991	1,675
8 Bellary	553	350	998	1,901
9 Calicut	234	237	464	935
Total	1,944	1,924	4,643	8,511

In Bellary, Chittoor, Cuddapah, Calicut, Madura and Combaconum, the business is so heavy that, without a Subordinate Judge, or an officer to take the greater part of the duty he now performs, the disposal of it would be impracticable. In the remaining three districts, Salem, Rajahmundry, and Mangalore, it is comparatively light.

Her Majesty's Commissioners for the reform of the judicial establishments in India, recommend the abolition of Subordinate Judgeships in the Madras Presidency. They say—"the Sub- "ordinate Judge exercises the same civil jurisdiction as the Principal Sudder Ameen. In some "districts there are Subordinate Judges; in others, Principal Sudder Ameens; but officers of the "two classes are not employed in the same district.* As already stated, we propose to raise the "pecuniary jurisdiction of the Principal Sudder Ameen, and to place it on a level with that of a "Zillah Judge. The office of Subordinate Judge, we propose to abolish, and to appoint Prin- "cipal Sudder Ameens where Subordinate Judges now exist. We suggest, however, that before "there is any legislation on this point, the proposal we have made be particularly referred to the "Government of the Madras Presidency, and its sentiments on it ascertained. Should it be "deemed expedient to continue the class of officers designated Subordinate Judges, a very slight "alteration will render applicable to their Courts the rules in our Code relating to jurisdiction "and procedure."

I learn from the Madras Government that no special or particular reference on this point had been made, but the Government having been called upon to submit their opinion on the report of the Commissioners generally they represented that, if these Courts were abolished, none of the junior officers of the Civil Service would have that opportunity of being trained as Zillah Judges which is now afforded by the Subordinate Courts. Sir Henry Montgomery, a Member of the Council, said that, in his opinion, "if the abolition of the Subordinate Judgeships "should be finally determined on, it should be accompanied by some provision for the employ- "ment of young men in the Civil Service in the capacity of Assistants to the Zillah Judges. In "several districts the Judges require relief from many of the ordinary ministerial duties which "ocupy their time to the detriment of more important work. This relief might be afforded by "appointing Assistants to Judges, to be trusted with the adjudication of certain classes of suits "and cases specially referred to them by the Judge, and by acting as Assessors in others. Thus "the Judges might be relieved of extraneous matter which, at present, too much occupies their "time; and the junior members of the Service would be obtaining a knowledge of the practice and "working of the Courts over which they are destined in after years to preside. Some judicial "training of this kind seems absolutely essential to the well working of any judicial system."

This proposal of Sir H. Montgomery's corresponds in almost every respect with the recommendation contained in my note on the Judges and Subordinate Judges of the Bombay Zillah Courts.

It is to be observed that the Members of the Government do not say that the Courts of the Subordinate Judges are necessary to the performance of the business of the country. Their continuance is advocated solely on the grounds that, without them, there would be no means of training officers to the exercise of judicial functions.

When the new Code of Procedure shall come into operation, these officers will of course be dispensed with. Such a school for training will not be allowed at Madras and disallowed elsewhere. But the saving will not amount to the whole of their salaries; for it will be necessary to appoint officers in their room to take both the Civil and Criminal business now performed by them. Principal Sudder Ameens must take the Civil and part of the Criminal duties; Covenanted or Uncovenanted Joint Magistrates or Assistants, the remainder of the criminal duties.

In the arrangement proposed by the Board of Revenue, the residence of one Assistant at the head quarters station is contemplated. In the 11th paragraph of their letter of the 22nd January 1855, they write—"An Assistant charged with the duties of the treasury, must of course be "permanently fixed at the treasury station; but within that station he may perform other duties. "He may be very usefully employed as a Police Magistrate both in petty cases, and those com- "mitted to the Criminal Courts, but without connection with the Police; and thus one step will "be taken towards separating these two functions. He may also aid the Collector in the gene-

*This does not appear to be uniformly the case. In Calicut there is a Subordinate Judge, and also a Principal Sudder Ameen.

"ral duties of his office so far as time might suffice; and being a stationery officer, he may be "immediately in charge of the Press, which it is hoped will ere long be established in every "Collector's Cutcherry." This arrangement harmonizes admirably with the system advocated by Sir H. Montgomery for Madras, and submitted by me for the approval of the Government of Bombay. One of the Assistants, in each district, in some districts two Assistants, will always be at head quarters, and these officers will be Assistants to the Judge as well as to the Magistrate and Collector. Thus the assistance which the Judge requires will be supplied as efficiently as it is now, and men will be trained for the office of Judge in the only manner in which, without a complete modification of the system of appointments to and promotion in the Civil Service, they can be trained. It may be objected that officers connected in any way with the Revenue department, should not be connected with the Judicial department. Provided they do not try revenue suits, and there will be no occasion to make such suits over to them. I cannot see the remotest objection to an officer sitting one day as Assistant Collector, and another day trying as a Civil Judge civil suits of every other kind. In considering the assistance to be provided for the conduct of the revenue and criminal business of each district, I have provided such a number of Assistants, Covenanted and Uncovenanted, as shall admit of part of the time of the Senior Covenanted Assistants being devoted to civil duties. As, generally speaking, the substituted Principal Sudder Ameen will afford the Judge as efficient assistance as he derived from the Subordinate Judge, he should not have occasion to employ the assistants more than will suffice to afford them adequate instruction in the forms and usages of, and the laws administered by, the Civil Courts.

The saving will be as follows:—

Reduction of Rs. 3,000 per annum in the pay of 11 Judges...	33,000
Difference between the pay of 11 Subordinate and Assistant Judges at Rs. 16,800 each, and 11 Principal Sudder Ameens at Rs. 6,000	1,18,000
Saving per annum Rs.....	1,51,800

It will not escape observation that these proposals will alter the relative positions of the judicial and executive officers. Hitherto, in the Madras Presidency, the salaries of Judges and Collectors have been equal. I now propose to reduce the salary of a Collector to Rs. 23,000 per annum, and Rs. 20,000 per annum, while the salaries of the Judges will be Rs. 28,000 per annum, and Rs. 25,000 per annum. Whatever it may have been hitherto, under the new Code of Procedure, the Judge will be in a position in every point of view superior to the Magistrate and Collector, and there seems to be no reason for perpetuating in the Madras Presidency a system opposed to the organization approved at the other Presidencies.

No. 81. From T. PYCROFT, Esq., Chief Secretary to the Government of Fort St. George; to H. RICKETTS, Esq., Commissioner for the Revision of Civil Salaries and Establishments throughout India, dated 24th November 1857, No. 1542.

SIR,

I have the honor to acknowledge the receipt of your Report on the District Judges and Subordinate Judges of Madras, and am instructed to offer the following remarks on the subject.

2. All the twenty District Judges at present receive a salary of Rupees 28,000 per annum, and you propose dividing them into 2 classes, placing nine in the first with salaries of Rupees 28,000, and eleven in the second with salaries of Rupees 25,000 per annum, in accordance with the arrangement which you have proposed for the North West Provinces, Bengal and Bombay. The nine Districts which possess Subordinate Judges have been selected for the superior class.

3. If this arrangement is approved of for the other Presidencies, this Government will not wish to oppose its introduction here, though in their opinion, the present system of placing all the salaries on an equality has advantages, by preventing one cause for the Judges desiring a change, and making them feel settled in their Courts until promotion takes them to the Sudr Udalut at the Presidency.

4. Having thus expressed its opinion on the proposed alteration of salary, the Government deems it advisable to notice briefly two points adverted to by you.

5. At page 2 you remark, "it might be supposed that in a country, (Malabar) six-sevenths of which was under a ryotwarry system, there could be but little business in the Civil Courts connected with land, but such is not the case." This observation shews, that the ryotwarry system is not understood, and it is important that no judicial arrangements should be made on mistaken principles or data. I am, therefore, desired to point out, that instead of any expectation that suits connected with land, will be few under a ryotwary system, a contrary result must be looked for wherever that system is carried out in its integrity, and the land tax is moderate. The ryotwarry system establishes absolute right in the soil, and leads to transfers by mortgage, sale and gift of valuable land and to the relations of landlord and tenant, so that frequent litigation is to be looked for under it, and this is found now in the Provinces of Malabar and Canara.

6. Secondly you remark, that your proposals regarding the salaries of District Judges will alter the relative positions of the Judicial and Executive Officers. "Hitherto," you observe, "in the Madras Presidency the salaries of Judges and Collectors have been equal, I now propose to reduce the salary of a Collector to Rupees 23,000 and 20,000 per annum, while the salaries of the Judges will be 28,000 and 25,000. Whatever it may have been hitherto, under the new Code of Procedure, the Judge will be in a position in every point of view superior to the Magistrate and Collector, and there seems to be no reason for perpetuating in the Madras Presidency, a system opposed to the organisation approved at the other Presidencies."

7. This very important subject will be treated of when considering the salaries proposed for Collectors and Magistrates, and Government desire it to be clearly understood, that in offering no objections to your proposed arrangements regarding the salaries of District Judges, which are to be left nearly on their old footing, they, confine themselves to the simple question of what is a fitting remuneration for the duties of a District Judge. So far from admitting that the Judicial Officer ought to be superior to the Executive, they would view the introduction of such a change of system with reluctance and apprehension. To the oriental mind the Officer who carries on the Revenue, Magisterial and general public duties of a Province, is its ruler and the direct representative of the Government. In accordance with his position so is his authority and power of usefulness, and the respect in which the Government is held, and it can therefore never be safe to lower him to a secondary rank.

8. In support of the change which you recommend, you remark that "there appears "no reason for perpetuating in the Madras Presidency, a system opposed to the organisation ap- "proved at the other Presidencies." Government would assent to this argument if the system followed elsewhere had been clearly found superior in its practical working. But the recent course of events does not induce them to prefer the system of Bengal and the North West Provinces, to that under which the Madras Districts have passed tranquilly through the late crisis, or make them wish to act upon ideas which though suited to European civilization are ill-understood in the East, and consequently lead to weakness and confusion. In Madras, most Collectorates until lately, were much superior to Judgeships in point of salary, and though latterly the remuneration of both offices has been equalised, the prestige which attached to the office of Collector and Magistrate remains, and that Officer is looked up to as the acknowledged head of his District and the representative of the Government. The tranquillity and right administration of the Province depend mainly on him, he is looked to on all emergencies as wielding the powers of the State, and with such responsibilities and duties, it is considered unjust to remunerate him lower than the District Judge. The impolicy of such a step, in placing the direct representative of Government in a subordinate position has been already alluded to.

9. With respect to Subordinate Judges you propose no alteration of salary, but recommend that they may be abolished and their places supplied by Principal Sudr Ameens. The question, therefore, ceases to be one exclusively of salary, and becomes connected with the re-organisation of the Judicial Department.

10. In support of your recommendation you remark, "that the Members of the Govern- "ment do not say that the Courts of the Subordinate Judges are necessary to the performance "of the business of the country. Their continuance is advocated solely on the grounds that "without them there would be no means of training Officers to Judicial functions. When the

"new Code of Procedure shall come into operation, these Officers will of course be dispensed "with. Such a school for training will not be allowed at Madras and disallowed elsewhere."

11. But it is observed, that Her Majesty's Commissioners expressed themselves prepared to retain the Subordinate Judges, should the Government of Madras consider the measure advisable, and its members cannot take on themselves the responsibility of recommending their abolition. In their view the question is not whether the Civil Service of Madras is to have any advantage in legal training, but what system or arrangement is best adapted for the Judicial business of the Empire.

12. It is presumed, that the District Judges are still to be supplied from a Covenanted service, as educated gentlemen with the requisite knowledge of the Native languages and the customs and laws of the people could seldom be found elsewhere to fill vacancies. This being the case, it appears of essential importance to give a portion of the service a legal training, so that they may not be unprepared when called upon to preside over a Civil and Session Court, and Government see no more advisable arrangement for this purpose than retaining the Subordinate Judges.

13. If your argument is entitled to weight that Subordinate Judges are not absolutely necessary, because the business of the Subordinate Courts can be accomplished through another agency, it would equally follow, that Covenanted Subordinates ought to be dispensed with in other Departments also. But when Government consider that heads of offices must possess peculiar knowledge and experience for the effective discharge of their duties, and that this knowledge can only be acquired by a long and practical training amidst the people, they cannot perceive, how subordinate appointments for the Covenanted service are to be done away with. Neither are they prepared to admit that this practical training is the only advantage to be gained by having Subordinate Judges. It appears to them a public advantage, that the important duties which devolve on the Subordinate Courts should be discharged, in the more onerous districts by officers of superior education and standing, and they would hesitate, in the position of India, to make so large a substitution of Native agency, as that which you recommend for European Officers of education and complete trustworthiness. Some persons of European descent would doubtlessly be found to fill the office of Principal Sudr Ameen, but Natives would have principally to be employed.

14. It is to be borne in recollection, that under the Judicial system now in force, no criminal case can reach a Session Judge for trial, except through the Subordinate Court. This makes it advisable, that the Judicial establishment should contain some Subordinate Judges, whom the local Government can employ either temporarily or permanently, in Districts where their services are found requisite. Government would also be unable without this class of Officers, to make any arrangements for separating a portion of the Civil service for Judicial duties, according to the plan which has been much advocated, since the grade of District Judge is only reached late in a Civilian's career.

15. It only remains to notice, the plan which you propose for qualifying young Civilians for the office of District Judge. You observe that one of the Assistant Collectors in each District, and in some Districts two Assistants will be at Head Quarters, and you propose that they should act as Assistants to the Judge as well as to the Collector, trying small suits, and undertaking some of the ordinary ministerial duties of the Court. The Government must doubt whether such a plan of serving under two superiors could work harmoniously, but at all events it could only tend in their opinion to supply the want which is now felt of some introduction to the duties of a Subordinate Judgeship. They must consider that so brief a training at the immediate outset of a Civilian's career, and one which would reach a few servants only and that by hazard, is not sufficient to produce the requisite number of qualified Judges. Government consider that for the present at all events, in the peculiar circumstances of the Indian services, this end must be looked for, by establishing grades of Judicial offices, with duties rising in importance and responsibility, as is done for a similar end in other Departments.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Ed. 28th

Judicial Department

No. 1542

H Ricketts Esqre

Sir,

I have the honor to acknowledge the receipt of your Report on the District Judges & Subordinate Judges of Madras, and am instructed to offer the following remarks on the subject.

2 All the twenty District Judges at present receive a salary of Rs 28000 per annum, and you propose dividing them into 2 ~~places~~ classes, placing nine in the first with salaries of Rs 28.000, & 11 in the second with salaries of Rs 25000 per annum, in accordance with the arrangement which you have proposed for the North West Provinces, Bengal and Bombay. The nine Districts which possess subordinate Judges have been selected for the superior class.

3 If this arrangement is approved of for the other Presidencies, this Govt will not wish to oppose its introduction here, though in their opinion the present

system of placing all the Salaries on an equality has advantages, by preventing one cause for ~~wishing for~~ the Judges desiring a change, and ~~keeping~~ making them ~~Judges~~ feel settled in their Courts until promotion takes them to the Sud Adawlut at the Presidency.

4 — Having thus expressed its opinion on the proposed alteration of salary, the Govt deems it advisable to notice briefly two points adverted to by you

5 — At Page 2 you remark "It might "be supposed that in a country (Malabar) six se-"-venths of which was under a Ryotwarry "system there could be but little busi-"ness in the Civil Courts connected with "land - but such is not the case" ~~to~~ This observation shows that the Ryotwarry system is not understood, & it is important that no judicial arrangements should be made on mistaken principles or data. I am therefore desired to point out that instead of any expectation that suits connected with land will

be few under a Ryotwarry system, ~~the~~ a contrary result must be looked for wherever that system is carried out in its integrity & the land tax is moderate. - The ryotwarry system establishes absolute right in the soil, & leads to ~~the~~ transfers by mortgage sale & gift ~~[illegible]~~ of valuable land & to the relations of landlord & tenant so that frequent litigation is to be looked for under it & this is found now in the provinces of Malabar & Canara

6 Secondly you remark that your proposals regarding the salaries of District Judges will alter the relative positions of the Judicial & executive officers - "Hitherto," you observe, "in the Madras "~~territory~~ Presidency the salaries of "Judges & Collectors have been equal "I now propose to reduce the salary of a Collector "to Rs 23000 & 20000 per annum while the "salaries of the Judges will be 28000 & 25000 "Whatever it may have been hitherto, under "the new Code of Procedure, the Judge will "be in a position in every point of view "superior to the Magistrate & Collector, & "there seems to be no reason for perpetuating "in the Madras Presidency a system opposed "to the organisation approved at the other Presidencies,

7 This very important subject will be treated of when considering the salaries proposed for Collectors & Magtes, and Govt desire it to be clearly understood that in offering no objections to your proposed arrangements regarding the salaries of District Judges, which are to be left nearly on their old footing, they confine themselves to the simple question of what is a fitting remuneration for the duties of a District Judge. - So far from admitting that the judicial officer ought to be superior to the Executive, they would ~~not~~ view the introduction of such a change of system with ~~the greatest~~ reluctance & apprehension. - To the Oriental mind the officer who carries on the Revenue, Magisterial & general public duties of a Province is its ruler & the direct representative of the Govt. - In accordance with his position so is his authority & power of usefulness, and the respect in which the Govt is held, & it can therefore never be safe to lower him to a secondary rank. -

8 - In support of the change which you recommend, you remark that "there appears

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"no reason for perpetuating in the Madras Presidency a system opposed to the organisation approved at the other Presidencies" Govt would assent to this argument if the system followed elsewhere had been clearly found superior in its practical working. - But the recent course of events does not induce them to prefer the system of Bengal & the N.W. Provinces to that under which the Madras District have passed tranquilly through the late crisis, or make them wish to [illegible] upon ideas which though suited to European civilization are ill understood in the East, & consequently lead to weakness & confusion. - In Madras most Collectorates until lately were much superior to Judgeships in point of salary, & though latterly the remuneration of both offices has been equalised, the prestige which attached to the office of Collector & Magte remains & that officer is looked up to as the acknowledged head of his District & the representative of the Govt. - The tranquillity & right administration of the Province depend mainly on him, he is looked to on all emergencies as wielding the powers of the State and with such responsibilities & duties

it is considered unjust to remunerate him lower than the District Judge. The impolicy of such a step, in placing the direct Representative of Govt in a subordinate position has been already alluded to. —

9/ — With respect to Subordinate Judges you propose no alteration of salary, but recommend that they may be abolished & their places supplied by Principal Sudr Ameens ~~[illegible]~~ The question therefore ceases to be one exclusively of salary, & becomes connected with the reorganisation of the Judicial Department.

10 — In support of your recommendation you remark "that the Members of the Govt do not "say that the Courts of the Subordinate Judges "are necessary to the performance of the business "of the country — Their continuance is advocated "solely on the grounds that without them there "would be no means of training officers to "Judicial Functions. When the new Code of Procedure "shall come into operation, these officers will "of course be dispensed with — Such a school "for training will not be allowed at Madras "& disallowed elsewhere"

11/ But ~~the Govt~~ it is observed that her Majesty's Commissioners expressed themselves prepared to retain the Subordinate Judges, should the Govt of Madras consider the measure advisable and its members cannot take on themselves the responsibility of recommending their abolition. — In their view the question is not whether the Civil Service of Madras is to have any advantage in legal training, but what system or arrangement is best adapted for the Judicial business of the Empire

2/ — It is presumed that the District Judges are still to be supplied from ~~the~~ a Covenanted Service, as ~~[illegible]~~ educated gentlemen with the requisite knowledge of the native languages & the customs & laws of the people would seldom be found elsewhere to fill vacancies — This being the case it appears of essential importance to give a portion of the Service a legal training, ~~[illegible]~~ so that they may not be unprepared when called upon to preside over a Civil & Session Court, and Govt see no more advisable arrangement for this purpose than retaining the Subordinate Judges.

13/ — If your argument is entitled to weight that ~~the~~ Subordinate Judges are not absolutely necessary, because the business of the Subordinate Courts can be accomplished through

another agency, it would equally follow that Covenanted subordinates ought to be dispensed with in other Departments also. But when Govt. consider that heads of offices must in ~~India~~ possess peculiar knowledge & experience for the effective discharge of their duties, and that this knowledge can only be acquired by a long & practical training amidst the people, they cannot perceive how subordinate appointments for the Covenanted service are to be done away with. Neither are they prepared to admit that this practical training is the only advantage to be gained by having Subordinate Judges. It appears to them a public advantage that the important duties ~~shou~~ which devolve on the Subordinate Courts should be discharged, in the more onerous districts by officers of superior education & standing, & they would hesitate, in the position of India, to make so large a substitution of native agency, (as that which you recommend ~~since the uncovenanted servants must be principally of this class~~) for European officers of education & complete trustworthiness. Some persons of European descent would doubtlessly be found to fill the office of Prin. Sudr Ameen, but natives would have principally to be employed.

14/ It is to be borne in recollection that under the judicial system now in force, no criminal can reach a Session judge for trial except through the subordinate Court. This makes it advisable that the Judicial Establishment should cont[illegible] some Subordinate judges whom the local Govt. can employ either temporally or permanently in ~~the~~ districts where their services are found requisite. Govt. ~~feel~~ would also be unable without this class of officers, to make any arrangements for separating a portion of the Civil Service for judicial duties, according to the plan which has been much advocated, since the grade of ~~Sessions~~ District Judge is only rea[illegible] late in a Civilian's career.

15 – It only remains to [illegible] the plan which you propose for qualifying young Civilians for the office of District Judge. You observe that one of the Assistant Collectors in each District and in some Districts two Assistants will be at Head Quarters, & you propose that they should act as Assistants to the Judge as well as to the Collector, trying small suits & undertaking some of the ordinary Ministerial duties of the Court. The Govt. must doubt whether such a plan of serving under two superiors could work harmoniously, but if it all even it could only tend in their opinion to supply the want which is now felt of some introduction to the duties of a Subordinate Judgeship. They must consider that so bre[illegible] at the immediate outset of a [illegible]

and one which would reached a few ~~[illegible]~~ servants only
& that by hazard, is not sufficient to produce
the requisite number of qualified judges. You
consider that in the peculiar circumstances of the Indian [illegible]
~~In~~ this end must be looked for, ~~[illegible]~~
by establishing grades of Judicial Offices, of with duties
rising in importance & responsibility, as is
done for a similar end in other Departments.

Ellis

For 6 St George
24 November 1857

and one which would reached a few [illegible]
& that by hazard, is not sufficient
the requisite number of qualified [illegible]
consider that in the peculiar circumstances of the Indian
In this end must be looked for, [illegible]
by establishing grades of Judicial Offices, of with
rising in importance & responsibility
[illegible]

For 6 Sth Le or [illegible]
24 November 185[illegible]

In Cons. 24th Nov:
Judicial - 1857 - Departt.

No. 1542

To
H. Ricketts Esqr.
Commissioner for the revision
of Civil Salaries

D/24 November/57