M.R.C. 1—29,500—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 257 Press Mis.

185-186

Dated 21 — 2 — ~~19~~ 1886

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Not to be folded or roughly handled

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

No. 185. Read the following letter from the Secretary to the Government of India, to the Chief Secretary to Government, Fort Saint George; dated Fort William, 30th December 1865, No. 5439.

Home Department.

In compliance with the request conveyed in your letter No. 1773, dated the 13th instant, I am directed to forward, for the information of His Excellency the Governor in Council, the accompanying printed copy of the correspondence noted in the margin, respecting the proposed deputation of two of the Judges of the High Court at Calcutta to visit and inspect the Lower Courts in the Provinces.

From Registrar, High Court, Bengal, No. A, dated 18th September.
To Secretary to Government, Bengal No. 2617, dated 9th October.
From do. in reply No. 5728, dated 17th October.
To Registrar, High Court No. 4351, dated 21st November.
To Officiating Junior Secretary to Government, Bengal, No. 4352, dated 21st November.

From H. T. PRINSEP, Esq, Registrar of the High Court of Judicature at Fort William in Bengal, to E. C. BAYLEY, Esq., Secretary to the Government of India; dated the 18th September 1865, No. A.

I am directed to acknowledge the receipt of your Under Secretary's letter, No. 2216, dated, 7th July last, forwarding a copy of a Despatch from the Secretary of State, No. 34 of 1865 dated the 25th of May, which, I am to explain, has, up to the present time, remained unanswered owing to the serious illness of the Chief Justice. This unavoidable delay has, however, given the Court the advantage of founding their observations on the state of their files at the end of August last.

PRESENT.

The Hon'ble Sir Barnes Peacock, Kt., Chief Justice; and the Hon'ble C. B. Trevor, G. Loch, J. P. Norman, F. C. Kemp, Shumbhoo Nauth Pundit, A. G. Macpherson, E. Jackson, and F. A. Glover—Judges.

2. From this Return it will appear that there were pending on the 1st instant—

*46 Regular Appeals. 75 Special Appeals.	185 Regular Appeals.
121	1,134 Special Appeals.
	* 121 Applications for review of Judgment.

This is independent of Criminal Appeals, (which are heard as they come up, and are never allowed to be in arrear), Summary Appeals, and other miscellaneous business on the Appellate Side, and of the business of the Court in the exercise of its Original Jurisdiction, which last, of itself, occupies the entire time of two of the Judges, and sometimes requires a third Judge. The amount of work now before the Court is, in their opinion, a fair equivalent to the income of four months; but the Court desire me to state that they will not feel satisfied until, as a general rule, an Appeal can be decided, and the Decree sent out, within a period not exceeding three months from the date of the filing of the Appeal. The Court do not consider that, under any circumstances, greater expedition than this can be attained, and they observe that, the longer Appeals are pending before they can be disposed of, the greater is the interest of unscrupulous suitors to present Appeals for the sake of delay. In an economical point of view, no saving will, therefore, be effected by reducing the number of Judges below that which is necessary to prevent an accumulation of arrears.

3. Under these circumstances, the Court consider that the number of Judges may be reduced to 13, including the Chief Justice; but that no greater reduction can be made without affecting their efficiency, and causing their files to fall into arrear, especially as, they presume will be necessary, one or more of the Judges will be required to go occasionally into the Mofussil for the purpose of trying European British subjects. But, even allowing 13 Judges, the Court believe that it will very rarely happen that any one of their number will be spared for the purpose of availing himself of the privilege leave conceded by the late Furlough Rules; for assuming that there are 13 Judges, privilege leave at the rate of one month for each year, whether accumulated or not, exceeds the whole time of one Judge.

4. So far as their business is concerned, the Judges may, in the opinion of the Court, be reduced to 13 at the end of the current year; but the Court trust that the full number, which has been included in the Budget, will be continued up to the end of the current financial year, unless that number be, in the meantime, reduced by resignation, or otherwise. The continuance of the present strength of the Court would enable the Chief Justice to depute two Judges during the ensuing cold season to visit and inspect most, if not all, of the Lower Courts, by which means the greatest benefit would result to the administration of justice. The Court direct me earnestly to recommend this for the consideration of His Excellency the Governor General in Council, and of the Right Honorable the Secretary of State.

5. In conclusion, the Court desire me to express the great gratification which they have derived from the favorable manner in which the Right Honorable the Secretary of State has been pleased to notice their exertions, and to assure him that no effort should be spared by them to increase their efficiency and generally to improve the administration of justice.

From E. C. BAYLEY, Esq., Secretary to the Government of India; to the Hon'ble A. EDEN, Secretary to the Government of Bengal; dated Simla, the 9th October 1865, No. 2617,

I am directed to forward the accompanying copy of a letter from the Registrar of the High Court at Fort William, No A, dated the 18th ultimo, and to state that the Governor General in Council will be glad of an early expression of the Lieutenant-Governor's opinion with reference to the proposal contained in the 4th paragraph to depute two Judges of the Court during the ensuing cold season to visit and inspect the Lower Courts.

From J. GEOGHEGAN, Esquire, Officiating Junior Secretary to the Government of Bengal to E. C. BAYLEY, Esquire, Secretary to the Government of India; dated the 17th October 1865, No. 5728,

I am directed to acknowledge the receipt of your letter, No 2617, dated the 9th instant, forwarding a copy of a communication from the Registrar of the High Court, and calling for an expression of the Lieutenant-Governor's opinion on the suggestion contained in paragraph 4 thereof, that two Judges of the Court should be deputed during the ensuing cold season to visit and inspect the Courts in the interior.

2. In reply, I am desired to say that the Lieutenant-Governor approves of the proposal; but at the same time desires to observe that the visitation and inspection of the Lower Courts in these Provinces is a work, which to be thoroughly done, is likely to occupy much more time and attention than can be given by two Judges of the High Court during the brief period of the cold season. These Courts are more than 300 in number, scattered through 50 districts, separated by long distances, and for the most part accessible only by the slowest means of locomotion. Even if the Judge of the High Court deputed to the work has nothing to do but to inspect each local Court, to examine its records and accounts, and to see that the ordinary routine of business is properly conducted in accordance with the law and the instructions of the High Court, he would find ample occupation for at least one day to every Court, and, allowing on a moderate average, one day for travelling from one Court to another, this alone would give employment to two Judges for the whole year. But if the High Court Judges be required, as it appears to the Lieutenant-Governor that an inspecting Judge ought to be required, to sit with the Judge of each local Court, to watch its proceedings through the trial of several cases of different kinds, to point out errors of law or procedure as they arise, and to guide each Court aright in the discharge of its duty, then the time to be given to each Court, in order to produce any appreciable result, can hardly be set at a lower average than three days, and even this would not enable the inspecting Judge to visit more than 70 Courts, though he were uninterruptedly employed on the duty throughout the whole year, excluding Sundays and close holidays.

3. It seems to the Lieutenant-Governor, however, to be a question for consideration, whether the inspection of the High Court Judges on Circuit should not be confined to the superior local Courts, say those of Civil and Sessions Judges and Principal Sudder Ameens, together with the Small Cause Courts, and that of the inferior Courts committed either to the Civil and Sessions Judges of the several districts, or to Special Judges to be selected and employed from time to time for the purpose. If this plan be adopted, it is probable that two Judges of the High Court, and two selected Judges (for except in a few rare instances the Civil and Sessions Judges have not time for the work) would be able, in the course of the year, to visit and thoroughly inspect all the Courts in the Lower Provinces.

4. It appears to the Lieutenant-Governor impossible that a less number of inspecting Judges than four will be able to accomplish the work, and it is beyond all doubt that an annual inspection of all the local Courts, by able and competent Judicial Officers, would tend, in the highest degree, to promote a due administration of justice throughout the country.

From E. C. BAYLEY, Esq., Secretary to the Government of India, to H. T. PRINSEP, Esq., Registrar of the High Court of Judicature at Fort William in Bengal, dated the 21st November 1865, No. 4351.

I am directed to acknowledge the receipt of your letter No. A, dated the 18th September last, and in reply to state that the proposal contained in paragraphs 3 and 4 thereof, as to the number of Judges which should compose the Court, will be recommended to the Secretary of State.

2. I am also to state that the Governor General in Council cordially approves of the proposal to send two Judges on a tour of inspection, and trust that the Honorable the Chief Justice will so arrange the duties of the Judges as to obtain as much insight into the state of the local Courts as the time allotted to the tour admits of.

3. I am directed to take this opportunity to observe, that the Governor General in Council feels strongly the mischief and injustice to all parties concerned of bringing down European British subjects from long distances to be tried at the Presidency. Act XIII of 1865 permits the Governor General in Council to issue a Commission for the trial of accused persons at or near the theatre of their alleged offences, and provides that the commission issue to a Judge or Judges proceeding to some one place or to several places by way of circuit. Hereafter, when the normal condition of the business of the Court, and the number of Judges adequate to it, have been more fully ascertained, it may be possible to organize regular and periodical circuits; but at present the Governor General in Council would be inclined to try the simpler experiment of issuing a Special Commission to a single Judge whenever any European British subject is to be tried, who, the High Court thinks, would be more satisfactorily tried on the spot than at Calcutta.

4. His Excellency in Council would, therefore, beg the High Court to keep this in mind whenever the depositions taken by the Magistrate who has committed an European British subject are sent down, and to be good enough to inform the Government of India in all cases in which it thinks it desirable that a Commission should issue.

5. I am to call attention specially to Section 31 of Act XIII of 1865 which enables the High Court by General Order to declare that all European British subjects committed in certain districts shall be retained for local trial.

From E. C. BAYLEY, Esq., Secretary to the Government of India, to J. GEOGHEGAN, Esq.' Officiating Junior Secretary to the Government of Bengal, dated the 21st November 1865, No. 4352.

Referring to your letter, No. 5728, dated the 17th ultimo, on the subject of the proposed deputation of Judges of the High Court to visit and inspect the Lower Courts, I am directed to transmit, for the information of the Honorable the Lieutenant-Governor, the accompanying copy of a communication this day addressed to the Registrar of the High Court.

2. I am at the same time to enquire, with reference to the language of Section 31 of Act XIII of 1865, what Jails the Honorable the Lieutenant Governor considers fit for the intermediate reception of European British subjects, in case the High Court shall issue a General Order under that Section for their retention in the Provinces for local trial.

Reported to the Right Honorable the Secretary of State for India, in letter No. 57 of 1865, dated the 21st November.

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

No. 186. To the Honorable the Chief Justice of the High Court of Judicature, Madras, dated 21st February 1866, No. 256.

I am directed to transmit for your information the accompanying copies of a correspondence which has passed between the Government of India and the Judges of the High Court of Judicature at Calcutta, and to inquire whether any similar arrangement could be made for the inspection of the Civil and Session Courts, the Courts of Principal Sudder Ameens, and Small Cause Courts in this Presidency.

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

These papers might be sent to the Judges of our High Court and they might be asked whether any similar arrangement for a like inspection of our Mofussil Courts that is the Courts of the Civil Judges & P.S.Ameens & Small Cause Courts

Ed. R. H. Lee.

Desp 24/2
Certd Annexures

Judicial Dept

No 256.

To
The Honble Sir C. H. Scobell, Kt.
Chief Justice of the High Court of
Judicature at Madras.

Honble Sir,

I am directed to transmit for your information the accompanying Copies of a correspondence which has passed between the Govt. of ~~Bengal~~ India and the Judges of the High Court of Judicature at Calcutta, and to enquire whether any similar arrangement could be made for the inspection of the Civil and Session Courts, the Courts of Principal Sudder

Ameens

Amens and Small Cause
Courts in this Presidency.

Fort St. George
21st February 1866

Judicial 1866 Department

No 256.

To

The Hon'ble

The Chief Justice of the

High Court of Judicature

of Madras.

F. No 1770.

Dated 21st February 1866.

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