

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1992	Press ~~Mis.~~
Dated	21 - 12 - 19	1866

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
21st December 1866.*

No. 170. Read the following letter from the Honorable the Chief Justice of Her Majesty's High Court of Judicature, Madras, to His Excellency the Right Honorable the Governor in Council, Fort Saint George; dated Madras, 6th August 1866.

I beg to acknowledge the receipt of the Chief Secretary's letter of the 21st of February last, communicating the inquiry of the Government, whether an arrangement could not be made for the inspection of the Courts in this Presidency, similar to that mentioned in the correspondence which accompanied the letter, and to state that I have not acknowledged it earlier, considering that no arrangement of the kind could be acted upon until the next cold season.

2. Answering strictly the inquiry made of me, I think an arrangement can be made without serious disadvantage to the business in the High Court for visits of inspection to some of the Courts in the Mofussil by one Judge for a period of about from three to four months. At least I see no impediment, as respects the High Court, to prevent such an arrangement being tested by experience, knowing that the remaining Judges will readily make the extra efforts required for the disposal of the business of the Court.

3. But it is right that I should state, and no doubt the Government desire to have, further my opinion as to the expediency and utility of the suggested inspection. In the first place there are throughout the Presidency 22 Civil and Session Courts, 13 Principal Sudder Ameens' Courts, and 12 Small Cause Courts (inclusive of the five Cantonment Small Cause Courts) in places several miles apart, and many of them at considerable distances from Madras, and to be reached only by slow means of travelling. Either, therefore, the tour of inspection must embrace a very limited number of the Courts (but a few, where they are at a great distance and not easily accessible), or the visit to each must be scarcely more than formal, and at the wasteful sacrifice of the valuable time of the Judge deputed to inspect; and this latter observation would apply still more forcibly, if the inspection extended to the Courts of the District Moonsiffs, 115 in number, as it seems to me with equal, if not greater, reason it ought. It would be unwise, I think, that the Judge should not visit such of the District Moonsiffs' Courts as were within reasonable reach of him when in the District.

4. If an inspection takes place at all it ought to be arranged so as to admit of the Judge's visit to each place being of some days duration. Such an arrangement is, no doubt, open to the objection that the season's tour of inspection would be confined within very narrow limits, and not reach many of the Courts for a considerable time. I consider, however, that an arrangement for short hasty visits of inspection would be inexpedient and not adapted to effect any good purpose.

5. But, further, it is to my mind extremely doubtful whether an inspection of the kind referred to, even though the visits to each place were of some reasonable length, would serve as any more advantageous or effectual means of control and direction over the Courts generally than the High Court possesses through the information secured by the present course of procedure. I am, too, not without misgivings that the arrangement may be misunderstood and produce prejudicial impressions on the minds of some at least of the higher Judicial Officers. My doubts, however, do not warrant the expression of a positive opinion in opposition to a trial of the scheme. But I must state that my Colleagues, who have had

*Proceedings of the Madras Government, Judicial Department,
21st December 1866.*

experience as Judges in the Mofussil, are very decidedly of opinion, after fully considering the subject at my request, that, although practicable, an inspection of the kind suggested is undesirable and unnecessary, and would effect nothing which is not quite as well, if not better attained by the present system of appeals, references and revisions.

6. On the whole, I certainly do not advise the adoption of any arrangement for the inspection of the Courts similar to that in Bengal. At the same time, I do not oppose a trial of an arrangement of the kind, if your Excellency in Council thinks it advisable to make provision for the necessary expense; and on an intimation to that effect, I shall be ready, with the advice of my Colleagues, to make the arrangement which appears most fitting, having reference to judicial duties in the High Court, and the objects sought to be attained.

7. I beg that my observations may be understood as referring only to an inspection in respect of matters of procedure and practice connected with the institution and proper hearing and determination of suits and proceedings before the Courts. To include the obviously incongruous occupation of examining accounts, which I see mentioned in one of the letters forwarded to me, would be trifling with the matter.

No. 171. To the Honorable Sir ADAM BITTLESTON, Kt., Acting Chief Justice of Her Majesty's High Court of Judicature, Madras, dated Fort Saint George, 21st December 1866, No. 1992.

I am directed to acknowledge the receipt of Sir Colley Scotland's letter of the 6th August last, replying to the inquiry made in my letter of the 21st February last, as to whether any arrangement could be made for the inspection of the Civil and Session Courts, the Courts of Principal Sudder Ameen, and the Small Cause Courts in this Presidency, similar to that lately ordered in Bengal.

2. Under the opinion expressed by the Honorable Judges of the Court, that an inspection of the kind suggested is undesirable and unnecessary, the Governor in Council will not press the suggestion.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

From

The Honorable Sir Colley Scotland,
Scotland, Knight, Chief Justice.

To His Excellency

The Right Honorable Francis Baron Napier, K. T.
Governor in Council
Fort St. George.

My Lord,

I beg to acknowledge the receipt of the Chief Secretary's letter of the 21st of January last, communicating the enquiry of the Government whether an arrangement could not be made for the inspection of the Courts in this Presidency, similar to that mentioned in the correspondence which accompanied the letter; and to state that I have not acknowledged it earlier, considering that no arrangement of the kind could be acted upon

Leby

no. only some of them -

The views of the other judges in Council on -

until the next cold season.

Answering strictly the enquiry made of me, I think an arrangement can be made without serious disadvantages to the business in the High Court for visits of inspection to some of the Courts in the Mofussil by our Judge for a period of about from 3 to 4 months. At least I see no impediment as respects the High Court to prevent such an arrangement being tested by experience; knowing that the remaining Judges will readily make the extra efforts required for the disposal of the business of the Court.

But it is right that I should state, and no doubt the Government desire to have, further my opinion as to the expediency and utility of the suggested inspection. In the first place there are throughout the Presidency 22 Civil and Session Courts, and 13 Principal

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Sadr Amirs' Courts and 12 or 13 Small Cause Courts ^(exclusive of the five Cantonment Small Cause Courts) in places several miles apart, and many of them at considerable distances from Madras, and to be reached only by slow means of travelling. Either therefore the tour of inspection must embrace a very limited number of the Courts (but a few, where they are at a great distance and not easily accessible); or the visit to each must be scarcely more than formal and at the wasteful sacrifice of the valuable time of the Judge deputed to inspect; and this latter observation would apply still more forcibly, if the inspection extended to the Courts of the District Munsifs — 115 in number, as it seems to me with equal, if not greater reason it ought. It would be unwise I think that the Judge should not visit such of the

+ the proposed Circuit in the
Chief Justice's appeal only to the
Chief Justice, P. & Amara family
Small Cause Courts — so far
as the labors of the Court are
concerned

In Bangalore it is
in London that
the 22 Civil and
Session Courts
are by the
selected Judges
not of the H. Court

District Munsifs Courts as were ^{in which some}
within reasonable reach of him ^{may be}
in the District. ^{PSA}

If an inspection takes place ^{in test}
at all it ought to be arranged so ^{cannot}
as to admit of the Judge's visit
to each place being of some days ^{not less than}
duration. Such an arrangement ^{3 months}
is no doubt open to the objection ^{the Bengal}
that the season's tour of inspection ^{post}
would be confined within very ^{to be}
narrow limits, and not reach many ^{necessary}
of the Courts for a considerable time.
I consider however that an arrange-
ment for short hasty visits of ^{no month}
inspection would be inexpedient ^{an unexpected}
and not adapted to effect any ^{visit, conducted with}
good purpose. ^{due deliberation while}
^{of last year was so bad}
^{perhaps, if the system}
^{some time ago}

But further it is to ^{me}
my mind extremely doubtful
whether an inspection of the kind
referred to, even though the visits
to each place were of some ^{reasonable}

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reasonable length, would serve as
any more advantageous or effec-
tual means of control and di-
rection over the Courts generally
than the High Court possesses
through the information secured
by the present course of Procedure.
I am too not without misgivings
that the arrangement may be
misunderstood and produce
prejudicial impressions on the
minds of some at least of the
higher Judicial Officers. My
doubts however do not warrant
the expression of a positive ^{an}
opinion in opposition to a trial
of the scheme. But I must state
that my Colleagues, who have
had experience as Judges in the
Mofussil, are very decidedly of
opinion, after fully considering
the subject at my request, that
although practicable, an inspection

of the kind suggested is undesirable and unnecessary, and would effect nothing which is not quite as well, if not better attained by the present system of Appeals, References and Revisions.

On the whole I certainly do not advise the adoption of any arrangement for the inspection of the Courts similar to that in Bengal. At the same time I do not oppose a trial of an arrangement of the kind, if your Excellency in Council thinks it advisable to make provision for the necessary expense; and on an intimation to that effect I shall be ready with the advice of my Col. leaguers to make the arrangement which appears most fitting, having reference to judicial duties in the High Court and the objects

for what part of travelling

sought to be attained.

I beg that my observations may be understood as referring only to an inspection in respect of matters of Procedure and Practice connected with the institution and proper hearing and determination of suits and proceedings before the Courts. To include the obviously incongruous occupation of examining accounts, which I see mentioned in one of the letters forwarded to me, would be trifling with the matter.

High Court of
Judicature, Madras,
6th August 1866.

I have the honor to be,

My Lord,

Your most obed^t. servant,

A. Scott
Chief Justice.

Z

Hon'ble Sir,

2 Judges being all of
 opinion that there should
 be an inspection at all &
 Mr Phillips being of the same
 opinion I adhere to the
 original Draft. Sum. 2.

Dec 12 26/12

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— 21st 1875-1868 2496

Medicinal 1866 Department
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Dear Mr. Honorable the
Chief Justice.

Dear Darling

the Governor in Council
For David Briggs.

Dated 6th
 Revised 13 } August 1866.

No 1770.

but with the best opinion
with reference to the propriety
of Government and whether an
arrangement similar to that
in Bengal, could not be
made for the inspection of
the Courts in the Mofussil
by the order of the Board
of Directors.

I have you

Fort St. George.
21st Decr 1866.

J. M.

I don't object to this
if my Colleagues ap-
-prove. It can do no
harm & this for
the way in which
the proposal has
been received by
the Court I feel
that it will not do
much good. J. P.

I am not at all in favor
of the measure or of living
a trial even. As to an ex-
amination of the Court accounts;
at present, there ought to be
a simple Dn & Cr. statement

or instead of the
last para: the
following

In reply I am directed
 to state that the
 former in Council
 would with the
 experiment & be tried
~~and~~ on a limited
 and unimpressive
 scale and with
 this view he suggests
 that should the
 business of the High
 Court admit of it
 one of the judges should
 be requested to visit
 the Courts ~~now~~
 at or in the immediate
 neighbourhood of the

Indolapone
Vellor
Chittor
Iripator
Salur
Cannabur
Kalyan
Calicut
Bettanur

In each Sect, no money being kept in the poor's Treasuries. I don't see what benefit would arise from the eye of a highly paid Judge of the High Court wandering over pages of accounts of their claps? Better subject them to the scrutiny of a sharp blooding professional accountant. I think Mr. Ch. Lushie & his Colleagues view is the correct one.

Fort St. George }
25 Dec^r 1864 }

Arch

St. George }
c. 1864 }
— ben put in with
present to the station
out 2 out - 8 p

as those
that are annual in the
spring in all of which
are either on or ~~the~~
within easy reach of
the line of railway.
The migration might
be made in January
or February & probably
would not occupy
more than a month.

The Govt. will be prepared
 to sanction the payment
 of the ^{actual} ~~Board~~ side handling
 expenses of the party
 shown the duty was
 a refusal and of
 my ministerial office
 and that the duty
 accompanying him.



Nov^r. 1992
To
The Governor
The A. C. Cushman & Co.
High Court of Judicature
Madras.

21st 1992

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The Honorable

The H. Chief Justice of the

High Court of Chancery

Madras.

Dated 21st December 1866.

W. A. R.