M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 575-576 Press
~~Mis.~~

46-48.

46-48.

Dated 9.5.1860 19 .

12/12

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, for the month of May 1860.

Read again the following papers:—

From the Government of India, dated 21st November 1859, No, 2320. and recorded in Proceedings, 15th December 1859, No. 1072.

From the Judges of the Supreme Court, dated 14th January 1860, and recorded in Proceedings, 23rd February 1860, No. 214.

Read also the following papers:—

No. 45. From J. R. BOYSON, Esq., Government Solicitor, Madras, to the Chief Secretary to Government, Fort Saint George, dated 10th April 1860, No. 317.

1. With reference to the Proceedings of Government noted in the margin, I have the honor to forward herewith a return shewing the number of True Bills found at each Criminal Sessions for Madras during the years 1857, 1858 and 1859; also a return shewing the amounts disbursed from the Supreme Court Fines Fund during the same period for costs of prosecutions in cases where the Clerk of the Crown, in accordance with the practice which has prevailed for some years past, has instructed Counsel to appear, the cases being of more than ordinary difficulty and importance.

Proceedings of Government in its Judicial Department, dated 23rd February 1860, *No.* 214.

2. The gross expenditure for such costs during the 3 years is Rupees 1,925-4-0, giving an average per year of Rupees 641-12-0, an average per Sessions of Rupees 160-7-0, and an average per case of Rupees 137-8-3$\frac{3}{7}$.

3. It will be seen, however, that the gross expenditure of Rupees 1,925-4-0 was incurred very unequally during the 3 years, the expenditure in 1857 being Rupees 149-0-0, in 1858 Rupees 533-4-0 and in 1859 Rupees 1,243-0-0, the expenditure in 1859 being by far the largest amount that has ever yet been disbursed on this account.

4. If the present practice is continued and Counsel is only instructed by the Clerk of the Crown in cases of more than ordinary difficulty and importance, and the above annual average of Rupees 641-12-0 be taken as an estimate for future expenditure, the annual calls upon the Supreme Court Fines Fund for costs of prosecutions will be about Rupees 641-12-0. If, however, the expenditure of 1859 be taken as the basis of calculation (and this I think will be the safer course, as the practice of the Clerk of the Crown's instructing Counsel appears to me to be becoming more frequent) the annual calls upon the Fines Fund for such costs will then be about Rupees 1,243-0-0.

5. Government will observe that the Judges of the Supreme Court in their letter to Government of the 14th of January last, stated that they considered it desirable that in every case Counsel should be instructed to conduct the prosecution.

6. The gross number of Bills found during the years 1857, 1858 and 1859 was 211, giving an average per year of about 70 and an average per Sessions of about 18, the number of Bills found in 1859 being 99, very considerably in excess of the numbers found in each of the 2 previous years.

7. If the course which the Judges of the Supreme Court consider desirable, *i. e.* of instructing Counsel in every case, were adopted, the annual calls on the Fines Fund for costs of prosecutions, taking as the basis of calculation the above mentioned average of 70 Bills per annum and Rupees 137-8-3$\frac{3}{7}$ as the average costs in each case, would amount to about Rs. 9,626-4-0; *or* taking the number of Bills found in 1859, viz., 99 as an estimate for the future and Rupees 137-8-3$\frac{3}{7}$ as the average costs in each case, the annual calls upon the Fines Fund for such costs, would then amount to about Rupees 13,614-4-3$\frac{3}{7}$. Expenditure upon this scale would scon exhaust the Fines Fund.

Return shewing the amounts disbursed from the Supreme Court Fines Fund for Costs of Prosecutions at the Criminal Sessions for Madras, during the years 1857, 1858 *and* 1859.

					R.	A.	R.	A.
1857	4th Sessions.	The Queen *against* Ponnen and another.	For Burglary and Larceny				149	0
1858	1st Sessions.	The Queen *against* Veerasawmy and others.	For Larceny, &c...		174	4		
	Do.	The Queen *against* C. Kistnamah Charry.	For breaking and entering		153	8		
	2nd Sessions.	The Queen *against* C. Moonesawmy Naidoo & others	For conspiracy ...		205	8	533	4
	1st Sessions.	The Queen *against* Abdool Rymon.	For Larceny by a servant.....		115	8		
	Do.	The Queen *against* Vencataramiah.	For Larceny		112	8		
	3rd Sessions.	The Queen *against* Sadasevan.	For Larceny		122	4		
	Do.	The Queen *against* Soobbah Reddy and another.	For Larceny		112	12		
1859	Do.	The Queen *against* John Firgusion.	For cutting and wounding		112	8		
	4th Sessions.	The Queen *against* Patrick Sullivan.	For Larceny		122	4		
	Do.	The Queen *against* Soobroya Chetty and others.	For Embezzlement		120	4		
	Do.	The Queen *against* Aroonachella Nauttan.	For obtaining money under false pretences...		132	12		
	Do.	The Queen *against* Chadyan and others.	For Larceny, &c...		187	8		
		The Queen *against* Kistniah.	For Larceny		104	12	1,243	0
				Company's Rupees...			1,925	4

Giving an average per year of Rupees..... 641 12 0
per Sessions of " 160 7 0
and per Case of " 137 8 3½

(Signed) J. R. BOYSON,
Government Solicitor.

Proceedings of the Madras Government, Judicial Department, for the month of May 1860.

Return shewing the number of True Bills found at each Criminal Sessions for Madras, during the years 1857, 1858 *and* 1859.

1857	True Bills found at	1st Sessions	No.	18.
	do.	2nd do.	,,	10.
	do.	3rd do.	,,	22.
	do.	4th do.	,,	15.
				—65.
1858	do.	1st do.	,,	17.
	do.	2nd do.	,,	10.
	do.	3rd do.	,,	9.
	do.	4th do.	,,	11.
				—47.
1859	do.	1st do.	,,	19.
	do.	2nd do.	,,	23.
	do.	3rd do.	,,	26.
	do.	4th do.	,,	31.
				—99.
			Total...	211

giving an average per year of about 70
and per Sessions of about 18.

(Signed) J. R. BOYSON,
Government Solicitor.

No. 46. From R. P. HARRISON, Esq., Accountant General, to the Chief Secretary to Government, Judicial Department, Fort Saint George, dated 2nd May 1860, No. 4.

As directed by the Order of Government in the Judicial Department No. 214, dated 23rd February last, I have the honor to forward 2 statements revised up to 14th ultimo, by the Clerk of the Crown and the Government Solicitor, one shewing the further additions made to the Fines Fund of the Supreme Court, in continuation of the return furnished with Memorandum from this Office of the 2nd June 1853, and the other shewing the sums paid out of it as costs of prosecution. The amount at credit of the Fund on the above named date is Rupees 28,482-7-0.

The amount of receipts from May 1801 to 14th April 1860, is.....	Rs.	31,325	13 0
The amount of disbursements from January 1852 to do., is.	,,	2,843	6 0
	Rs...	28,482	7 0

2. The Sub Treasurer has been instructed by me (in letter No. 2496 dated 24th ultimo) to open in his accounts, from the 1st instant, the commencement of the official year 1860-61, the account "Fines Fund of the Supreme Court;" and I have called upon the Clerk of the Crown (in letter No. 2502, dated 24th ultimo) to enter the heading "Fines Fund of the Supreme Court" in all audited bills connected with this account before presentation at the General Treasury for discharge, and, in remitting money thereto connected with this account, to inform the Sub Treasurer that the money appertains to the Fund.

3. The amount standing at credit of the Fund, together with the sales proceeds of the articles referred to in the Sub Treasurer's letter to your address No. 390, dated 20th March last, communicated to me with the Order of Government in the Judicial Department No. 436, dated 13th ultimo, will be transferred to credit of the new account.

4. The Deputy Clerk of the Crown in his letter dated 14th ultimo, states that "no unclaimed "property is ever received by the Crown Office."

5. In explanation of the delay in submitting the accompanying revised statements, I beg to state that the Government Solicitor, in communication with whom I was required to revise them, returned the statements revised with his letter dated 25th ultimo, which was received here on the 27th ultimo only.

Statement shewing the sums disbursed as Costs of Prosecutions out of the Supreme Court Fines Fund paid into the General Treasury by the Clerk of the Crown, commencing from January 1852 to 14th April 1860.

				R.	A.	P.	R.	A.	P.	R.	A.	P.
In February	1852...	...	...	...	...	...	.....					
,, May	,, ...	...	...	...	...	...	12	12	0			
,, July	,, ...	...	...	...	...	...	3	3	0	6	6	0
,, June	1853...	...	...	...	...	...	197	0	0			
,, July	,, ...	...	...	...	...	...	122	4	0	15	15	0
,, August	,, ...	...	...	...	...	...	6	6	0			
,, November	,, ...	...	...	...	...	...	3	3	0			
,, February	1854...	...	...	...	...	...	194	12	0			
,, May	,, ...	...	...	...	...	...	3	3	0			
,, July	,, ...	...	...	...	...	...	3	3	0	523	9	0
,, October	,, ...	...	...	...	...	...	9	9	0			
,, February	1855...	...	...	...	...	...	3	3	0			
,, October	,, ...	...	...	...	...	...	3	3	0	19	2	0
,, February	1856...	...	...	...	...	...	427	9	0			
,, May	,, ...	...	...	...	...	...	6	6	0			
,, October	,, ...	...	...	...	...	...	15	15	0	430	12	0
,, January	1857...	...	...	...	...	...	3	3	0			
,, May	,, ...	...	...	...	...	...	3	3	0			
,, July	,, ...	...	...	...	...	...	6	6	0	25	8	0
,, November	,, ...	...	...	...	...	...	149	0	0			
,, January	1858...	...	...	...	...	...	327	12	0			
,, May	,, ...	...	...	...	...	...	205	8	0	486	5	0
,, July	,, ...	...	...	...	...	...	3	3	0			
,, February	1859...	...	...	...	...	...	228	0	0			
,, May	,, ...	...	...	...	...	...	6	6	0	436	11	0
,, August	,, ...	...	...	...	...	...	469	12	0			
,, November	,, ...	...	...	...	...	...	120	4	0			
,, ,,	,, ...	...	...	...	...	...	132	12	0			
,, ,,	,, ...	...	...	...	...	...	187	8	0			
,, January	1860...	...	...	...	...	...	104	12	0			
										1,021	6	0
												2,965	10	0

FORT SAINT GEORGE,
ACCOUNTANT GENERAL'S OFFICE,
2nd May 1860.

(Signed) R. P. HARRISON,
Accountant General.

Statement shewing the amount of fines paid into the General Treasury by the Clerk of the Crown, and credited in the accounts of the Sub Treasurer from January 1853 to 14th April 1860, in continuation of the statement from May 1801 to December 1852, submitted with the letter from the Accountant General to Government dated 2nd June 1853.

				R.	A.	P.	R.	A.	P.	R.	A.	P.
In July	1853...	...	...	...	...	.....	461	11	9			
,, October	,, ...	...	...	...	...	.....	11	4	0			
,, ,,	,, ...	...	...	...	...	.....	26	14	3			
,, December	,, ...	...	...	...	...	.....	28	0	0			
,, February	1854...	...	...	...	...	.....	1	8	0			
,, April	,, ...	...	...	...	...	.....	20	0	0	549	6	0
,, May	,, ...	...	...	...	...	.....	42	0	0			
,, July	,, ...	...	...	...	...	.....	9	0	0			
,, August	,, ...	...	...	...	...	.....	15	4	0			
,, October	,, ...	...	...	...	...	.....	20	0	0			
,, November	,, ...	...	...	...	...	.....	40	0	0			
,, April	1855...	...	...	...	...	.....	50	0	0	176	4	0
,, July	,, ...	...	...	...	...	.....	10	0	0			
,, January	1856...	...	...	...	...	.....	0	4	0			
,, April	,, ...	...	...	...	...	.....	2	0	0	12	4	0
,, July	,, ...	...	...	...	...	.....	5	0	0			
,, October	,, ...	...	...	...	...	.....	2	0	0			
,, April	1857...	...	...	...	...	.....	6	0	0	13	0	0
,, January	1858...	...	...	...	...	.....	.....			10	0	0
,, October	,, ...	...	...	...	...	.....	102	0	0			
,, November	,, ...	...	...	...	...	.....	40	0	0			
,, January	1859...	...	...	...	...	.....	1	8	0			
,, April	,, ...	...	...	...	...	.....	0	8	0	144	0	0
,, January	1860...	...	...	...	...	.....	15	0	0			
,, ,,	,, ...	...	...	...	...	.....	4	0	0	19	0	0
												923	14	0

(Signed) R. P. HARRISON,
Accountant General.

FORT SAINT GEORGE,
ACCOUNTANT GENERAL'S OFFICE,
2nd May 1860.

No. 47. ORDER THEREON, 9th May 1860, No. 575.

Resolved that copies of the letters from the Judges of Her Majesty's Supreme Court, from the Government Solicitor, and from the Accountant General, be forwarded to the Government of India.

(Signed) T. PYCROFT,
Chief Secretary.

No. 48. To the Secretary to the Government of India, Home Department, dated Fort Saint George, 9th May 1860, No. 576.

I have the honor to acknowledge your letter, 21st November last, No. 2320, communicating an extract from a paper, in which Mr. Advocate General Ritchie suggested that the Govern-

ment should sanction the practice of the Judges of the Supreme Court, directing the Clerk of the Crown to procure the attendance of some of the Junior Counsel, to conduct such prosecutions as, the presiding Judge might think, should be entrusted to Counsel, and to pay moderate fees for such attendance out of the Fines Fund. This Government were requested to obtain the opinion of the Judges of the Supreme Court, and to report, whether such an arrangement, in regard to ordinary criminal cases tried by the Supreme Courts, is required and would be likely to prove beneficial at Madras, and what would be the probable annual cost incurred by its adoption.

2. The questions were accordingly submitted for the opinion of the Judges of the Supreme Court. Their Honors stated that, convinced of the impropriety of the practice of imposing upon the Judge presiding at criminal trials the task of conducting the case for the prosecution, the Judges of the Supreme Court had been in the habit of directing the Clerk of the Crown to deliver Briefs to Counsel in cases of more than ordinary difficulty or importance, not prosecuted by the Advocate General, and the expenses so incurred (about 100 Rupees in each case) had hitherto been defrayed out of the Fines Fund. They considered it desirable that in every case Counsel should be instructed to conduct the prosecution, and, unless some Officer should be appointed with the more general functions of a Public Prosecutor, they thought that the duty of delivering instructions to Counsel might be satisfactorily left with the Clerk of the Crown. They added that, if the practice of instructing Counsel in every case, should be adopted, the cost might be somewhat diminished.

Letter dated 14th January 1860, *in Proceedings 23rd February* 1860, *No.* 214.

3. As regards the probable annual cost incurred by the arrangement, the Government Solicitor has submitted a statement showing the amounts disbursed from the Fines Fund in 1857, 58, and 59, for costs of prosecution in cases where Counsel appeared. It will be seen that the gross expenditure, Rupees 1,925-4-0 was incurred very unequally during the three years, the expenditure in 1859 being by far the largest amount that has ever yet been disbursed on this account. The annual average is Rupees 642. The Government Solicitor, however, remarks that the practice of the Clerk of the Crown, instructing Counsel, appears to be becoming more frequent, and he thinks that it would be the safer course to take the amount, Rupees 1,243, disbursed in 1859, as the estimate for future annual expenditure.

Letter, 10th April 1860, *No.* 317, *and 2 Statements annexed.*

In 1857...	...	... *Rupees*	149 0 0
,, 58...	...	... ,,	533 4 0
,, 59...	...	... ,,	1,243 0 0
		Rupees	1,925 4 0

4. With reference to the opinion expressed by the Judges of the Supreme Court that it would be desirable that in every case Counsel should be instructed to conduct the prosecution—Mr. Boyson proceeds to compute the annual cost in the event of that course being adopted. According to the Statement of sums disbursed from the Fines Fund referred to in the preceding paragraph, the average costs per case is Rupees 137-8. In the Statement, also submitted by the Government Solicitor, showing the number of True Bills found at each Criminal Session during the same three years, the annual average is 70 True Bills. With these averages, the annual estimate resulting (Rupees 137½ × 70) is Rupees 9,626. But taking the number of True Bills in 1859, viz., 99 as the basis of calculation, the annual expense will be (Rupees 137½ × 99) Rupees 13,614. Expenditure at either of these rates would soon exhaust the Fines Fund. The amount of this Fund as reported by the Accountant General is about Rupees 28,500.

			True Bills.
In 1857...	...	...	65
,, 1858	...	...	47
,, 1859...	...	...	99
			211

Letter 2nd May 1860, *No.* 4.

Proceedings of the Madras Government, Judicial Department, for the month of May 1860.

5. This Government are of opinion that the mode now followed may be continued, at all events pending any arrangements that may have to be carried out in connection with the amalgamation of the Supreme and Sadr Courts. The amount of the Fines Fund, as already said, is about Rupees 28,500. The interest at 5 per cent., Rupees 1,425 per annum, would not cover the expense of a Public Prosecutor, or even of allowing Counsel to be instructed on *all* Criminal-trials, which, moreover, considering how petty many of them are, cannot be considered necessary.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

1/58

Judicial Departt.

Proceedings of the Madras Government.

Read again the following letters:

From the Govt. of India,
21st November 1859, No. 2320. Recorded in Proceedings, 15th December 1859. No. 1672.

— " — the Judges of the Supreme Court, — 11th January 1860. —— do —— 23d. Feby. 1860, No. 214.

Read also the following letters:

From the Government Solicitor — (Here enter 10 April 1860, No. 317.)
—— " —— Accountant General. — " — " — 2nd May. No. 4.

Order thereon 9th May 1860, No. 575.

Resolved that copies of the letters from the Judges Her Majesty's Supreme Court, and from the Government Solicitor be forwarded to the Govt. of India, and that the following letter be dispatched. —

+ B from the Asst. Secy.,

To the Secretary to the Govt. of India. —— (Here enter

Judicial.

No. 576.

The Secretary to the Govt. of India - Home Dept.

Sir.

I have the honor to acknowledge your letter, 21st Novr. last No. 2320, communicating an extract from a paper, in which Mr. Advocate General Ritchie suggested that the Govt. sanction the practice of the Judges of the Supreme Court, directing the Clerk of the Crown to procure the attendance of some of the Junior Counsel, to conduct such prosecutions as the presiding Judge might think, should be entrusted to Counsel, and to pay moderate fees for such attendance out of the Fines Fund. This Govt. were requested to obtain the opinion of the Judges of

Supl.

48

10 enclosures.

Jud. Dept. 6 May 1870 No. 576.

Letter to Govt. of India, Home Dept. No. 22 of 1870.

Rec'd 16 May 1870.

Proceedings of Govt. of India, Home Dept. 20 May 1870. No. 172.

Supreme Court Fines Fund

45 of 45

C2 May
RB.

of the Supreme Courts &
to report, whether such
aids arrangement, in
regards to ordinary cri-
minal cases tried by
the Supreme Courts, is
required & would be like-
ly to prove beneficial at
Madras — & what would
be the probable annual
cost incurred by its a-
doption.

The questions were ac-
cordingly submitted
for the opinion of the
Judges of the Supreme
Court. Their Honors
stated that, convinced
of the impropriety of
the practice of impo-
sing upon the Judge
presiding at criminal
trials the task of con-
ducting

Letter dated 14th Sanry.
1860 — in Proceedings
23rd Feby. 1860 No. 214.

conducting the case for
the prosecution, the Judges
of the Supreme Court as
had been in the habit
of directing the Clerk of
the Crown to deliver briefs
to Counsel in cases of more
than ordinary difficulty
or importance, not pro-
secuted by the Advocate
General — & the escpenses
so incurred (about 100 rs.
fees in each case) had hi-
therto been defrayed out
of the Fines Fund. They con-
sidered it desirable that
in every case Counsel
should be instructed
to conduct the prosecu-
tion — & unless some Officer
should be appointed
with the more general
functions of a Public
Prosecutor, they thought
that the duty of deliver-
ing instructions to Coun-
sel

Counsel ~~may~~ might be satisfactorily left with the Clerk of the Crown. They added that, if the practice of instructing Council in every case, should be adopted, the cost might be somewhat diminished.

As regards the probable annual cost incurred by the arrangement, the Govt. Solicitor has submitted a statement showing the amounts disbursed from the Fines Fund in 1857-58, & 58-59 for costs of prosecution in cases where Counsel appeared. It will be seen that the gross expenditure, Rs. 1,925.4.. was incurred very unequa[illegible]

Letter, 10th April 1860 No. 317 & 2 Statements annexed.

In 1857 — 149----
" -58 — 533.42.
" -59 — 1243----
Rs 1,925.4.3

unequally during the three years — the expenditure in 1859 being by far the largest amount that has ever yet been disbursed on this acct. The annual average is Rs. 642. The Govt. Solicitor, however, remarks that the practice of the Clerk of the Crown instructing Counsel, appears to be becoming more frequent — & he thinks that it would be the safer course to take the amount, Rs. 1,243, disbursed in 1859, as the estimate for future annual expenditure.

With reference to the opinion expressed by the Judges of the Supreme Court that it would

would be desirable that
in ~~every~~ case Counsel
should be instructed
to conduct the prose-
cution. Mr. Boyson
proceeds to compute
the annual cost in the
event of that course being
adopted. According to
the statement of sums
disbursed from the Fines
Fund referred to in the
preceding para, the
average cost of case is
Rs. 137..8.. In the State-
ment also submitted
by the Govt. Solicitor,
showing the number of
True Bills found at
each Criminal Sessions
during the same three
years, the annual a-
verage is 70 True Bills.
With these averages,
the

Letter, 2nd May 1860, No. 4.

the annual estimate pe=
=sulting (Rupees 137½ × 70.)
is Rupees 9,626 - But taking
the number of True Bills in
1859 - Viz - 99 as the basis
of calculation, the annual
expense will be (Rupees 137½ × 99)
Rupees 13,614 - Expenditure
at either of these rates would
soon exhaust the Fines
Fund - The ~~present~~ amount
of this Fund has ~~not~~ yet
~~been~~ reported by the
Accountant General - but
~~it must be somewhere~~
28500
is about Rupees ~~30,000 (thirty~~
~~thousand~~

5 This Govt. are of
opinion that the mode
now followed may be con=
=tinued, at all events pending
any arrangements that may
have to be carried out in con=
=nection with the amalgamation
of

of the Supreme and Sadr
Courts. The amount of
the Fines fixed as al=
=ready said ~~may be taken~~ is
about ~~at~~ Rupees ~~24000~~ 28500. The
interest at 5% Rupees ~~500~~ 1425 per
annum, would not cover
the expense of a Public
Prosecutor, or even of allow=
=ing Counsel to be instructed
on all Criminal trials
which, moreover, consider=
=ing how petty many of
them are, cannot be consi=
=dered necessary.

Fort St. George
9th May 1860.

Letter from the
Govt. Solicitor & Acct.
General with Enclo=
s to follow.

10 May

Judicial 1860 Dispatch

No. 576.

To
The Secy: to the Govt of
India

8/9 May 1860—

Send Letter to Govt 22d June
No. 22 of 1860.
Resp. to No. 35 of 1860.

45 to 48

C2. 4th
128.