M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 503 Press ~~Mis.~~

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No. 40. Read the following letter from the Secretary to the Government of India, Financial, Department, to the Secretary to Government, Fort Saint George; dated Fort William, 14th February 1866, No. 807.

I am directed to transmit, for the information of His Excellency the Governor in Council, the accompanying copy of a Despatch which the Government of India has addressed to the Secretary of State, on the subject of increasing the salaries of the Uncovenanted Judges in the Bengal Presidency. A copy of Mr. Strachey's Memorandum, which forms an enclosure of the Despatch, and copies of the documents referred to in the last paragraph of the Despatch, are also forwarded, for information; and I am directed to request that you will move His Excellency in Council to take these papers into consideration, and to submit direct to the Secretary of State any similar scheme, not exceeding a proportionately additional charge, with reference to judicial salaries, which may commend itself to the Government of Fort Saint George.

FINANCIAL DEPARTMENT.

No. 37 of 1866.

To

THE RIGHT HONORABLE SIR CHARLES WOOD, BART., G. C. S.,
Secretary of State for India.

SIR,

Herewith, we forward a copy of a Memorandum, dated 15th January 1866, which Mr. John Strachey has drawn up, under the orders of the Governor General, regarding the salaries of the Uncovenanted Judges of the Civil Courts in Bengal and in the North-Western Provinces. It contains a scheme for increasing the salaries of those Judges, and we invite your attention to it.

2. The scheme involves no augmentation of the number of Judges. It is confined entirely to the improvement of their salaries, and the proposals are founded on facts which claim the most attentive consideration.

3. There can be no doubt that the Uncovenanted Judges are very badly paid; immeasurably so, in our opinion, when the work they perform, the education and training they require to do their duty efficiently, and the responsibilities and importance of their office, are taken into consideration.

4. The extent of work performed by the Uncovenanted Judges, and the value of the suit decided by them, are shown in paragraphs 3, 4, 6, and 7 of Mr. Strachey's Memorandum.

5. But independently of the fact that the Uncovenanted Judges are under-paid for the work they perform, it will not escape the notice of Her Majesty's Government that, in consequence of the late changes in the system of the Registration of Deeds, inaugurated by Act No. XVI of 1864, the emoluments of the Principal Sudder Ameens, both in Bengal and the North-Western Provinces, have, as shewn by Mr. Strachey, been seriously diminished. On this point, we beg to draw attention to paragraphs 13 to 16 of that gentleman's Memorandum.

6. With these prefatory remarks, we proceed to explain the exact nature of Mr. Strachey's proposals.

7. The table embodied in the 19th paragraph of the Memorandum exhibits in one view the total number of Uncovenanted Judges employed in the two divisions of the Bengal Presidency, their present rates of salary, and the proposed average rates, with the total proposed increase of expenditure per annum.

8. Mr. Strachey would fix the salaries of the Principal Sudder Ameens at from Rupees 500 to Rupees 800 per mensem, the average salary of the class being 600 Rupees. The rates, at present, are Rupees 400 and 600 respectively.

9. The subordinate Judges Mr Strachey proposes to divide into three grades, with monthly salaries of Rupees 200, Rupees 300, and Rupees 400, respectively, the average being Rupees 300. The rates at present are Rupees 100, 150, 200 and 250.

10. The total annual increased cost of these proposed arrangements is estimated at Rupees 4,00,800.

11. By these recommendations, the average monthly allowance of each Uncovenanted Judge will only be Rupees 333 per mensem, or 23 Rupees a month less than that of Uncovenanted Revenue and Magisterial Officers, as shown in paragraphs 12 and 22 of Mr. Strachey's Memorandum. The only doubt we feel regarding these recommendations is whether the salaries will not still be fixed on too low a scale.

12. We would point out that a measure of this kind is advocated by the Chief Justice and the Judges of the High Court in Bengal, has been approved of by the former Government of India,* and is in itself manifestly politic and reasonable. The present time of all others perhaps is the one when such a measure is especially necessary,—when the expenses of living have considerably increased, and when so many departments of the State have been placed on an improved footing.

* See papers enclosed in Judicial Despatch to Secretary of State, No. 30, dated 4th July 1863.

13. We may also state that we intend to appoint a Committee to revise the present system of judicial stamps, with a view to the improvement of the revenue derived from that source.

14. We shall communicate to the Governments of Fort Saint George and Bombay a copy of this Despatch, together with copies of Mr. Strachey's Memorandum therein referred to, and of the documents enclosed in the Despatch of the Government of India to the Secretary of State, No. 30, dated 4th July 1863, relative to the re-organization of the establishment of Moonsiffs in the Lower Provinces; and we shall invite those Governments to submit direct to you any similar scheme, with reference to judicial salaries, which may commend itself to them.

We have the honor to be,
SIR,
Your most obedient humble Servants,

FORT WILLIAM,
14th February 1866.

(Signed) JOHN LAWRENCE,
" W. R. MANSFIELD,
" H. S. MAINE,
" W. GREY,
" G. N. TAYLOR,
" W. MASSEY,
" H. M. DURAND.

MEMORANDUM—By J. STRACHEY, ESQ., regarding the salaries of the Uncovenanted Judges of the Civil Courts in Bengal and in the North-Western Provinces, dated 15th January 1866.

It is the object of the present Memorandum to show the unsatisfactory position now held by the Uncovenanted Judges of the Civil Courts in Bengal and in the North-Western Provinces, and to give an approximate idea of the cost that would be incurred by raising the salaries of these Officers to a fairly adequate amount.

2. The following figures show the extent and importance of the litigation in both Provinces. Those for the Lower Provinces are taken from the report of the High Court for 1864, and those for the North-Western Provinces from the Report of the Sudder Dewanny Adawlut for the same year.

3. The following table shews the number of suits decided in the District Courts of the Lower Provinces in 1864:—

Courts.		Number of suits decided in 1864.
Judges...	Original...	352
	Appeals...	14,246
Principal Sudder Ameens... ...	Original...	3,774
	Appeals...	9,716
Sudder Ameens...		4,540
Moonsiffs.....		1,06,554
	Total.....	1,39,227

4. The value of the suits decided in the Lower Provinces in 1864 was as follows:—

Original suits.....	Rs.	6,40,18,351
	or £	6,401,835
Appeals.....	Rs.	74,27,237
	or £	742,723
	Total Rs.	714,45,588
	or £	7,144,558

The value of the *suits* decided in each class of Courts cannot be separately shown, but it will be obvious from the following Statement of the amount of Stamp duty realized on the institution of suits in 1864, that by far the greater proportion of this immense amount of litigation was disposed of in the Courts of the Uncovenanted Judges:—

Judges...	Rs.	3,42,816
Principal Sudder Ameens...	"	4,43,069
Sudder Ameens...	"	2,12,466
Moonsiffs...	"	6,51,218
	Total Rs.	16,49,569
	or £	164,956

5. The total cost to Government, in 1864, of the Salaries and Establishments of the Uncovenanted Judges, was as follows:—

Principal Sudder Ameens...	Rs.	1,78,471
Sudder Ameens...	"	1,21,610
Moonsiffs...	"	4,48,130
	Total Rs.	7,48,211
	or £	74,821

The Government, therefore, derived from these Courts, in 1864, a clear profit of Rupees 5,58,542, or £ 55,854*.

* Vide note to paragraph 20.

6. The following table shows the number of suits decided in the District Courts of the North-Western Provinces in 1864:—

Courts.		Number of suits decided in 1864.
Judges	Original	289
	Appeals	5,307
Principal Sudder Ameens	Original	5,776
	Appeals	3,396
Sudder Ameens		3,552
Moonsiffs		47,191
	Total	65,511

7. The total value of the original suits and appeals disposed of in the District Courts of the North-Western Provinces in 1864 was Rs. 179,08,027
or £ 1,790,802

In 1863 the value exceeded £ 3,000,000

8. The amount realized from stamps in the District Courts, in 1864, was as follows:—

Judges' Courts	Rs.	1,64,272
Courts of Uncovenanted Judges	,,	7,01,452
	Total Rs.	8,65,724
	or £	86,572

9. The total cost to Government, in 1864, of the Salaries and Establishments of the Uncovenanted Judges was:—

Rs. 3,34,588
or £ 33,458

The Government, therefore, derived from these Courts, in 1864, a clear profit of Rupees 3,66,864 or £36,686.*

* Vide note to paragraph 20.

10. The Establishments of Uncovenanted Judges in the Lower and North-Western Provinces, exclusive of Small Cause Courts, are as follows:—

Lower Provinces.

				Per mensem.
Principal Sudder Ameens,	8	on	Rs.	600
,,	16	,,	,,	400
Sudder Ameens,	27	,,	,,	250
Moonsiffs,	47	,,	,,	200
,,	110	,,	,,	150
,,	9	,,	,,	100

North-Western Provinces.

Principal Sudder Ameens,	6	on	Rs.	600
,,	12	,,		400
Sudder Ameens and 1st grade Moonsiffs,	10	,,	,,	250
Moonsiffs	15	,,	,,	200
,,	43	,,	,,	150

11. The following is a summary of the facts that have been stated above:—

In the Lower and North-Western Provinces, the value of the suits decided in 1864 was nearly £9,000,000, and by far the greater portion of this litigation was disposed of in the Courts

of the Uncovenanted Judges. During the same period, these Officers disposed of more than 180,000 suits; the amount of the stamp revenue derived from their Courts exceeded £200,000; and, after paying all expenses, their Courts yielded to the Government a clear profit of £92,000.*

* Vide note to para. 20.

The year 1864 appears to have been in no way exceptional.

The Uncovenanted Judges, who have to dispose of this enormous amount of litigation, are 303 in number. The chief of these Judges are the Principal Sudder Ameens. They try original suits without any limitation as to value, and they hear a large proportion of the appeals from the subordinate Courts. Fourteen Principal Sudder Ameens receive salaries of £720 a year; this is the largest salary that an Uncovenanted Judge can, under any circumstances, obtain. Twenty-eight Principal Sudder Ameens receive salaries of £480 a year. Of the Judges of the subordinate Courts, 37 receive £300, and the remaining 224 receive from £120 to £240 a year. In consequence of the small number of appointments in the higher grades of each class of Judges, promotion is extremely slow. It frequently happens that a Principal Sudder Ameen possessing the highest reputation is still in the lower grade when he has served long enough to entitle him to his pension.

12. The figures that have been given above tell their own story so forcibly that it is hardly necessary to dwell further upon the great importance of the duties of the Uncovenanted Judges, or upon the extreme inadequacy of their salaries.

The subject has repeatedly been brought before the Government, and financial reasons have alone prevented the reform that is urgently called for. It is true that matters are better than they were a few years ago; for, before 1860, the Moonsiffs of the higher grade received only Rupees 150, and of the lower grade Rupees 100 per monsem. But this increase, however satisfactory, was obviously quite insufficient.

The High Court, in their report upon the administration of Civil justice for 1864, have strongly urged upon the Government the necessity for improving the position of the Uncovenanted Judges of the regular Civil Courts, and have pointed out the disadvantages under which they are placed, in comparison with Officers in other Departments, whose duties are certainly not more important. Thus, in Bengal, there are 25 Small Cause Courts. Eleven of the Judges of these Courts receive salaries from Rupees 1000 to Rupees 2000 per mensem; one Judge receives Rupees 750; and the remaining 13 receive Rupees 700. In the North-Western Provinces, the salaries of Judges of Small Cause Courts are Rupees 1200 and Rupees 800.

In Bengal, the establishment of Deputy Collectors is as follows:—

10	Deputy Collectors on		Rs.	700	per mensem.
15	,,	,,	,,	600	,,
26	,,	,,	,,	500	,,
40	,,	,,	,,	400	,,
48	,,	,,	,,	300	,,
49	,,	,,	,,	200	,,
14	Probationers		,,	200	,,

It will be seen that even the salaries of *Probationers* in the Revenue Department† are equal to those of Moonsiffs of the higher grade. Yet, as the High Court observe in their Report, the Moonsiffs, even of the lower grade, have been required, not only by an entrance examination, but generally by a B. L. degree in the Calcutta University, to show themselves qualified for judicial employment, and they have further, by actual work, shown themselves to be Officers of promise and deserving of preferment. "It cannot," the Court observe, "be contended that appointments in the more favored services

† It is proper to notice that very many of the Deputy Collectors are also Deputy Magistrates.

"are more important in respect to their duties and responsibilities than those of the subordinate "Civil Judges, and the inequality is the more striking when it is found that in the one depart- "ment probationers are placed on the same footing with Officers of distinguished merit, and, at "least, two or three years' service and experience in the other. The difficulties with which the "Court have to contend in making appointments to the Judicial Service are further increased by "the emoluments enjoyed by successful legal practitioners, which naturally deter the more "ambitious from becoming candidates for employment in an ill-paid service."

The High Court recommended that there should be two grades of Moonsiffs, one on Rupees 250, and one on Rupees 200 per mensem, and that the present grade on Rupees 150 should be abolished. The Court stated that they abstained from recommending still further additions, "only from regard to the funds possibly at the disposal of the Government."

13. During the past year the emoluments of the higher grades of Uncovenanted Judges, both in Bengal and in the North-Western Provinces, have been seriously diminished, in consequence of the introduction of the new system for the Registration of Assurances sanctioned by Act XVI of 1864. This consequence of the change in the law does not seem to have been reported to the Government of India, but it is of serious importance.

14. In Bengal, under the old law, the office of District Registrar of Deeds was, in almost all cases, held by the Principal Sudder Ameen. This was first ordered by the Lieutenant-Governor, Sir J. P. Grant, in December 1860, with the special object of increasing the emoluments of the Uncovenanted Judges of this class. A similar arrangement was continued under the rules passed in accordance with Act IX of 1862 (B. C.). The Principal Sudder Ameens and Small Cause Court Judges were appointed District Registrars of Deeds; and Sudder Ameens and Moonsiffs were in a few cases appointed Deputy Registrars. The registration fees were thrown into a common fund out of which District Registrars received Rupees 80, and Deputy Registrars Rupees 25 per mensem. When the new registration law, Act XVI of 1864, was carried into effect in Bengal, entirely new arrangements were made. District Magistrates and Sub-Divisional Officers were appointed *ex-officio* District and Deputy Registrars, respectively, without remuneration; and at Sudder stations, selected Assistants and Deputy Magistrates were appointed to be Deputy Registrars, with an allowance of Rupees 75 per mensem. The effect of the new arrangement has been to deprive nearly every Principal Sudder Ameen in Bengal of Rupees 80 per mensem, and in a few cases to deprive the Sudder Ameens and Moonsiffs of Rupees 25 per mensem.

15. In the North-Western Provinces, the change in the law has caused a still more serious diminution in the emoluments of the Uncovenanted Judges.

Under the old law, the Principal Sudder Ameens were, in almost all cases, the only Registrars of Deeds, and they received the whole of the registration fees. This arrangement was, as in Bengal, adopted mainly with the object of increasing the insufficient emoluments of this class of Judges. The average monthly receipts, from this source, of the Principal Sudder Ameens, in the 26 chief Districts of the North-Western Provinces, varied, in 1864, from Rupees 143 at Etah, to Rupees 549 at Benares. The average amount received by each Principal Sudder Ameen, in the 26 Districts, was Rupees 263.

Under the arrangements made in the North-Western Provinces, in accordance with the new Act, the Civil Judges of the Covenanted Service have been appointed *ex-officio* District Registrars without remuneration. The Principal Sudder Ameens and Sudder Ameens are Deputy Registrars at the Sudder stations, and each Tehsildar is Deputy Registrar within the limits of his Tehseelee. For the first seven months of 1865, the Deputy Registrars received in each case 25 per cent. of the fees received by them for the registration of deeds. Out of this, they had to pay their own establishments and all contingent expenses, excepting the cost of registers and indices. The remaining 75 per cent. went to pay the establishments and contingencies in the offices of the District Registrars and of the Registrar General. Since August 1865, the proportion of the fees allowed to the Deputy Registrars has been raised to 50 per cent.

The total receipts on account of registration have, of course, largely increased since the new law came into operation. Their exact amount in 1865 is not yet known, but at the present time they are upwards of Rupees 20,000 per mensem, instead of Rupees 7000, which was about the average in 1864. But, whereas, the total receipts were formerly divided among 31 Registrars, one-half of the amount is now divided among 198 Deputy Registrars. The consequence has been that the Principal Sudder Ameens, who formerly received, on an average, more than Rupees 250 each, do not now receive half or perhaps one-third of this sum. Their emoluments from this source in 1865, throughout the North-Western Provinces, cannot now be shewn; but in the seven important Districts named in the margin, the average, which amounted to Rupees 288 per mensem for the three years ending with 1864, fell to about Rupees 96 per mensem in 1865.

Allahabad.	Mirzapore.
Cawnpore.	Moradabad.
Azimgurh.	Allygurh.
Benares.	

Probably the average monthly loss that the Principal Sudder Ameens have suffered is not far short of Rupees 200, nor is there any probability that, in future years, the case will be seriously different. To whatever extent the amount of registration fees may hereafter increase, it is most improbable—indeed, for many years to come, it is impossible—that the fees received by the Principal Sudder Ameens should reach anything like their former level.

16. Thus, both in Bengal and in the North-Western Provinces, the emoluments of the principal Uncovenanted Judges have been largely diminished. Considering the great increase in prices and in the cost of living, which has lately taken place throughout this Presidency, this has obviously been a most inopportune time for making such reductions.

17. To place the Uncovenanted Judges in a thoroughly satisfactory position would involve a larger expenditure of money than the Government is likely to be able, under present circumstances, to afford. But it may not be impossible to do something to remove the inferiority of the position which they now hold, in comparison with that held by Officers discharging not more important duties in other Departments of the Public service. If the following rates were adopted, the salaries of the Uncovenanted Judges would still be very moderate in amount, and, in the case of the Principal Sudder Ameens, the proposed increase would hardly be sufficient to cover the loss which the new registration law has entailed upon them.

18. It is considered that the salaries of the Principal Sudder Ameens, both in Bengal and in the North-Western Provinces, might be from Rupees 500 to Rupees 800 per mensem, and that the average salary of this class of Judges should not be less than Rupees 600.

The subordinate Judges might be divided into three grades, with monthly salaries of Rupees 200, Rupees 300, and Rupees 400. The average salary of the whole should not be less than Rupees 300.

19. The cost of re-arranging the salaries of the Uncovenanted Judges according to this scale is shown in the following table:—

Province.	Class of Uncovenanted Judges.	Number of Judges and present rates of salary.	Total present annual expenditure.	Number of Judges and proposed average monthly rates of salary.	Total proposed annual expenditure.	Total proposed increase of expenditure per annum.
			Rs.		Rs.	Rs.
Bengal.....	Principal Sudder Ameens. .	8 on Rs.600	1,34,400	24 on Rs.600	1,72,800	38,400
	Do. do. ...	16 on „ 400				
	Sudder Ameens	27 on „ 250	4,02,600	193 on „ 300	6,94,800	2,92,200
	Moonsiffs... ...	47 on „ 200				
	Do.	110 on „ 150				
	Do.	9 on „ 100				
Total Bengal..	.....	.....	5,37,000	.....	8,67,600	3,30,600
North-Western Provinces... ...	Principal Sudder Ameens...	6 on Rs.600	1,00,800	18 on „ 600	1,29,600	28,800
		12 on „ 400				
	Sudder Ameens and 1st Grade Moonsiffs.....	10 on „ 250	1,43,400	68 on „ 300	2,44,800	1,01,400
	Moonsiffs... ...	15 on „ 200				
	Do, ...	43 on „ 150				
Total N. W. P.	.....	.....	2,44,200	.....	3,74,400	1,30,200
Grand total, Bengal & N. W. P.	.....	.....	7,81,200	.....	12,42,000	4,60,800

20. The total annual cost of this great reform would, therefore, be Rupees 4,60,800, or £46,080. Considering, in addition to all the other reasons which make it so important that the position of the Uncovenanted Judges should be improved, that the Government derives, as has been shown above, a clear profit from the administration of justice in their Courts of some £90,000 per annum,* their claims to more liberal treatment could hardly be stronger than they are.

21. It has been thought best to treat the question of the salaries of the Uncovenanted Judges separately from that of the salaries of the Ministerial Officers of their Courts. It has been shown, in a separate Memorandum of this date, that the probable additional annual cost of raising, to an adequate extent, the salaries of the latter class of Officers is Rupees 2,14,692, or £21,469.

The total additional charge that would be incurred by placing the salaries of the Uncovenanted Judges and of their Ministerial Establishments on a fairly satisfactory footing throughout Bengal and the North-Western Provinces would, therefore, be Rupees 6,75,492, or £67,549 per annum.

22. It has not been thought necessary, in the present Memorandum, to refer in detail to the measures which has been at various times either taken or proposed for the improvement of the position of the Uncovenanted Judges.

* NOTE.—It is, however, proper to notice that calculations of this kind are open to objection. In the case of a Small Cause Court, in which the decisions of the Judge are final, a comparison may be quite fairly made between the expenditure incurred upon the Court, and the amount received from it by the Government, on account of stamps, fees, &c. In the case of Courts, the decisions of which are open to appeal, it would be more correct to look upon the whole machinery for the administration of justice as a whole. It is not possible to make a satisfactory comparison between the total amount expended on the Civil Courts and the revenue derived from them, because the Judges in the superior Appellate Courts of Civil Jurisdiction act also in the Criminal and in other Departments.

One proposition, however, that has been made with this object, ought to be specially noticed, on account of the high authority from which it emanated. In April 1854(a), Lord Dalhousie, in his capacity of Governor of Bengal, sent to the Government of India his views regarding the necessity of increasing the remuneration of the Judicial Officers in Bengal. The propositions that were made were founded almost entirely upon a note by Mr. Beadon, the present Lieutenant-Governor of Bengal. It was recommended that the salaries of the Uncovenanted Judges should be placed upon the same footing as those of the Establishment of Deputy Collectors, and that they should vary from Rupees 200 to Rupees 700 per mensem.

(a) Letter No. 923, dated 29th April 1854, from Secretary, Government, Bengal, to Secretary to Government of India, Home Department.

The total charge on account of the salaries of the Uncovenanted Judges in Bengal was then Rupees 5,38,200 a year, very nearly the same as the present expenditure. Since that time, although the salaries have been raised, the number of Judges has been considerably diminished.

The effect of Lord Dalhousie's proposals would have been to raise the cost of the salaries of these Officers to about Rupees 10,50,000 a year. "The cost," he remarked "of this augmentation of Judicial salaries in Bengal, will undoubtedly be very large, probably exceeding five lakhs of Rupees a year. And it must not be concealed that this sum represents not more than half the the ultimate cost; for the measure, so urgently needed in the lower Provinces, will be found not less necessary in the other Provinces also. * * * But there are no demands of greater primary importance than the increase of the salaries of Native Judges; for the longer continuance of the poor pittance, which we have heretofore been compelled to limit them, would convert an avowed imperfection into an open and deserved reproach."

It will be seen that the measures which have been recommended in the present Memorandum fall considerably short of those which Lord Dalhousie thought essential 12 years ago.

According to the present proposals, the average monthly salary of each Uncovenanted Judge would be Rupees 333. The present average salary of the Deputy Collectors is Rupees 356. The average salary of each Judge, according to Lord Dalhousie's scheme, would have been Rupees 359.

From the Secretary to the Government of Bengal, to the Secretery to the Government of India, Home Department; dated 9th April 1863, No. 2568.

With reference to your letter, No. 7303, dated the 19th December last, I am directed by the Lieutenant-Governor to state, for the information of the Honorable the President in Council, that the delay which has taken place in the High Court, in replying to the call of this Government, makes it doubtful whether the scheme suggested in my letter, No. 3021, dated 25th September last, for improving the condition of the subordinate judicial service, can be carried out for some time to come; but His Honor thinks that it certainly will be a very great reproach to the Administration, if Officers exercising important judicial functions are any longer permitted to draw the low salary of Rupees 100 per mensem.

2. Pending the disposal of the higher question involved in the discussion which has arisen on this subject, I am requested to ask the Government of India to raise the salaries of all the Moonsiffs to 200 Rupees, from the commencement of the next financial year, the total cost involved being only an increase of 1,78,800 Rupees.

3. The Lieutenant-Governor also begs that the whole increase asked for in paragraph 20 of my letter, No. 3021, dated the 25th September last, may be provided for in the budget.

4. The usual Tabular Statement accompanies.

No.	Extract from Home Department, Govt. of India. Date.	Office to which the Proposition refers.	Nature of Charge. Present Scale. Rs. A. P.	Proposed Scale. Rs. A. P.	Proposition. Permanent. Increase per month. Rupees.	Proposition. Permanent. Decrease per month. Rs. A. P.	Proposition. Temporary. Increase per month. Rs. A. P. Period	Proposition. Temporary. Decrease per month. Rs. A. P. Period	Casual or Extraordinary.	Grounds of Proposition.	Local Government's recommendation.	Orders of the Govt. of India. Home Dept. Remarks.	Orders of the Govt. of India. Finl. Dept. Remarks.	Orders of the Govt. of India. Orders.
			Subordinate Judicial Service—Bengal.											
			Moonsiffs.	*Moonsiffs.*						Detailed in letter, No. 2568, of this date.	Favorable.			
			50, at 150 each ... 7,500 0 0	174, at 200 each... 34,800 0 0	14,900, or, per annum, 1,78,800									
			124, at 100 „ ...12,400 0 0											
			Total ...19,900 0 0											

(Signed) A. EDEN,
Secretary to the Government of Bengal.

FORT WILLIAM,
The 9th April 1863.

INITIAL NOTE by the Honorable H. B. HARINGTON, dated 25th April 1863.

I could have wished that the Honorable the Lieutenant-Governor, in re-submitting his proposition for raising the salaries of the Moonsiffs generally, in the territories under his government, had been able to give his opinion on the several points upon which that opinion was asked, in the letter of this Government, dated the 19th December last. His Honor has explained the cause of delay in fully answering that communication, and I agree with Mr. Beadon that the question of raising the salaries of the Moonsiffs in the Lower Provinces of Bengal may be considered separately, and that there should be no further delay in coming to a decision upon that question.

2. It is generally admitted that the salaries of the Moonsiffs in the Lower Provinces of Bengal are too low, and it must be quite unnecessary for me to enter into details, or to add any thing to what has already been so repeatedly said on the subject, to shew that such is the case. For some time past, financial considerations, alone, have prevented the Government of India from granting that increase to the salaries of the class of Officers in question, which every one having an interest in the administration of Civil justice has conceded to be, not only necessary, but a positive duty, and a simple act of justice to a very deserving body of men. These considerations, to quote the words of a former Governor General (Lord Dalhousie), happily no longer exist.

3. The Lieutenant-Governor of Bengal proposes to raise the salaries of the whole of the Moonsiffs under his Government to Rupees 200 a month, and to do away with the present distinction of classes.

4. The proposition of His Honor, if adopted, will increase the judicial charges of Bengal Proper by Rupees 1,78,800 per annum. The present number of Moonsiffs employed in the territories to which the proposition applies is stated to be 174. Of these (50) forming the first class or grade, receive Rupees 150 a month. The rest (124) forming the second class or grade, receive Rupees 100 a month. The proposition, therefore, of the Lieutenant-Governor, if adopted, would increase the salary of each of the former class by Rupees 50 a month, and of each of the latter classes, by Rupees 100 a month, and the whole of the Officers, who are now divided into two classes, would, in so far as official emoluments are concerned, be placed upon the same footing.

5. And this is my principal objection to the scheme or proposition of the Honorable the Lieutenant-Governor. It puts aside the encouragement or stimulus to labor honestly and zealously, which the prospect of promotion bestowed as the reward of merit, not simply on the ground of seniority, furnishes to all, or to almost all public men, and to none more so than to our Native officials, upon whom it has the best possible effect. This is evidenced by the undoubted advantages that have resulted from the division of our first and third grades of Native Judges in the Presidency of Bengal into two classes; and I should certainly regard any scheme for improving our Judicial Agency in the lower grades, which ignored the principle of classes, and did away with the system of grades now existing, as defective in a very material point.

6. Owing to the small number of Uncovenanted Judges of the higher two classes, promotion to those classes from the ranks of the Moonsiffs is exceedingly slow—in fact, very many Moonsiffs never obtain it. If the present proposition of the Lieutenant-Governor of Bengal is adopted, I cannot but fear that the effect will be that the Moonsiffs appointed so far as these men (*sic.*) under it will feel that they have got all that they are ever likely to get; and are concerned, (indeed it might be said as regards the body generally), the healthy stimulus to exertion and honest service, produced by the prospect of promotion within a reasonable period, would be lost.

7. For these reasons, I am decidedly of opinion that, whatever increase may be made to the salaries of the Moonsiffs in the Lower Provinces of Bengal, the present system of two grades, distinguished by different rates of pay, should be maintained. To the first grade, I would assign the salary proposed by the Lieutenant-Governor of Bengal, viz., Rupees 200 a month. To the second grade, I would assign the salary now drawn by the first grade of Moonsiffs, viz., Rs. 150 a month. Each grade would thus obtain an increase of Rupees 50 a month, and in order to accelerate promotion from the lower to the upper grade, I would increase the present proportions of one-fourth of the upper to three-fourths of the lower grade, to one-third of the former to two-

thirds of the latter. The increases of salary should take effect from the 1st proximo, the date mentioned by the Lieutenant-Governor.

8. In making the foregoing proposition, I have not dwelt at all upon financial considerations. To these, in connection with the present question, I am not disposed to attach much weight, though they must not be overlooked altogether.

9. My proposition, if adopted, would lead to an additional charge of Rupees 9100 per mensem, or Rupees 1,09,200 per annum. The difference, therefore, in expense, between my proposition and that of the Lieutenant-Governor's is Rupees 69,600, which, if it can be saved without injury to the public interests in this branch of the Judicial Department, may, no doubt, be advantageously expended in some other branch of the same Department. I believe I am correct in saying that the proposition made by me accords with what was done last year for improving the position, in a pecuniary point of view, of the Moonsiffs in the North-Western Provinces. I understand that the arrangement recently introduced into those Provinces is working well, and has given general satisfaction.

MINUTE by the Honorable W. GREY, dated 27th April 1863.

I concur with Mr. Harington, and I earnestly hope that the increase to the pay of the Moonsiffs, as proposed by him, may be granted.

2. The case is strongly put in the Bengal letter of last September. It will surely be a very serious reproach to our Government in India, if, now that the finances of the Empire are in a satisfactory condition, we allow the serious evil directed in that letter to continue.

3. In what is commonly called the Subordinate Executive Branch, great improvements have been effected, of course, at a considerable increase of charge, during the last few years. The Police, that great opprobrium in the administration of the Lower Provinces, has at last been fully taken in hand, and is now in course of re-organization. I hope, then, that the instalment of a reform in the Judicial service, which is now sought for, will not be refused.

MINUTE by the Honorable H. S. MAINE, dated 29th April 1863.

The under-payment of the lower judicial Officers in India has obtained such notoriety, that even those who have been but a comparatively short time in the country may be justified in calling it a grave scandal. I join, therefore, earnestly in Mr. Grey's wish that this increase of the Moonsiffs' stipends in Bengal may be at once conceded.

2. On the manner in which the augmentation should be allotted, Mr. Harington is entitled to speak with authority. My only doubt as to the expediency of graduating the augmentation arises from my not being sure that the Lieutenant-Governor has not named Rupees 200 as the lowest stipend on which a Native Judge can maintain the comfort, respectability and superiority to temptation essential to his post.

3. If this be so, the removal of the encouragement to honest effort and assiduity would seem to be a less evil than the retention of any class of Judicial Officers in a situation of dangerous penury. But this is a question which can only be settled by those who are well acquainted with the class under consideration.

MINUTE BY THE HONORABLE Sir C. E. TREVELYAN, K. C. B., dated 7th May 1863.

On two points, there can, I think, be no doubt:—1st, that the Bengal Moonsiffs are underpaid; and 2nd, that Mr. Harington's plan of raising their salaries is an improvement upon that of the Lieutenant-Governor. As a first step, and with the prospect of promotion according to merit, Rupees 150 a month will be sufficient.

This, however, is far from being the whole question. By declaring a surplus and expressing our readiness to consider all just claims, we have taken up an advanced, but a *very hazardous*, position, and upon the manner in which we hold this position, the future of the public service in this country will in a great degree depend. As the old Parliamentary Rule was *to connect redress of grievances with supply*, the modern Administrative Rule at Home has been *never to authorize an increase of numbers or salaries, however obviously required, without a revision of establishment.* This rule is based upon the principle that public establishments are subject to continual change, like everything else in this world; and that, while new wants are developed on one side, existing machinery becomes obsolete, or in excess, on the other. *Financially*, this rule

has been our effectual safeguard. It has checked or prevented applications for additional expense, and has often turned proposed increased expenditure into a positive saving. But it has also been *administratively* of the greatest possible value. It has been the main cause of the numerous improvements which have of late years been made in the public establishments, whereby they have been converted from a state which I will not describe into bodies of zealous, intelligent public servants, who are satisfied with their position, and of whom the nation is proud.

If ever there was a case to which this mode of proceeding was especially applicable, it is that of Bengal Proper. Besides the old hierarchy of Moonsiffs of two grades, Sudder Ameens and Principal Sudder Ameens, also two grades, numerous Small Cause Court Judges of three grades have been interpolated, and the old zillahs have been divided and re-divided into sub-divisions, to which a large new class of "sub-divisional officers," as they are called, *i. e.*, Joint Magistrates and Deputy Collectors, under Regulation IX of 1833 and Regulation XIV of 1852, have been appointed. These officers exercise, subject to appeal to the Magistrate and Collector, 1st, Police, 2nd, Magisterial, and 3rd, Revenue powers,—their revenue functions being, to a great extent, and in a very high sense, judicial; but those who exercise magisterial power are not authorized to decide revenue suits under Regulation X of 1859. The result is that there has of late years been an aggregation of public establishments in Bengal Proper, without any attempt at consolidation, which has led to a palpable excess and waste of force, and has kept down efficiency by want of harmony, insufficient employment, and absence of suitable encouragement.

In his letter, dated the 25th of September last, the Lieutenant-Governor proposed a partial consolidation, by re-casting the Small Cause Court Judges, Principal Sudder Ameens, Sudder Ameens, and Moonsiffs, into three classes of subordinate Judges; and the answer from the Government, dated the 19th of December, while it fully admitted the desirableness of improving the position of the subordinate Judicial *Officers in Bengal*, asked for information on several points which appeared to be necessary conditions of the proposed change. To these inquiries we have received no reply, but the truth is that a real revision of public establishments cannot be accomplished by correspondence. It can only be effected, as it has so often been of late years in the United Kingdom, by selecting the two or three men who know most about the establishments to be revised, and who are considered to entertain the most correct views relating to them,—to relieve them for the time, from all other public duty, and to fix upon them the responsibility of proposing the arrangements which, all things considered, appear to be best for the public interest. If this were done in the present instance, I feel persuaded that, before three months were over, we should be able to deal confidently with this important subject, knowing that we had the whole of it fully before us, and that, whatever sacrifice had to be made, would be the *minimum*, and would be compensated by the *maximum* advantage in the general improvement of the establishment. The large number, the great expense, and the important judicial functions exercised by the sub-divisional officers make it necessary that they should be included in the inquiry;—and this has become more indispensable than ever, since these officers have been relieved of their Police functions by the organization of the new Police, with its large staff of highly paid officers.

My proposal, therefore, is that the Lieutenant-Governor be informed that we are willing to consider the case of the Moonsiffs, provided his subordinate judicial and *quasi*-judicial establishments be revised in the manner described; and I make this proposal with a stronger confidence in its necessity, because this is the first instance in which we have been called upon to deal out of our surplus with a portion of the arrear of public requirements which has been accumulating for some years past; and upon the action now taken by us will, in a great degree, depend whether we are able to maintain a position at once safe and advantageous for the public service, or are exposed without protection to a heavy pressure from various quarters, which the precedent of a large unconditional grant would certainly bring upon us.

MINUTE by the Honorable the PRESIDENT in Council, dated 9th May 1863.

The urgent necessity of improving the condition of the Native Judicial Officers is sufficiently shown in the letter of the Secretary to the Governor of Bengal, the late Marquis of Dalhousie, and the Minute of the late Lieutenant-Governor of Bengal, Sir J. P. Grant, and is generally admitted.

I consider the modified increase proposed by Mr. Harington preferable to the Bengal proposal, inasmuch as the former will with greater facility fall into the contemplated revision of the Judicial Establishment.

I fully admit the advantage which may be derived from the scrutiny into the economical condition of establishments, or Departments, which Sir Charles Trevelyan would have as a condition to accompany any increase of salaries; but, as Mr. Maine assures us that a comprehensive schome of re-organizing the Judicial Establishment is in course of preparation, and that this scheme is based on the fullest information, I cannot concur in the expediency of an intermediate Commission, but think the Lieutenant-Governor might be asked if he can meet Sir Charles Trevelyan's views, by proposing any economical re-adjustment of the Executive and Judicial Establishments, so as to yield a saving to set off against the proposed increase.

INITIAL NOTE by the Honorable H. B. HARINGTON, dated 11th May 1863.

I entirely concur with the Honorable the President, that no Commission of Inquiry, such as is proposed by Sir Charles Trevelyan, is necessary, before action is taken on the present proposition of the Lieutenant-Governor of Bengal for increasing the salaries of the Moonsiffs under his Government, and I sincerely trust that the increase proposed by me, and which all my colleagues seem to consider suitable and proper, will be granted at once.

MINUTE by the Honorable H. S. MAINE, dated 21st May 1863.

I have every reason for believing that the Bengal Judicial Establishment stands urgently in need of reform, and I think that the plan of making increase of allowances dependent on the revision of establishments is likely to lead to the best results when confined to its proper province, but I strongly object to deferring the augmentation of the Moonsiffs' salaries until three gentlemen (not at present named) have recommended certain improvements in the Judicial Establishment of Bengal. It appears to me that the course advocated by Sir Charles Trevelyan will have the effect either of indefinitely postponing an act of justice which has been almost shamefully delayed, or else of committing the Government of India to a crude and imperfect project of judicial reform. I am anxious, too, that the excellent principle for which my Honorable Colleague contends should not be compromised and discredited by application to a subject matter to which it is not properly applicable.

Sir Charles Trevelyan founds his proposal on what he asserts to be the rule at Home, "never to authorize an increase of numbers or salaries, however obviously required, without a revision of the establishment." It is impossible to avoid the reflection that, as regards Judicial Establishments, this does not state the actual fact. So far as I am aware, nobody has even proposed in England that no new Court shall be created, no Judge added to existing tribunals, no judicial salary increased, until the whole English Judicial Establishment has undergone revision. It may, no doubt, be replied that the legal profession is powerful enough at Home to defeat reforms which it dislikes, but though this may have been true once, it has ceased to be true for at least a quarter of a century; and of late years the English legal profession has been compelled to submit to reforms which have injured its interests and prospects infinitely more seriously and directly than the suppression of a judgeship, or the curtailment of a few judicial stipends. I should rather be disposed to attribute the omission to bring Judicial Establishments within the principle of revision to consciousness of the fact that the principle, unless greatly modified, can rarely have any true application to them. The establishments to which the principle has been applied with such eminent success at Home are mere administrative establishments, dependent for the mode of their organization on the fiat of the executive power, or demanding, at most, for their re-organization an order of the Privy Council. But judicial arrangements are almost invariably connected with positive law, and require legislation for their correction, so that the characteristic advantage of these summary inquiries—the speed with which the reform follows on the report—is not attainable when Judicial Establishments are in question. The essential differences which distinguish judicial from administrative Departments afford another reason which may have disinclined the authorities at Home towards bringing them under the same principle of revision. With the exception of the higher officers—to whom, if I am not in error, the plan has never been applied—the persons attached to administrative establishments are engaged either in a purely mechanical exercise,

writing, or in the intellectual exercise which most nearly approaches mechanical employment, *calculation*; it is, therefore, quite easy to understand how a simple re-adjustment of duties, or re-distribution of sub-departments, may lead directly to increased efficiency, at the same time that it saves expense. But judicial efficiency, even among the lower grades of Judicial Officers, is a very different thing from administrative efficiency among the Clerks of a public office. It depends on conditions much more complex and much more intangible. Not to go further than Bengal, an inquiry into the best means of giving efficiency to the Judicial Establishment might incidentally open the whole question as to the privileges of Covenanted Civilians; it might open the question of the expediency of keeping Judicial Officers to Judicial employments from the first moment of their service; and it might (and indeed certainly would) open the whole question of appeals, and of the limits within which they ought to be confined.

The comparative usefulness of Commissions of Inquiry seems to me to depend greatly on the point, whether the reforms they recommend can be carried out at once, or only after a long process, such as is legislation.

When the whole power of re-organization is in one or two hands, and all that is needed is to overcome departmental inertia, I can perfectly comprehend its being worth while to obtain the consent of a department to having its establishment revised. But when investigation by a Commission is the preface to legislation, I scarcely think that Sir Charles Trevelyan's English experience can have shewn him that such an inquiry expedites reform. The information which Commissions collect is sometimes absolutely necessary, and they are, therefore, sometimes indispensable, but their strongest advocate would hesitate to say that they hasten improvements. They too often have the effect of re-opening old difficulties, and suggesting new ones, when the mind of those best able to judge is practically made up on the changes which are needed; and hence it is that popular opinion at Home is somewhat disposed to regard them as excellent contrivances for adjourning or suppressing reforms. Of course, it is another matter when the power which can effect the change makes up its mind beforehand to carry out the report, whatever it may be; but no legislative body which respected itself would or could enter into such an engagement.

If the inquiry recommended by Sir Charles Trevelyan were set on foot, it must have one of two results. Either the Commission would confine itself to recommending changes which the Lieutenant-Governor of Bengal can effectuate through his executive authority (his legislative powers cannot be called into play for a reason which will be stated presently), or else it will enter on a wide field of investigation, and determine, by reference to some standard of its own, what measures are needed to produce judicial efficiency in Bengal. I do not hesitate to say that changes, limited to the sphere of those powers which the local Government possesses, would produce more evil than good, and perhaps unmingled evil. The very anomalies which Sir Charles Trevelyan notices—the seemingly capricious interpolation of Courts of one sort amidst Courts of another sort, the investiture of Judges of one description with the powers of Judges of another description—are simply the fruit of attempting to correct the deficiencies of the judicial establishment without the authority necessary for their correction.

On the other hand, if the Commission were to open the whole question of judicial reform in Bengal, it would, in the first place, indefinitely delay the proposed act of justice to the Moonsiffs, and, in the next, it would only, after all its labors, make an unnecessary addition to the information already possessed by the Government. Sir Charles Trevelyan is probably unaware of the mass of reports and returns which exist on this subject, and which cannot be regarded as obsolete; inasmuch as no legislation, which can materially affect them, has taken place since they were received, while the alterations effected by the Government of Bengal within the limits of its powers must necessarily have been insignificant. What seems to me to be necessary in India towards the creation of an efficient judicial system is neither information, of which we have more than enough, nor willingness to carry out reforms, of which (as the Lieutenant-Governor of Bengal has often shewn) the Local Governments have abundance, but decision on the part of the Supreme Government as to the principle on which re-organization is to be based, and promptitude in establishing that principle.

No one who has given his mind to the questions raised by the manner of administering Civil justice in India has ever, I suppose, doubted as to the general nature of the reform which

is called for, though there may have been doubts as to the possibility of carrying it out, and differences of opinion as to the particular mode of effectuating it. The problem is to dispose of the immense mass of petty litigation which oppresses the tribunals, without exposing the litigant to the hardship and expense of appeals, and yet without depriving him of those securities for justice which are at present provided by the appeal system. The Council of the Governor General for making Laws and Regulations is the only authority which can solve the question, since it alone, under the Letters Patent constituting the High Court of Bengal, can effectually regulate appeals. The submission of a scheme setting the principle on which measures are to be taken for obtaining judicial efficiency is, in my judgment, a duty of primary importance incumbent on the Government of India, and a duty which I should be sorry that it should delegate to any three gentlemen in the country, whatever their knowledge and abilities.

When the principle of re-organization is settled, it will be for the Local Governments to adopt measures which will, in fact, amount to that revision for which Sir Charles Trevelyan is anxious, and I should not object to delaying the augmentation of the Moonsiffs' salaries till the revision has been carried out, if I did not think that absolutely no excuse, except penury, can justify the Government of India in prolonging the scandal of their present remuneration. The stipend suggested by the Honorable Mr. Harington seems to me to be the minimum salary which should be paid to Judges of the lowest grade in India under any conceivable judicial system.

I must once more guard myself against seeming indifferent either to judicial reform, or to Sir Charles Trevelyan's principle of revision. As to the first, I hold an efficient judicial system to be, if possible, even more essential to the welfare of India than a sound fiscal or financial system. The bad consequences of judicial miscarriages are not so immediately obvious as those of revenue officers and financiers, but the indirect evils which they produce are infinitely more serious and extensive, and to the existing condition of the administration of justice (which is much more the fault of the system than of those who carry it on) we must, I fear, attribute the contempt of law which distinguishes one class in India, the distrust of it which is felt by another, and, above all, the demand for anomalous judicial remedies, which, under a sound dispensation of civil justice, would probably never have even occurred to the mind. Again, as regards the principle of making grants from the treasury dependent on the revision of establishments, I am only desirous of preventing its falling into discredit by being strained at the outset. It must obviously, be kept within due limits; nobody can suppose that, if some extra Ordnance clerks were demanded at Home, a Commission would be appointed to decide the issue between Artillery and Iron-cased Ships. In short, if Sir Charles Trevelyan's principle be applied to too large a subject matter, it is easily reduced to an absurdity.

Minute by the Honorable W. GREY, dated 22nd May 1863.

I will not detain these papers, for I could add nothing of value to the arguments so strikingly and ably enforced by Mr. Maine.

I concur entirely in all that Mr. Maine has written, and I trust that His Excellency the Governor General, to whom these papers will, of course, be submitted, may acquiesce in the propriety of at once increasing the salaries of the Moonsiffs in the manner, and to the extent, recommended by the Council.

I will only add that I believe Sir Charles Trevelyan to be quite mistaken in supposing that there is a palpable excess of subordinate District Officers under the Bengal Government; but on this point, I do not hesitate to say that the Lieutenant-Governor could give us earlier and far more valuable information than any Commission. I should see no objection to calling on the Lieutenant-Governor for a report as to the necessity of retaining the existing strength of subordinate executive Officers—executive, that is, in common parlance, as distinguished from the purely judicial service.

Minute by the Honorable Sir C. E. TREVELYAN, K. C. B., dated 27th May 1863.

I will not prolong this discussion by answering Mr. Maine's able and interesting Minute, in great part of which I entirely agree, while there are other parts to which I should have much to say in reply.

If it be determined to adopt the course recommended by Mr. Maine, and to lay down the general principles of judicial re-organization for the whole of India, before we re-cast

the establishments of any particular province on those principles, I am of opinion that the increase of salary, which all admit to be due to the Bengal Moonsiffs, should be given without delay.

The Lieutenant-Governor may be asked whether he can propose any reduction of establishments (especially in reference to the large number of Sub-divisional Officers who will be left only with judicial powers, in consequence of the introduction of the new Police) which would, in whole or in part, counterbalance the additional expense caused by the increase of salary to the Moonsiffs; but the Bengal establishments have got into such an anomalous state, owing to the intermixture of judicial and revenue powers, that they cannot be effectually operated upon, except by an authority authorised to deal with both branches of the subject.

From the Secretary to the Government of India, Home Department, to the Secretary to the Government of India with the Governor General; dated 28th May 1863, No. 3410.

I am directed by the Honorable the President in Council to forward, for submission to His Excellency the Governor General, the papers noted on the margin, respecting a proposition of the Government of Bengal for an entire revision of the subordinate Judicial Establishments in the Regulation Districts within its jurisdiction.

From Government of Bengal, No. 3021, dated 25th September 1862, with two enclosures.
To do., in reply, No. 7303, dated 19th December 1862, and enclosure.
From do., No 2508, dated 9th April 1863, and enclosure.
Initial Note by the Honorable H. B. Harington, dated 25th April 1863.
Minute by the Honorable W. Grey, dated 27th do.
Do. by the Honorable H. S. Maine, dated 29th do.
Do. by the Honorable Sir Charles E. Trevelyan, dated 7th instant.
Do. by the Honorable the President, dated 9th instant.
Initial Note by the Honorable H. B. Harington, dated 11th do.
2nd Minute by the Honorable H. S. Maine, dated 21st do.
Do. by the Honorable W. Grey, dated 22nd do.
Do. by the Honorable Sir Charles E. Trevelyan, dated [illegible]

2. His Excellency will perceive, from the Minutes recorded by the Members of Government, the views entertained by them, severally, on this important question. The Honorable Mr. Harington is at present absent from the Presidency, but it is understood that his initial notes are to be regarded as Minutes,—the other Members having converted theirs into Minutes, for record, since his departure.

3. The President in Council strongly recommends that the application of the Lieutenant-Governor for an increase to the pay of the Moonsiffs, modified as proposed by the Honorable Mr. Harington, should be complied with.

From the Secretary to the Government of India with the Governor General, to the Secretary to the Government of India, Home Department; dated Simla, 10th June 1863, No. 280.

With reference to your letter, No. 3410, dated 28th May, forwarding papers having reference to a proposition from the Bengal Government for an entire revision of the subordinate Judicial Establishments in the Regulation Districts within its jurisdiction, I am directed to forward, for the information of His Honor the President in Council, a copy of a Minute by His Excellency the Viceroy and Governor General, dated 8th June.

2. The enclosures of your letter are herewith returned.

Minute by His Excellency the VICEROY AND GOVERNOR GENERAL OF INDIA, dated 8th June 1863.

I entirely concur with Sir C. Trevelyan in the opinion that applications for increase of salary should be made the occasion for a thorough revision of the Establishments from whence they proceed, and it is with the greatest reluctance that I consent to dispense with this preliminary in any particular case.

When, however, Sir C. Trevelyan refers, not to any alleged extravagance or excess of expenditure in the Moonsiffs' Courts, but to the complexities which have gradually grown up in the judicial system of Lower Bengal, as a ground for inquiry in the present instance, I must agree with Mr. Maine that he contemplates an investigation widely different from what is ordinarily implied in the phrase "Revision of an Establishment," and that such an investigation will necessarily raise questions which cannot be disposed of by Commissioners in the summary manner indicated by Sir C. Trevelyan.

Commissioners appointed for the purpose of an enquiry so comprehensive might possibly throw out suggestions, and ascertain facts, which would be a material assistance to those on whom the responsibility of organizing the judicial system of India must ultimately devolve. But they could not do more; nor could greater authority than this attach to any recommendations which they might offer on these weighty matters.

This is no reason for indefinitely adjourning an inquiry into the important questions referred to by Sir C. Trevelyan. On the contrary, I think it may very properly be resolved that, until this subject, difficult and complicated as it is, has been thoroughly investigated, and until the principles on which the judicial system of Lower Bengal is to be conducted have been laid down with sufficient precision to admit of the application of the practice of "Revision of Establishment," advocated by Sir C. Trevelyan, when proposals for the increase of salaries or establishments are made, such proposals will not, as a rule, be entertained by the Government of India.

This resolution would not, of course, affect the case of the creation of new offices or new Courts by legislative enactment, on which Mr. Maine dwells in his able Minute. At the same time, I think that the present state of the Courts in Lower Bengal shows how important it is that they should be organized on some comprehensive plan, and that the practice of conferring judicial powers, not upon system, but to meet difficulties as they arise, should be abandoned.

The case of the proposed increased to the Moonsiffs' salaries is, however, a very special one, and may, I think, be dealt with exceptionally.

In the first place, it seems to be admitted by all that, looking to the nature of the functions which these Officers have to discharge, the remuneration now accorded to them is scandalously inadequate.

And, secondly, even when increased to the extent recommended by Mr. Harington, their salaries will still be so low, that the vested interests thereby created will not, I apprehend, prove an obstacle to the carrying out of any measures, whether of reduction of establishments, or re-distribution of functions, which a comprehensive review of the whole question may recommend for adoption.

On these grounds, I am of opinion that the increase to the salaries of the Bengal Moonsiffs, suggested by Mr. Harington, may be sanctioned, and that the Lieutenant-Governor may be asked whether he can propose any reduction of establishments to counterbalance the expense thereby occasioned.

No. 4127, dated 29th June 1863.

RESOLUTION.—By the Government of India, HOME DEPARTMENT.

Read again letter from the Government of Bengal, No. 3021, dated the 25th September 1862, and its enclosures.

Read letter to ditto, in reply. No. 7303, dated the 19th December 1162, and its enclosure.

Read letter from the Government of Bengal, No. 2563, dated the 19th April 1863, and its enclosure.

Read also the following papers:—

Initial Note by the Honorable H. B. Harington, dated 25th April 1863.
Minute by the Honorable W. Grey, dated 27th ditto.
Ditto by the Honorable H. S. Maine, dated 29th ditto.
Ditto by the Honorable Sir Charles E. Trevelyan, dated 7th instant.
Ditto by the Honorable the President, dated 9th instant.
Initial Note by the Honorable H. B. Harington, dated 11th ditto.
Second Minute by the Honorable H. S. Maine, dated 21st ditto.
Ditto by the Honorable W. Grey, dated 22nd ditto.
Ditto by the Honorable Sir Charles E. Trevelyan, dated 27th ditto.
Letter to Secretary to Government of India with the Governor General, No. 3410, dated 28th May 1863.
Minute by His Excellency the Viceroy and Governor General, dated 8th instant.
Letter from the Secretary to the Government of India with the Governor General, No. 280, dated the 10th instant.

The President in Council could have wished that the Honorable the Lieutenant-Governor, in re-submitting his proposition for raising the salaries of the Moonsiffs generally in the territories under his Government, had been able to give his opinion on the several points upon which that opinion was asked, in the letter of this Government, dated the 19th December last. His Honor has explained the causes which prevent his fully answering that communication at present, and the President in Council agrees with the Lieutenant-Governor that the question of raising the salaries of the Moonsiffs in the Lower Provinces of Bengal may be considered separately, and that there should be no further delay in coming to a decision upon that question.

2. It is generally admitted that the salaries of the Moonsiffs in the Lower Provinces of Bengal are too low. For many years past, financial considerations alone have prevented the Government of India from granting that increase to the salaries of this class of Officers, which every one having an interest in the administration of Civil justice has acknowledged to be not merely a measure of expediency, but a positive obligation upon Government, and a simple act of justice to a very deserving body of Public Servants. These considerations happily no longer exist.

3. The Lieutenant Governor of Bengal proposes to raise the salaries of the whole body of Moonsiffs under his Government to 200 Rupees a month, and to do away with the present distinction of classes.

4. The present number of Moonsiffs employed in the territories to which the proposition applies is stated to be 174. Of these 50, forming the first grade, receive 150 Rupees a month; the remainder (124), forming the second grade, receive 100 Rupees a month. The proposition, therefore, of the Lieutenant-Governor, if adopted, would increase the salary of each of the former grade by 50 Rupees a month, and of each of the latter grade by 100 Rupees a month; the total increase in the judicial charges of Bengal proper being Rupees 1,78,800 per annum.

5. The principal objection entertained by the Government of India to this scheme is that it would place upon the same footing, as far as emoluments are concerned, officers who are now advantageously divided into two grades. Promotion, owing to the small number of Uncovenanted Judges of a higher class, comes very slowly to Moonsiffs; and the President in Council fears that, if the Lieutenant-Governor's proposal were adopted, the Moonsiffs appointed under it would in a great degree lose that encouragement to labor honestly and zealously, which the prospect of promotion bestowed as the reward of merit, and not simply on the ground of seniority, furnishes to all public servants, and to none more so than to Native officials upon whom it has the best possible effect. The truth of this is evidenced by the undoubted advantages that have resulted from the division of the first and third class of Native Judges (the Principal Sudder Ameens and the Moonsiffs) in the Presidency of Bengal into two classes.

6. For these reasons, the President in Council is decidedly of opinion that, whatever increase may be made to the salaries of the Moonsiffs in the Lower Provinces of Bengal, the present system of two grades, distinguished by different rates of pay, should be maintained. To the first grade, the President in Council would assign the salary proposed by the Lieutenant-Governor of Bengal, viz., 200 Rupees a month. To the second grade, he would assign the salary now drawn by the first grade of Moonsiffs, viz., 150 Rupees a month. Each grade would thus obtain an increase of Rupees 50 a month; and in order to accelerate promotion from the lower to the upper grade, the President in Council would introduce a change in the present proportions of one-fourth of the upper to three-fourths of the lower grade. These for the future might be one-third of the former to two-thirds of the latter. The increases of salary may take effect from the 1st proximo.

7. The financial result of the scheme so amended will be an increase of 9100 Rupees per mensem, or 1,09,200 Rupees per annum, on the existing scale of charges, and a decrease of Rupees 69,600 upon the expenditure proposed by the Lieutenant-Governor.

8. The President in Council accepts the heavy additional cost which, even under the less expensive plan that has been adopted, the present measure will entail; but in doing so, His Honor in Council entertains a hope that the increase may be, in part at least, counterbalanced by reductions in other directions, and trusts that the Lieutenant-Governor may, on a careful examination, both of the judicial and other establishments under his control, find means to submit a proposition of this nature to the Government of India at an early period.

ORDERED that a copy of this Resolution be communicated to the Government of Bengal, with the request that it will submit for the sanction of the Government of India, in the Financial Department, a Supplementary Budget for the increased expenditure which the adoption of the arrangement now authorized will entail.

No. 4128.

Ordered, also, that a copy of this Resolution be sent to the Financial Department, for information, and for the issue of such further orders as may be necessary.

Reported to the Right Honorable the Secretary of State for India, in letter, No. 30 of 1863, dated the 4th July.

No. 41. To the Honorable the Chief Justice of the High Court of Judicature, Madras; dated Fort Saint George, 6th April 1866, No. 503.

I am directed by His Excellency the Governor in Council to request that he may be favored with the opinion of the Honorable the Judges of the High Court, on the subject of the salaries at present assigned to the Uncovenanted Judicial Officers in this Presidency, with reference to the proposals which have been made by the Government of India, in the enclosed papers, for increasing the salaries of the Uncovenanted Judges in the Bengal Presidency.

14th February 1866, No. 807.

2. The Governor in Council is disposed to question the expediency of any increase to the salaries which Principal Sudder Ameens and District Moonsiffs in the Presidency now receive, and to think that, if any increase of expenditure is to be incurred, it should be applied to increasing the number of Principal Sudder Ameens, with the view of reducing the arrears in certain of the Zillah Courts; but before addressing Her Majesty's Government on the subject, he wishes to have before him the opinion of the Honorable the Judges of the High Court.

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

Exd. J. H. Burns.

despd 13/4

Judicial Department

No. 503.

To The Honorable Sir Colley Harman Scotland, Kt.
Chief Justice of the High Court of Judicature,
Madras.

Honorable Sir,

I am directed by His Excellency the Governor in Council to request that he may be favored with the opinion of the Honorable the Judges of the High Court on the subject of the salaries at present assigned to the uncovenanted Judicial Officers in this Presidency with reference to the proposals which have been made by the Government of India, in the enclosed papers, for increasing the salaries of the uncovenanted Judges in the Bengal Presidency.

2 The Governor in Council is disposed to question the expediency of any increase to that

14 Feb, 1866. No. 807.

Judicial, 1866 Ed

No. 503.

To The Chief Justice
of the High Court of
Judicature Madras.

Dated 6th April 1866

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Fort St. George
6th April 1863

Judicial Letter to Engd 26th June
No 10 of 1866.
Reptd to ch. Ltr. No of 1866.

Judicial 1866 Departt.

No 563.

To
The Honorable
The Chief Justice of the
High Court of Judicature
Madras

Fort St. George.

Date 6th April 1866.

40-41.