

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1384	Press
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*Proceedings of the Madras Government, Judicial Department,
25th August 1862.*

No. 258. Read the following Extract from the Proceedings of the Government of India, in the Financial Department, dated 18th July 1862, No. 5,113.

Extract from the Proceedings of the Government of India, in the Home Department, No. 3,136, under date the 26th June 1862.

Read letter, No. 64, dated the 10th May, from the Government of Bombay, soliciting sanction for six months to an arrangement for disposing of the arrears of Civil business on the files of the inferior Courts of that Presidency, attended with an aggregate additional expense of Rupees 20,646, and intimating that the amount is not provided for in the Budget of the current year.

* The proposed arrangement consists in the provision for six months to each of the ninety-three Native Judges' Courts in the Presidency, of an additional Establishment of three Carpoons at Rupees seven each, and four Peons at Rupees four each. The Governor General in Council believes that the Carpoons are mere ministerial officers, and having regard to the small salary which it is proposed to give to them, he considers that they can be but little more than Copyists or Clerks of an inferior order.

2. Such being the case, His Excellency in Council does not feel satisfied as to the manner in which it is intended that the Carpoons should assist the Judges in disposing of the cases before them. They can exercise no direct judicial functions, neither can they now assist in the examination of the witnesses, or the documentary evidence of the parties, or in the decision of the case or in preparing the Judgment, which must be written by the Judge with his own hand.

3. If it were indeed still allowable, as was formerly the practice, to permit the evidence of witnesses in two or more cases to be taken in different parts of the Court House at the same time, the Governor General in Council could understand in what manner the employment of one or two extra Clerks would assist the Court in disposing of the cases brought before it: but this practice is strictly prohibited by the new Code of Civil Procedure, under which comparatively little is left to be done by the ministerial Officers of the Courts.

4. On the other hand, the Governor General in Council observes that Judicial arrears are so great an evil and so sure a source of increase of expenditure, the necessity for increase of expenditure becoming proportionably greater the longer it is delayed, inasmuch as arrears are always apt to beget arrears by the tendency they have to foster litigation, that His Excellency in Council is disposed to sanction the expenditure applied for, in reliance on the experience and the local knowledge of the Sudder Judges at Bombay that it will be effective in bringing about a reduction of the existing arrears.

In giving, however, authority to the Government of Bombay to incur the proposed outlay, the Governor General in Council would call its attention to the doubt entertained by His Excellency in Council as indicated above, whether the additional Carpoons can be of any real use in assisting to reduce the arrears, unless they are employed in a manner not consistent with the system of Judicial Procedure prescribed by recent legislation.

Ordered, that the above-mentioned letter* from the Government of Bombay and a copy of this Resolution be forwarded to the Financial Department, for further consideration and orders, in respect of the addition required to the Budget of the Government of Bombay.

* To be returned.

*Proceedings of the Madras Government, Judicial Department,
25th August 1862.*

From the Acting Secretary to the Government of Bombay, to the Secretary to the Government of India, Home Department, No. 64, dated Bombay Castle, 10th May 1862.

Judicial Department.

The Judges of the Sudder Adawlut have brought to the notice of Government the accumulation of heavy arrears of suits on the files of the Native Judges in every Zillah throughout the Bombay Presidency, as shewn in the accompanying Statement. Most of the suits were filed during the latter part of April and beginning of May 1861, and the Judges attribute the cause of the increase exclusively to the fact of Act XIV. of 1859 having been at first fixed to come into operation on the 5th May 1861.

2. As the arrears are almost entirely attributable to the circumstance that creditors have been forced into Court, the Judges infer that in the vast majority of the suits there will be no question at issue between the Plaintiff and Defendant, and that therefore all the Court will have to do will be to pass a decree either on an *ex parte* hearing or on the Defendant's admission. Since moreover the parties would, in the bulk of these suits, but for the reason above mentioned, have abstained from litigation for longer or shorter periods, if not entirely, and would, probably in many cases, have preferred the execution of new bonds to the institution of suits (if the want of stamped papers of the requisite values about the month of April 1861 had not prevented this course) it may be further inferred, the Judges observe, that when a formal decree shall have been obtained it will usually be looked on by the parties only as giving legal continuance to the claim previously existing, and as a general rule, will not be put in execution against the debtor until after the lapse of a considerable time.

3. On these grounds, the Judges conclude that the purely judicial investigation involved in the decision of these suits will be comparatively very little, and also that the labor entailed on the Courts in executing the decrees passed in them, will be much less than in ordinary cases, and this reasoning has led the Judges to the belief that by simply increasing the establishments of the Courts of primary jurisdiction a much larger number of these suits will be decided and disposed of than would be possible in the case of ordinary litigation, and they have accordingly recommended that an additional establishment of three Carpoons at Rupees seven each, and four Peons at Rupees four each to each Native Judge's Court in the Presidency should be sanctioned for six months. There being ninety-three Courts under this Presidency, the increased monthly expenditure for which the Judges request sanction will be Rupees 3,441.

4. The Judges believe that the increased expenditure suggested will be met by the increased income of the Ameen's Fund (since a new experimental scheme was introduced in June 1860 consequent on which the receipts have in most places been larger than before) and by the additional sums which will be credited to that Fund on account of Batta to be levied in the additional suits disposed of.

5. I am therefore directed by His Excellency the Governor in Council to submit the arrangement for the favourable consideration of the Government of India, and to request that a grant of Rupees 20,646 may be provided in the Budget of 1862-63.

6. The plan of increasing the number of Moonsiffs was duly considered, but the Judges rejected this proposal, as trained and experienced persons qualified to fill the office of Moonsiff cannot be found in sufficient numbers to meet the emergency, and the expense would have been far greater, probably three-fold that now suggested.

P. S.—It appears unnecessary to submit a contrasted Statement of this temporary increase now asked for.

*Proceedings of the Madras Government, Judicial Department,
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TABULAR STATEMENT shewing the aggregate arrears of original suits in the following Zillahs on the 1st June 1861, the total number decided up to 31st December last, and the arrears on the 1st January 1862.

Zillahs.	Courts.	Arrears on the 1st June 1861.	Number of Suits decided up to 31st December 1861, exclusive of those contested.	Number of contested Suits decided up to 31st December 1861.	Total No. of Suits decided up to 31st December 1861.	Arrears on the 1st January 1862.
Ahmedabad including Kaira.	Principal Sudder Ameen, Ahmedabad	1,408	1,135	56	1,191	1,254
	Sudder Ameen, Ahmedabad	1,527	1,285	59	1,344	1,461
	Do. at Dholka	1,229	1,278	50	1,328	1,700
	Moonsiff at Ahmedabad	1,669	1,702	23	1,725	2,027
	" Dholka	602	762	11	773	0
	" Dhundooka	1,563	1,486	107	1,593	1,210
	" Gogo	941	915	103	1,018	781
	" Veerungaum	809	164	7	171	1,784
	Sudder Ameen, Kaira	1,129	1,583	28	1,611	2,396
	Moonsiff at Ditto	1,350	1,193	21	1,214	2,381
	" Neriad	3,779	1,415	82	1,497	3,572
	" Boreaud	2,616	1,515	18	1,533	2,655
	" Oomrut	3,587	1,381	21	1,402	3,728
	" Mamda	2,149	1,045	7	1,052	2,463
	" Kupperwunj	2,123	1,362	42	1,404	2,271
		26,481	18,221	635	18,856	29,683
Surat including Broach.	Principal Sudder Ameen, Surat	1,195	1,049	121	1,172	956
	Moonsiff at Ditto	1,473	1,556	141	1,697	1,394
	" Ditto	1,739	1,630	123	1,753	1,703
	" Bulsar	452	1,164	131	1,598	376
	" Oolpar	2,000	1,735	135	1,870	1,257
	" Bardole	1,276	1,311	67	1,378	258
	Sudder Ameen at Broach	1,362	2,811	60	2,871	1,781
	Moonsiff at Ditto	868	1,560	51	1,611	1,947
	" Ditto	466	1,545	67	1,612	1,278
	" Auklesur	755	1,312	77	1,389	1,411
Tanna including Batagerry.	" Hansote	766	1,432	78	1,510	836
	" Jumboosur	2,857	1,945	217	2,162	3,155
		15,209	19,350	1,273	20,623	16,352
	Principal Sudder Ameen, Tanna	240	518	71	589	712
	Moonsiff at Tanna	909	694	65	759	238
	" Bhewndy	2,451	906	174	1,080	2,398
	" Cullian	2,303	1,149	51	1,200	2,127
	" Alibagh	1,221	1,366	268	1,634	1,700
	" Dhanoo	911	703	159	862	1,051
	" Mhar	1,240	1,125	104	1,229	1,523
	" Peun	2,086	1,388	185	1,573	1,879
	" Basseen	1,139	1,152	81	1,233	467

Proceedings of the Madras Government, Judicial Department,
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Tanna including Rutnagherry.	Moonsiff at Oorun	337	552	107	659	184
	" Moorbaur.	1,288	1,073	42	1,115	842
	" Panwell.	231	1,036	96	1,132	1,063
	Sudder Ameen, Rutnagherry... ..	3,655	1,819	134	1,953	3,484
	Moonsiff, Scindiadroog.	2,764	1,769	93	1,862	1,157
	" Viziadroog.	2,012	2,099	97	2,196	980
	" Unjunwell.	2,540	1,420	50	1,470	1,256
	" Sooverndroog.	1,958	1,257	56	1,313	1,441
		27,284	20,026	1,833	21,859	22,500
Poona.	Principal Sudder Ameen, Poona	641	646	89	735	383
	Sudder Ameen, ditto.	1,246	716	35	751	1,395
	Moonsiff ditto.	1,092	604	21	625	1,224
	" ditto.	1,109	752	83	835	1,004
	" ditto.	1,061	773	58	831	679
	" Joonair	3,089	3,404	73	3,477	3,170
	" Khair.	1,828	1,112	37	1,149	1,455
	" Tallegaum	539	1,383	90	1,473	2,606
	" Barramuttee.	1,221	1,121	86	1,207	673
	" Wurgaon	1,843	1,446	40	1,486	931
Sholapore.	" For general duty at Wurgaon	359	1,657	23	1,680	121
		14,028	13,614	635	14,249	13,645
	Sudder Ameen, Sholapore	1,841	1,508	48	1,556	1,338
	Moonsiff at Ditto.	971	812	47	859	622
	" Barsee	2,665	1,562	155	1,717	2,430
	" Marah	1,960	1,813	73	1,886	1,402
	" Hipperga.	3,384	1,889	66	1,955	2,656
		10,821	7,584	389	7,973	8,448
Ahmednugur.	Principal Sudder Ameen, Ahmednugur	1,753	1,082	95	1,177	761
	Sudder Ameen, Seroor.	2,024	1,123	46	1,169	1,354
	ditto Nassick	2,263	425	26	451	0
	Moonsiff, Seroor (Extra)	563	1,079	66	1,145	548
	" Patoda.	4,503	1,714	66	1,780	4,185
	" Ditto (Extra)	1,565	1,288	78	1,366	0
	" Sungumnair.	2,319	1,300	44	1,344	1,516
	" Ditto (Extra)	217	1,524	39	1,563	1,268
	" Newasa	4,206	1,207	41	1,248	3,373
	" Ditto (Extra)	0	319	33	352	1,407

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Ahmednugur.	Moonsiff, Chandore.	811	1,615	57	1,672	2,382
	" Ditto.	773	1,407	35	1,442	1,998
	" Simnair.	4,457	2,786	97	2,883	4,147
	" Jamkher	3,920	1,637	71	1,708	4,064
	" Nassick	2,374	1,523	59	1,582	2,398
	" Ditto.	0	825	51	876	2,500
	" Rahoree.	3,470	1,293	74	1,367	2,901
	" Nuggur.	1,417	1,236	115	1,351	1,136
	" Ditto.	1,609	851	48	899	0
		38,244	24,234	1,141	25,375	35,738
Khandeish.	Principal Sudder Ameen.	1,211	1,528	17	1,545	2,427
	Moonsiff, Yawul.	1,451	1,485	187	1,672	1,830
	" Jamnair.	1,393	1,600	70	1,680	842
	" Bhurgaon	762	1,552	70	1,602	846
	" Mallegaum.	1,798	1,544	72	1,616	1,111
	" Tengora.	799	1,446	55	1,501	1,079
	" Nundoorbar.	1,675	1,344	65	1,409	1,114
	" Amulnair.	1,806	1,381	28	1,409	2,437
		10,897	11,870	564	12,434	11,766
Dharwar.	Principal Sudder Ameen.	2,577	1,421	90	1,511	1,869
	Sudder Ameen, Hooblee.	1,350	1,323	72	1,395	1,170
	" Bagulkote.	1,480	1,317	103	1,420	1,686
	Moonsiff, Belgaum.	1,602	1,425	113	1,538	3,504
	" Haveree	3,293	3,284	110	3,391	1,591
	" Chikodee	1,890	1,749	199	1,948	611
	" Sounduttee.	2,642	1,562	82	1,644	2,763
	" Roan.	1,087	928	58	986	1,182
		15,921	13,006	827	13,833	14,376

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25th August 1862.

ABSTRACT.

	Arrears on the 1st January 1861.	No. of Suits decided up to 31st December 1861, exclusive of those contested.	No. of contested Suits decided up to 31st December 1861.	Total No. of Suits decided up to 31st December 1861.	Arrears on the 1st January 1862.
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Surat ditto Broach...	15,209	19,350	1,273	20,623	16,352
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Poona...	14,028	13,614	635	14,249	13,645
Sholapore...	10,821	7,584	389	7,973	8,448
Amednuggur...	38,244	24,234	1,141	25,375	35,738
Khandeish...	10,897	11,870	564	12,434	11,756
Dharwar...	15,921	13,006	827	13,833	14,376
Total...	1,58,883	1,27,906	7,297	1,35,202	1,52,499

SUDDER DEWANEE ADALUT, BOMBAY,
The 18th February 1862.

(Signed) R. PINHEY,
Acting Registrar.

FINANCIAL DEPARTMENT, FORT WILLIAM, THE 18TH JULY 1862.

RESOLUTION.—The Governor General in Council is pleased to allow the above expense, amounting to Rupees 20,646, to be added to the Bombay Budget for 1862-63, under F. III, "Law and Justice," and observes that should the doubts expressed by Government in the Home Department, induce a revision of the proposed outlay, the probable expense likely to be incurred in the year may be reported to this Department.

His Excellency in Council further desires that the 3rd paragraph of the Resolution, in the Home Department, which concludes with a remark that under the new Code of Civil Procedure "comparatively little is left to be done by the ministerial officers of the Courts" in the adjudicating of cases, be communicated to the Governments of Madras, Bengal and North-Western Provinces, with a request that they will report how far reductions in ministerial Establishments are keeping pace with the reduction in work above indicated.

The Bombay Government is also requested to submit a similar report.

Copy to the Home Department. Original paper returned.
" to the Local Governments of Bengal, Madras, Bombay and the North-Western Provinces.
" to the Deputy Auditor and Accountant General, Bombay.
" to the Civil Pay Master, Bombay.
" to the Auditor General of India.

(A True Extract.)

(Signed) E. DRUMMOND,
Secretary to the Government of India.

No. 259.

ORDER THEREON, 25th August 1862, No. 1,384.

Referred for the remarks of the High Court, in reference to paragraph 2 of the Financial Resolution.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

No. 1384 - 25 August 1862

Referred for the re-
marks of the High
Court, in reference
to para 2 of the Fi-
nancial Resolution

J.P.

The Chief Justice & }
Judges of the } Sept. 26th
High Court.