

No. 3. Read the following letter from the Secretary to the Government of India, to the Chief Secretary to Government, Fort Saint George; dated Fort William, 25th January 1867, No. 831.

Home Department.

The Governor General in Council observes that the charge for Judges of Small Cause Courts in the Madras Presidency is as noted on the margin, and that it appears from the Administration Report of the Madras Presidency for 1864-65 that 8286 suits were decided by Judges of Small Cause Courts in 1864.

	No.	Rs.
Chittoor	1	1,400
Coimbatore	1	1,400
Cuddalore	1	1,400
Madura	1	1,400
Tellicherry	1	1,400
Negapatam	1	1,400
Combaconum	1	1,400
Masulipatam	1	700
	8	10,500

2. From correspondence before the Government of India, it appears that the work of certain Judges of Small Cause Courts in Bengal was as follows in 1864-65:—

	Pay of Judge.	Work in 1864-65.	Fees realized for additional work as Principal Sudder Ameen.
	Rupees.	Suits.	Rupees.
Suburbs of Calcutta and Howrah	1,000	3,382	
Pubna and Dinapore	700	1,515	18,875
Dacca and Naraingunge	700	1,952	1,437
Kishnaghur and Santipore	1,000	3,437	6,646
Jessore	1,500	3,862	
Magoodah, Jenaidah, and Narrail	1,000	5,014	
Monghyr and Bhaugulpore	700	1,943	45,877
Hooghly and Serampore	1,000	1,631	3,279
Midnapore	700	1,962	9,229
Total	8,300	24,698	84,343

3. While the cost of eight Judges in District Small Cause Courts in Madras is one-fourth more than that of nine similar Judges in Bengal, the work of the former in those Courts is little more than one-third that of the latter.

4. The duties of Principal Sudder Ameens may possibly be performed, to a larger extent than in Bengal, by some of the Small Cause Court Judges in Madras; but perhaps, before this can be allowed for, it would be necessary to compare the work relatively to strength of the District Small Cause Courts and the Principal Sudder Ameens' Courts in Madras and Bengal. The figures in the Administration Report of

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.

the Madras Presidency, and in the Memorandum noted on the margin, of which a copy is herewith forwarded, seem to show that at least the Appellate or most

responsible part of the work of Principal Sudder Ameens is heavier in Bengal, both absolutely and in proportion to strength. These facts would seem to suggest inquiry, which may, perhaps, show that reduction in the Madras Small Cause Courts is possible: it appears, at any rate, that these Courts are more costly than in Bengal, while their work is lighter, and His Excellency in Council would be glad to receive the remarks of the Madras Government on the subject.

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 the 15th January 1866, No. 376.

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 shows 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.	7,14,45,588
			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	...	...	Rupees.	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	...	...	Rs.	1,21,610
Moonsiffs	...	...	Rs.	4,48,130
Total	...	...	Rs.	7,48,211
			Or £	74,821

* Vide note to paragraph 20.

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

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

Courts.								No. of suits decided in 1864.
Judges	...	...	...	{Original	...	...	...	289
				{Appeals	...	...	...	5,307
Principal Sudder Ameens...	...	...	...	{Original	...	...	...	5,776
				{Appeals	...	...	...	3,396
Sudder Ameens	...	...	...	...	...	...	...	3,562
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. 1,79,08,027
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...	...	...	Rs.	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

* Vide note to paragraph 20.

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

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

Lower Provinces.

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

North-Western Provinces.

6 Principal Sudder Ameens, on	...	...	Rs.	600 per mensem.
12 " "	...	...	Rs.	400 "
10 Sudder Ameens and 1st Grade Moonsiffs, on	...	...	Rs.	250 "
15 Moonsiffs, on	...	...	Rs.	200 "
43 " "	...	...	Rs.	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 paragraph 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 smaller 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 1863, the Moonsiffs of the higher grade received only Rupees 150, and of the lower grade Rupees 100 per mensem. 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 the 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...	...	Rupees 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 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 Department 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

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

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 Tahsildar is Deputy Registrar within the limits of his Tahsilee. 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 shown; 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. 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 thereafter 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:—

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	
	Ditto ditto...	16 " 400					
	Sudder Ameens...	27 " 250	4,02,600		6,94,800	2,92,200	
	Moonsiffs... ..	47 " 200					
	Ditto.	110 " 150					
	Ditto.	9 " 100					
	Total.		5,37,000			8,67,600	3,30,600
N. W. Provinces	Principal Sudder Ameens... ..	6 on Rs. 600	1,00,800	18 on Rs. 600	1,29,600	28,800	
	Ditto ditto...	12 " 400					
	Sudder Ameens and 1st Grade Moonsiffs... ..	10 " 250	1,43,400		2,44,800	1,01,400	
	Moonsiffs... ..	15 " 200					
	Ditto	43 " 150					
	Total... ..		2,44,200			3,74,400	1,30,200
	Grand Total...		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 have been at various times either taken or proposed for the improvement of the position of the Uncovenanted Judges.

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,† Lord Dalhousie, in his capacity of Governor of Bengal, sent to the Government of India his views regarding the

† Letter, No. 923, dated 28th April 1854, from Secretary, Government of Bengal, to Secretary to Government of India, Home Department.

necessity of increasing the remuneration of the Judicial Officers in Bengal. The propositions that were made were founded entirely upon a report 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.

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 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, to 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 twelve 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.

* 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.

*Proceedings of the Madras Government, Judicial Department,
1st March 1867.*

No. 4. To the Honorable Sir ADAM BITTLESTON, Kt., Acting Chief Justice of the High Court of Judicature, Madras, dated Fort Saint George, 1st March 1867, No. 327.

In forwarding to you the annexed copy of a letter, and of its enclosure, from the Government of India, conveying certain remarks relative to the comparative cost and work of the Small Cause Courts

Dated 25th January 1867, No. 831.

in the Madras and Bengal Presidencies, I am directed by the Governor in Council to request that you will be so good as to favor the Government with any remarks which it may occur to the Honorable the Judges to offer on the subject.

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

Exd. J. H. Burns.

dispd 13/3.

Judicial Department

No 327.

To The Honorable Sir Adam Bittleston - Kt.

*Acting Chief Justice of the High Court
of Judicature - Madras.*

Honorable Sir,

Dated 25th Jan'y/67 No. 831.

*In forwarding to you
the annexed copy of a letter
and of its enclosure from
the Government of India, con-
veying certain remarks rela-
tive to the comparative cost
and work of the Small Cause
Courts in the Madras and
Bengal Presidencies, I am
directed by the Governor in
Council to request that you
will be so good as to favor
the Government with
any remarks which it may
occur to the Honorable the
Judges to offer on the subject.*

*W. H. G. Giff
1st February 1867
March*

Judicial 1867 Departo

N. 327

To

The Honorable

The Atty. Chief Justice of the
High Court of Judicature

Madras

F. No. 1879-2421-

- 252/68- 325-315-793.

Dated 1st March 1867.

Wm. J. J. 23 Jan 1869

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