

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. <i>207</i>	Press Mis.
Dated <i>25</i> . <i>2</i> . <i>1918</i>	<i>6/7</i>

Not to be folded or roughly handled

17

*Proceedings of the Madras Government, Judicial Department,
25th February 1867.*

No. 217. Read the following Despatch from the Right Honorable the Secretary of State for India, to His Excellency the Right Honorable the Governor in Council, Fort Saint George; dated India Office, London, 16th January 1867, No. 2.

I have to acknowledge the receipt of the Despatch of your Excellency in Council, No. 11 of 1866, dated the 26th of June, forwarding a Statement of the business disposed of by the High Court.

2. In reply, I forward copies of similar Returns received from the other Presidencies, and copy of a letter* which I have addressed to the Government of India, with a revised Form of Statement, which is to be substituted for that formerly transmitted.

No. 2, dated 16th January 1867.

From L. R. TOTTENHAM, Esq., Officiating Registrar of the High Court of Judicature at Fort William in Bengal, to the Secretary to the Government of India, Home Department, Simla; dated Calcutta, 16th June 1866, No. 1814.

I am directed to acknowledge the receipt of your letter, No. 356, dated the 27th April last, in which you request the annual submission to Government, for transmission to the Secretary of State, of a Tabular Statement, in a form prescribed in a Despatch, of which a copy accompanied your letter.

2. In compliance with the request of Government, I am to forward herewith two Tabular Statements for the past year, 1865—one showing the work of this Court in its Original Side; and the other, that of the Appellate Side.

3. In regard to the form of these Statements, it seems necessary to explain that, while adhering strictly to the form prescribed by the Secretary of State, the Court have not understood the third head, "Criminal cases requiring confirmation," as intended to embrace such cases only as involve capital sentences (although it is in

such cases exclusively that reference is had to this Court for confirmation of sentence), but have included under it trials appealed under Chapter 30, as well as trials revised under Chapter 29 of the Code of Criminal Procedure. In case, however, the Court may have misunderstood the intention of the Statement, a note is appended showing the number of Capital Sentences sent up for confirmation by the Courts, the number disposed of, and the days occupied during 1865 in such work.

1865.
Original Side.

	Filed.	Disposed of.	Days of sitting.
Original Suits...	1,211	1,192	216
Vice-Admiralty Suits.....	15	12	
Insolvent Cases...	101	126	65
Criminal Trials	200	198	60
Total...	1,527	1,528	341

HIGH COURT,
13th June 1866.

(Signed) C. T. DAVIS,
Officiating Registrar.

Appellate Side.

	Filed.	Disposed of.	Days of sitting.
Regular Appeals...	441	529	55
Applications for Special Appeals...	3,672	4,451	79
* Criminal Cases requiring confirmation...	973	923	59
† Miscellaneous business...	824	773	30
Total...	5,910	6,676	223

* Of these eighty-five were cases in which capital sentence was passed, of which eighty-four were disposed of and one was pending; the time occupied in such cases was fourteen days.
† Including criminal work also.

HIGH COURT, APPELLATE SIDE,
16th June 1866.

(Signed) L. R. TOTTENHAM,
Officiating Registrar.

25th February 1867.

STATEMENT of the business disposed of in the High Court of Bombay for the year 1865, showing the Suits disposed of, the number of days sitting in each Division Court, with the number of Judges, whether Barrister, Civilian, or Native.

Original Side.

	Filed.	Disposed of.	Days of sitting.
Original Suits...	1,332	1,467	1st Court... 120 2nd Division Court... 161 3rd do. ... 141
Admiralty ..	2	1	
Equity ..	15	18	25
Ecclesiastical Cases Caveats...	15	9	6
Insolvent do.	341	294	25
Criminal Trials...	157	157	54
Appeals from Division Courts	20	6	11
			543

N.B.—The Criminal Sessions are always held in the 1st Division Court, also (with a few exceptions) all Appeals, Equity and Ecclesiastical Cases in the 2nd Division Court, nearly all the Insolvent Court business was taken in the 3rd Division Court.

STATEMENT of business disposed of in the High Court of Bombay for the year 1865, showing the Suits and Appeals disposed of, the miscellaneous business, the number of days of sitting in each Division of the Court, with the number of Judges, whether Barrister, Civilian, or Native.

	Filed.	Disposed of.	Number of days during the year each Court sat.	
			1st Court.	2nd Court.
Regular Appeals...	20	12	1 { 1 Barrister Judge.. 76 1 Civilian .. 1 1 Native .. 1	2 Civilian Judges. 101
Applications for Special Appeals.	1,045	1,068	60 { 1 Barrister .. 35 2 Civilian .. 25	1 Civilian Judge. 465
Criminal Cases requiring confirmation...	51	51	1 { 1 Barrister .. 3 1 Native .. 1	1 Barrister .. 3 1 Native .. 1
Miscellaneous business. (a) ...	2,673	2,600	45 { 1 Barrister .. 11 1 Civilian .. 2 2 Civilian .. 53 8 1 Civilian .. 8	1 Civilian .. 11 1 Native .. 2 1 Civilian .. 53 1 Civilian .. 8
			164 days (b).	181 Days.

(a). The form is so concise that, under the head "Miscellaneous business", the following has been included :—

	Filed.	Disposed of.
Civil Miscellaneous Orders...	1,698	1,625
Criminal Cases appealed...	111	111
Criminal Cases received on the Monthly Criminal Returns...	251	251
Criminal Cases referred for orders of the Court...	63	63
Criminal Petitions...	199	199
Criminal Miscellaneous Orders...	351	351
Total...	2,673	2,600

In addition to this, the Judges disposed of 2471 references which were circulated to them and read and settled out of Court.

(b). On fifty-nine days two Courts could not sit, as there were not four Judges present; this was owing to absence on leave from sickness or other cause.

(Signed) J. KING,
Ag. Under Secy. to Govt.

25th February 1867.

Despatch from the Right Honorable the Secretary of State for India, to His Excellency the Right Honorable the Governor General of India in Council; dated India Office, London, 16th January 1867, No. 2.

The Despatch of your Excellency in Council, dated 5th July, No. 25 of 1866, forwarding Statements showing the business disposed of by Her Majesty's High Court at Calcutta on the Original and Appellate Sides, has been considered by me in Council.

2. I herewith forward copies of similar Statements received from Madras and Bombay, and, for the purpose of securing uniformity, I desire that the revised form appended to this Despatch may be substituted for that formerly transmitted.

3. In the revised form, your Excellency in Council will observe that the suggestion contained in the letter of the Registrar of the High Court, relative to Criminal cases, has been adopted.

4. The Returns now furnished from the three High Courts suggest a few remarks, both as to the form in which the Statements are submitted, and as to the facts which they exhibit.

5. First, as to form. The Bombay Statement, on the Original Side of the Courts, shows (18) eighteen Equity and (9) Ecclesiastical cases as disposed of. There is no entry of this kind in the Calcutta Statement. I presume, therefore, that, in the latter, the Equity and Ecclesiastical cases are included in the entry "Original Suits." If so, I approve of the course followed, and desire that it may also be followed in the Bombay Statements in future. The object of the Returns is not to secure minute, but broad and general information as to the amount of duty imposed upon the several High Courts.

6. In the Madras Statement, on the Original Side of the Court, there are entries which do not appear in those of the other High Courts, such as,—

Testamentary and intestate petitions:

Contentious...	4
Non-contentious...	101
Applications for injunctions, attachments, &c., before hearing, &c...	725
Incidental applications under the Insolvent Act, for payment of dividends, &c.,	465

Of these the Testamentary and Intestate Petitions (Contentious) might, perhaps, be included under the heading "Original Suits." The others, it may be presumed, relate either to mere motions of course, or to motions generally of an interlocutory character, relating to business in Court, of which no satisfactory Returns can be made without imposing more work on the Officers of the Court than is desirable. It may be presumed, therefore, that such interlocutory business will bear a due relative proportion to the ordinary business of the Court, and may be well omitted.

7. The Madras Statements, both Original and Appellate, contain useful Returns conveniently arranged, showing "before what Judges, and before how many Judges (Barrister or Civilian) the business was disposed of." I desire that in these respects the Madras form be followed.

8. The Bombay Statements on the Original Side contain an entry relating to Appeals from Division Courts, which does not occur in the Statements of the other Courts. This entry relates to an important portion of business, it has been inserted in the Bombay Statement.

9. Vice-Admiralty cases, being few in all the Courts, are not entered in the entry of "Original Suits."

10. On the Appellate Side of the Courts, the Bombay Statement contains an entry of "Original Suits," which does not occur in the Statements of the other Courts. In the Bombay Statement, the entry "Miscellaneous Orders" is inserted. In the Bombay Statement the same entry stands at 773.

*Proceedings of the Madras Government, Judicial Department,
25th February 1867.*

ment, the entries—I., Criminal Cases appended; II., Criminal Cases received (reviewed?) on the monthly Criminal Returns; and, III., Criminal Cases referred for orders of the Court, be subtracted (such entries being, in the Calcutta Statement, included in Criminal Cases requiring confirmation), there will still remain 2175 Miscellaneous Orders in Bombay against 773 in Calcutta. This is a difference which requires explanation before the Returns from the Courts can be rendered uniform.

11. The Madras Statement contains an entry, "References," under certain Small Cause Court Acts. This entry should, in future, be included in the Statements from the other Courts.

12. With respect to the facts disclosed by the Returns there are some which demand notice. The Madras Statement, compared with the Bombay Statement (the Calcutta Return does not afford any information on the point) shows that on the Appellate Side a Barrister Judge only sat (19) nineteen days out of (116) one hundred and sixteen days; while in the Bombay Court, a Barrister Judge sat on the Appellate Side (111) one hundred and eleven days out of (345) three hundred and forty-five days. The Barrister Judges in Bombay took part in one-third, in round numbers, of the Appellate work; in Madras, only in one-sixth. These facts tend to show that the work of amalgamation between the two constituent parts of the High Courts, viz., Her Majesty's Supreme Court and the Honorable Company's Sudder Court, has not been thoroughly carried out at Madras; that the Judges have been too much relegated to the work which they performed in their former capacity. One of the principal objects of the Government in establishing the High Courts was to give the Civilian Judges the benefit of the legal experience of the Barrister Judges in the disposal of Appellate business. This object does not seem to have been sufficiently in view at Madras, and I desire that the attention of that Government may be called to the fact.

13. The next fact which attracts attention, and of which I desire some explanation, is the small number of Regular Appeals at Bombay, in comparison with those at Calcutta and Madras. The Appeals filed in 1865 in the three Courts stand thus—

	Regular.	Special.
Calcutta ..	441	3,672
Madras...	87	661
Bombay...	20	1,045

14. One more fact also seems to require some explanation. The number of days of sitting in the three High Courts is thus stated in the Returns—

	Calcutta.	Madras.	Bombay.
Original Side ...	341	195	543
Appellate Side....	223	116	345
Total ..	564	311	888

Can any reason be assigned for the very large number of days of sitting in the Bombay Court compared with the other two Courts?

15. I desire that, in future, the Returns of all the Courts, including that of the North-West Provinces, may be forwarded through the Government of India, in order that they may reach this Office at the same time, and I also desire that each Government may annually be furnished with copies of the Returns submitted by the Courts of the other Presidencies.

16. I have caused some abstracts to be prepared of the Returns sent to me, which have furnished the results above adverted to, and I enclose copies, which, with copies of this letter, will be forwarded to the Governments of Madras and Bombay, with instructions that the required explanations be submitted through your Excellency in Council.

*Proceedings of the Madras Government, Judicial Department,
25th February 1867.*

REVISED FORMS.

STATEMENTS of Business disposed of in the High Courts of Judicature at Calcutta, in the year 1866.

Original Side.

	Suits, &c.		Disposed of on merits.	Before		Otherwise disposed of.	Days of Sitting.
	Remaining from 1865.	Filed in 1866.		One Barrister Judge.	Two Barrister Judges.		
1. Original Suits, including Vice-Admiralty, Equity, and Ecclesiastical Cases.							
2. Insolvent Cases.							
3. Appeals from Division Courts.							
4. Criminal Trials.							
Total....							

Appellate Side.

	Remaining from 1865.	Filed in 1866.	Disposed of in 1866.	Days of sitting, with the number of Judges.		
				Days.	Barrister Judges.	Civilian Judges.
1. Regular Appeals.						
2. Applications for Special Appeals.						
3. References under Mofussil Small Cause Court Acts.						
4. Criminal Cases requiring information, including those appealed or revised, &c.						
5. Miscellaneous Orders in Court.						
6. Miscellaneous Orders out of Court.						
Total...						

A.

NUMBER of Original Suits (including Vice-Admiralty and Insolvent) and of Criminal Trials in the High Courts of Calcutta, Madras, and Bombay, with the number of days' sitting, and the number of Judges in each Court.

	Number of Judges.	Civil Suit.	Days of Sitting.	Criminal Trials.	Days of Sitting.	Total Sittings.
						Days.
Calcutta ...	Five Barristers.....	1,330	281	198	60	341
Madras ...	Two Barristers.....	362	165	119	30	195
Bombay ...	Four Barristers.....	1,789	478	157	54	543

**Proceedings of the Madras Government, Judicial Department,
25th February 1867.**

B.
NUMBER of Regular Appeals, Special Appeals, and Criminal Cases requiring confirmation in the High Courts.

	Number of Judges.	Regular Appeals.	Special Appeals.	Criminal Appeals.	Sitting Days.
Calcutta.	Ten Civilians.....	529	4,451	923	223
Madras.	Three Civilians.....	87	544	288	116
Bombay.	Four Civilians.....	12	1,068	473*	345

* The Return from Bombay only gives the cases of death, which, in Calcutta, were stated to be 85 in number; the other Criminal Appeals are included in "Miscellaneous."

C.
AMOUNT of different kinds of Business, with the days occupied on each kind, in the High Courts.

	Regular Appeals.		Special Appeals.		Criminal Cases.		Miscellaneous.		Grand Total of days.
	Cases.	Days.	Cases.	Days.	Cases.	Days.	Cases.	Days.	
Calcutta.	529	55	4,451	79	923	59	53	30	223
Madras.	87	...	544	...	268	...	292	...	116
Bombay.	12	...	1,068	...	51*	...	2,600	...	345

* See note to Return B.

NOTE.—The Returns vary so much as to Miscellaneous Business, that the comparison is valueless.

D.
TOTAL NUMBER of Sitting days on all sides of the Court, with the number of Judges in each Presidency.

	Number of Judges.	Sitting Days.	Sittings per Judge.
Calcutta.	15	564	3
Madras.	5	311	...
Bombay.	8	888	...

No. 218. To the Honorable Sir ADAM BITTLESTON, Kt., Acting Chief Justice of Her Majesty's High Court of Judicature, Madras; dated Fort Saint George, 25th February 1867, No. 297.

In forwarding the annexed copy of a Despatch, and of its enclosures, from the Right Honorable the Secretary of State

Dated 16th January 1867, No. 2.

for India, I am directed by the Governor in Council to request that you will be so good as to cause the revised Form to be substituted for the Annual Tabular Return furnished by the High Court under G. O. of the 21st April last, No. 597.

2. I am also desired to draw the attention of the Honorable the Judges to Lord Cranborne's Despatch to the Government of India, dated the 16th ultimo, No. 2, and to request that the required explanation may be submitted on the several points therein noticed.

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

Exd. J. H. Burns.

11/3/67.

Judicial Department

No. 297.

To the Honorable Sir Adam Bittleston, Kt.

By: & keep justice of the High Court
of Judicature Madras

Honorable Sir,

Dated 16th Jan. 67 No. 2.

In forwarding the annexed copy of a Despatch & its enclosures from the Right Honorable the Secretary of State for India, I am directed by the Governor in Council to request that you will be so good as to cause the revised Form to be substituted for the Annual Tabular Return furnished by the High Court under G. O. of the 21st April last No. 597.

2 I am also desired to draw the attention of the Honorable the Judges to Lord Cranborne's Despatch to

to the Govt. of India dated
the 16th ultimo &c &c to
request that the required
explanation may be sub-
mitted on the several
points therein noticed.

156
Fort St. George
25 February 1866

Richard March.

Judicial 1809 Sept.

No 297.

To the Hon. Chief Justice
of the Supreme Court
of the United States
Washington.

Dated 25th Decr 1807

Wm. B. Smith

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