

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

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*Proceedings of the Madras Government, Judicial Department,
6th December 1862.*

Read the following Minute by Honorable A. MOREHEAD, dated 25th October 1862.

From all that I can learn, the Small Cause Courts lately established are doing their well and generally giving satisfaction. When the Courts were established I expected that such would be made. It is, that the District Munsiffs no where the small Cause Courts exist, exert their summary jurisdiction up to 20 Rupees. The inconvenience thus caused is great consequent on the distances the parties have to travel. To obviate this I further, and with greater facilities, the advantages of this mode of dealing summarily with money debts. I would suggest that the Government should be passing an Act, vesting all District Munsiffs with power to exercise the functions of a Small Cause Court. To do this, would be no more than to give the Act I would also provide that the Government might, when it should see fit, increase the power to 100 Rupees.

I have advised the Supreme Government that it was our desire to increase the jurisdiction of the District Munsiffs; but this was not acceded to. As the law now stands the Government can of its own accord under Section 42 of the East India Act, strongly urge upon Government the desirableness of carrying out the measure I have suggested, by passing an Act to enable it to do so. There is another point connected with the Small Cause Courts that has often occurred to me as one that would prove beneficial, as regards this Presidency. It would tend greatly to relieve Government of the heavy cost of creating new and distinct Small Cause Courts. It is, to empower the Government by law, to invest any judicial officer with power to exercise the functions of a Small Cause Court. To do this, would be no more than to give the old Supreme Courts other powers, and I have heard that the District Munsiffs are already doing so.

Those presided over by District Munsiffs to deal with suits under 50 or 100 Rupees, by the above course, at once, in all the large or rather in the capital town of any District. Small Cause Court would be established. Even summary jurisdiction allowed up to 100 Rupees, much of the litigation of the country will be under this power disposed of by them; and if it were extended to Rupees 100, the effect on the files of the District Munsiffs would be very marked. When it is found how this extended jurisdiction work, it will be a position to determine how many District Munsiffs are necessary to maintain so many District Courts. It is probable that many of them will be no longer necessary.

(Signed) A. MOREHEAD.

There is one point that it is perfectly proper that I should mention with reference to the integrity generally possessed by the District Munsiffs as a class. Some years ago I recorded it as my opinion that the District Munsiffs of the Presidency were deserving of trust, and that as a body they were honest and intelligent. Since then, carefully and with the most scrupulous attention, I have been strengthening and confirming my opinion. I therefore feel no hesitation in stating that, as respects ability and honesty, the District Munsiffs may safely be entrusted with the extended powers I have proposed.

(Signed)

Ordered in Council, 6th December 1862.

His Excellency the Governor in Council concurs in the Minute proposing to invest District Munsiffs with jurisdiction exercised by Courts of Small Causes, in all suits for money or other personal property, the amount or value of which shall not exceed Rupees 50. He also considers that the Government should have the power of investing all Civil Judges, Subordinate Judges, and Principal Sudder Amcens with Small Cause Court jurisdiction up to Rupees 500.

The proposal to extend to Rupees 50 the final jurisdiction, which is at present exercised by District Munsiffs of this Presidency in money suits up to Rupees 20, has been more

Proceedings of the Madras Government, Judicial Department.
6th December 1862.

than once advocated by this Government, first in their letter of the 26th October 1854, submitting their opinion on a draft Act for the establishment of Small Cause Courts which had been introduced into the Legislative Council at Calcutta; and again in their letter of the 8th February 1855. In the latter communication it was recommended that Small Cause Court jurisdiction up to Rupees 500 should be given to every Zillah Judge. More recently these recommendations were repeated in the letter to the Government of India dated March 1861. Sir Barnes Peacock, the present Chief Justice of the High Court at Calcutta,* it would appear, a supporter of the measure so far as regards extending jurisdiction to the District Moon-

1859.

* See letter dated 13th June 1854, recorded in Consultation list August 1854.

† Extract Minutes Consultation list February 1859.

Morehead's opinion as to the general character for integrity enjoyed by the Moonsiffs of this Presidency. Mr. Morehead's opinion

and more fully in one recorded by him in 1859. § The late Sudder Court took a different view and objected to any extension of the final jurisdiction of this class of judicial Officers.

3. Meanwhile the arrears on the files of the Mofussil Courts are enormously increasing. On the 1st January of this year the number of Original suits pending on the files of the Court of this Presidency was 1,66,180, of which 1,40,146 were on the files of the District Moonsiffs. The correspondence took place regarding the establishment of the Courts.

In Cause Courts it was shown that in two Districts "it would take some two years and a half to dispose of the suits actually pending without taking into account those which might be afterwards added. The District Moonsiffs are probably doing something towards the removal of this unsatisfactory state of things, but nothing in comparison with what would be effected by extending the summary jurisdiction of the District Moonsiffs, and conferring Small Cause Court powers on the higher Judicatories. And as Mr. Morehead observes, the abolition of the final jurisdiction up to Rupees 20 in the case of those Moonsiffs whose Courts are situated in the territorial jurisdiction of the new Small Cause Courts, is a serious inconvenience to persons having recourse to the latter Courts.

Now how persons having recourse to the latter Courts are compelled to resort to the Small Cause Court, the head quarter of which may be some 50 or 60 miles distant from their homes, while there may be a Moonsiff's Court within a few miles of their homes, whose decisions they would be perfectly competent to arrange.

It is to be arranged, however, that in many cases by serious delay and consequent inconvenience. 5. In the case of conferring Small Cause Court jurisdiction on Civil and Subordinate Courts, the Council thinks it will be preferable that only one of the principal Courts should act as a Small Cause Court.

6. A Bill to give effect to the measures now resolved on will be introduced into the Council for making Laws and Regulations at an early date.

(Signed) ARBUTHNOT,
Chief Secretary.

Ed. T. McMootry.

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oil for making Laws and Regulations at an early date.

(Signed) ARB

Ed. T. McMootry.

attended
9. In regard to conferring Small Cause Jurisdiction on
Judges and Principal Sudder Ameen, the Council think
that the Governor should be conferred on all these Courts by the most Dis-
tinction that only one of the principal Courts should act as a Small Cause

10. A Bill to give effect to the measures now resolved on will be
sent for making Laws and Regulations at an early date.

Ed. T. McMeotry.

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6. A Bill to give effect to the measures now resolved on will be in-
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(Signed) A.

Exd. T. McMootry.

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judicium 1862 Deptt

Minute by the Hon
W. A. Morrhead

of 26th 3 Octr 1862
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No. 2185

Records his opinion
as to the working of
the recently established
Small Cause Courts,
and proposes the ex-
tension of the powers
of the District Moonsiff.

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Principal Sudder An
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cil for making Laws and Regulations at an early date.

(Signed) A

Exd. T. McMootry.

Memorandum for Orders.

Minute by the Honorable Mr.
Morehead dated 25 October 1802

In this Minute Mr.
Morehead proposes that an
Act should be passed by the
local legislature vesting the
District Mousiffs of this Pre-
sidency with a summary
jurisdiction, similar to that
exercised by the Courts of Small
Causes in suits for the re-
covery of debts up to Rs. 50.
He suggests that the Act
should provide for the Govt.
extending this jurisdiction
to the case of District
Mousiffs up to Rs. 100
at its discretion, and for the
investing all or judicial
Officers in the provinces
with Small Cause Court
jurisdiction up to a certain
amount

that the Government should take power to do so rather than it
should be conferred on all these Courts by the
Act. It is also suggested that only one of the principal Courts should

6. A Bill to give effect to the measures now resolu-
tion for making Laws and Regulations at an early date

(Sign:

Ed. T. McMootry.

amount. In the latter case
he does not in his Minute
specify amount, but
in the course of conversation
on the subject of his Minute
he told me would invest
all Civil Judges, Subordinate
Judges and Principal Sudder
Amcuns with Small Cause
Court jurisdiction up to
Rs 500.

2. The proposal to extend to
Rs 50 the final jurisdiction
which is at present exercised
by the District Munsiffs of
this Presidency in money
suits up to Rs 20, has been
more than once advocated
by this Govt., first in their
letter of the 26 October 1854
submitting their opinion on
a Draft Act for the Estab-
lishment of Small Cause
Courts which had been in-
troduced into the Legislative
Council at Calcutta; and
again in their letter of the

the 8th February 1857.

In the latter communication it was
recommended that Small Cause
Court jurisdiction up to Rs
500 should be given to every
Zilla Judge. More recently
these recommendations were repeated
in the letter to the Govt. of India
of the 2nd March 1857. Sir James
Peacock, the present Chief Justice
of the High Court at Calcutta.

x In Report of Select Committee of the Legislature
of the measure so far as regards
Committee at Calcutta extending the final jurisdiction
in the Bill for the establishment of the District Munsiffs. Mr
of Members of Small Cause Court I. B. Norton when consulted
on the subject as Govt Pleader
dated the 23rd April 1856 in 1854 was also in favor of
it.

6 In letter dated 13th June 1856 Mr Norton recommended that the final
jurisdiction should be extended
to Rs 100, at the same time
expressing his concurrence in
Mr Morehead's opinion as to
the general character for
integrity enjoyed by the Munsiffs
of this Presidency. Mr
Morehead's opinion on this
point is stated in his present
Minute and more fully in
his correspondence in 1854.

S. M. C. 1st May 1859 Mr Morehead's opinion as to
the general character for
integrity enjoyed by the Munsiffs
of this Presidency. Mr
Morehead's opinion on this
point is stated in his present
Minute and more fully in
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v S. M. C. 22nd January 1859

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can carry extension
jurisdiction of the
of Judicial Officers.

3. Meanwhile the arrears
of the Mofussil
Courts are enormously in-
creasing. On 1st January
of this year the number of
original suits pending on the
files of the Courts of this Pre-
sidency was 166,100 of which
140,116 were in the files of the
District Munsiffs - and in
the course of the correspondence
which took place regarding the
establishment of the new
Small Cause Courts it
was shewn that in two
Districts "it would
take some two years &
a half to decide the
suits actually pending
without taking into
account those which
might be afterwards
instituted

N.B.

In 1853 out of 62,623 suits
disposed of 50,942 suits were for
the recovery of property valued
at less than Rs 100. The late
returns furnished by the Sudder
Court do not give any informa-
tion on this point, but the pro-
portion is probably much the
same as it was in 1853.

+ 1-2-50

new Small Cause
Courts are probably doing some-
thing towards the removal of
this unsatisfactory state of
things, but nothing in com-
parison with what would
be effected by extending the
final jurisdiction of the District
Munsiffs, and conferring Small
Cause Court powers on the higher
Judicates. And as Mr. Morehead
claims the abolition of the final
jurisdiction up to Rs 20
in the case of those munsiffs
whose Courts are situated within
the territorial jurisdiction of
the new Small Cause Courts
as a serious inconvenience to
litigants residing at a distance
from the latter Courts.

I enclose herewith a
bill which has been prepared
by the Dy. Secretary for giving
effect to Mr. Morehead's re-
commendations. Its provisions
are as follows

(2) To invest all District
Munsiffs

with small cause
no jurisdiction suits
for sums of money or other
personal property up to Rs
50, with a proviso that it
shall be co. to the
Government further to extend
the jurisdiction in the case
of particular Officers to
Rupees 100.

(b.) To invest every Judge
of a small Cause Court ap-
pointed under Act XII of 1860, in
addition to his special
small Cause jurisdiction
with the ordinary jurisdiction
original and appellate of
a subordinate Judge

(c.) To confer on every
Civil Judge, Subordinate
Judge, and Principal Sudder
Amildar in Districts in which
no small Cause Court may
have been created under
Act XII of 1860 the powers
of a small Cause Court
in all ^{of a character} suits cognizable

by

by such Courts up to Rs 500 -
with a proviso, that no suit
which, with reference to
place of residence of the
defendant and the amount
sued for would fall within
the final jurisdiction of a
District Munsiff, shall be
cognizable by a higher Court.
Power is also given, where
there may be two or more
Courts in the same District
proceeding the special ju-
risdiction conferred by Act
XII of 1860 to the Judge of
the Superior Court to transfer
suits from one Court to
another.

There are one or two
points in the Bill which
require careful consideration
in the Committee. Having
regard to the adverse opinion
entertained at Calcutta as
regard to investing District
Munsiff with final juris-
diction beyond Rs 50, I think

it

—

Morehead. This

of the Governor General refusing

Then in regard to investing all

of a subordinate court, it

that the jurisdictions are

of the Counts at the prison

Should the Govt approve



and all Civil Judges and Principal

of a subordinate court, it

Judicial Dept.

Resolved of the Madras Court.

Read the following Minute
of the Honble Mr. J. M.

(H.E. 25 (C.L. 1062)

Order thereon, 6th December 1862 No 1981

Excellency the
Governor in Council concurs
in the opinion expressed in
the foregoing Minute as
the expediency of investing
strict Munsiffs with juris-
-diction similar to that ex-
-ercised by Courts of small
Causes, in all suits for money
or other personal property
the amount or value of
which shall not exceed Rs. 50.
He also considers that the
Govt should have the power
of investing all Civil Judges,
Subordinate Judges and
Principal Mudders & Munsifs
with Small Cause Court
jurisdiction up to Rs. 500.

MA

J.P.

The proposal to extend to (Rs 50) the final jurisdiction, which is at present exercised by the District Moonsiffs of the Presidency in money suits up to Rs 20, has been more than once advocated by the Council. First in their letter of the 21st November 1854 submitting their opinion on a draft Bill for the establishment of Small Cause Courts which had been introduced into the Legislative Council at Calcutta; and again in their letter of the 8th February 1859. In the latter communication it was recommended that Small Cause Court jurisdiction up to Rs 500 should be given to every Zilla Judge. & More recently these recommendations were repeated in the letter to the Govt. of India of the 2nd March 1861. Sir Barnes Peacock, the present Chief Justice of the High Court

* See Report of Select Committee of the Legislative Council at Calcutta on the Bill for the establishment of Courts of Small Causes dated the 23rd April 1859

† See letter dated 13th June 1854 recorded in Consultation 1st August 1854

* Ex. Min. Cons. 1st February 1859.

† Ex. Min. Cons. 22nd January 1859.

Court at Calcutta is it must appear, a supporter of the measure so far as regards extending the final jurisdiction of the District Moonsiffs. Mr. J. B. Norton when consulted on the subject as Govt. Pleader in 1854 was also in favor of it. and Mr. W. Elliot in 1859^{*} recommended that their final jurisdiction should be extended to Rs. 100, at the same time expressing his concurrence in Mr. Morehead's opinion on account of the general character for integrity enjoyed by the Moonsiffs of this Presidency. Mr. Morehead's opinion on this point is stated in his present Minute and more fully in one recorded by him in 1859[†]. The late Sudder Court took a different view and objected to any extension of the final jurisdiction of this class of Judicial Officers.

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tisfied. The arrangement
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at out-stations is of course
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