Date taken out	For what purpose.			Initials of clerk taking the paper or of attender.	Date returned.	Initials of attender.
	Department	C. No.	Year.			

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 758.

Dated 10th Apr 1895.

INDEXED.

[Despatch Abstract.]

HIGH COURT ESTABLISHMENTS

Explaining to the Honourable the Chief Justice the reasons for the course adopted in G.O., dated 7th. March 1895, No.498, regarding the re-organization of the--.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	498		7-3-95				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	2856		95				

CURRENT No. 1512

Jud.

From

Hon Secretary
Attorneys' Assocn.
Madras

Dated 25. 3. 95
Recd 26. 3. 95
Regd 27. 3. 95
Encl-1

Subject

Forwd. a copy of the Resolutions passed by the Madras Attorneys Assocn. with refnce to the proposed scheme for the Reorganization of the estt. of the Original Side of the High Court

Ns.

To await the receipt of replies from the Chamber of Commerce & the Bar ~~[illegible]~~ association

Extract from the Minutes of a Meeting of the Attorneys Association Madras held in the High Court House on Saturday the 16th day of March 1895.

Read G.O. received from the Government of Madras Judicial Department dated 7th March 1895. No. 498, calling for the views of the Attorneys Association on a Scheme for reorganizing the establishment of the Original Side of the High Court.

Read letter from Mr. C. W. Wilson dated 16th March 1895

It was unanimously resolved that

1. The Judges of the High Court having in 1889 expressed strong disapproval of the Scheme then put forward for the reorganization of the establishment of the High Court and no grounds having been suggested for the introduction at the present time of what appears to be practically the same Scheme, the Association cannot recognize any necessi for the proposed changes.

2. That this Association is unanimously opposed to the abolition of the appointment of the Registrar on the Original Side and to in any way subordinating

the Original Side to the Appellate Side of the High Court.

3. That the Association cannot approve the proposed reduction of the salaries of the Interpreters, considering the importance and responsibility of the work entailed upon them.

True Extract

James Short

Hon. Secy. Attys. Assocn.

CURRENT 25th /1512

Madras. 25 March 1895.

From,

J. Short Esq.

Honorary Secretary,

Attorneys Association,

Madras.

CHIEF SECRETARY'S
26 MAR 1895
GOVERNMENT OF MADRAS

To,

The Chief Secretary to Government.

Sir,

1. I have the honor to acknowledge receipt of G.O.7th March 1895 No.498 and to forward herewith copies of the Resolutions passed by the Madras Attorneys Association with reference to the proposed scheme for the re-organization of the establishment of the Original Side of the High Court.

2. In doing so I am directed by the Association to offer the following remarks for the consideration of Government.

3. It is noted that the scheme so far as the Registrars of the Court are concerned, is the same as that suggested in the despatch dated 15th October 1889 No.324 from the Government of India (Department of Finance and Commerce (Salaries and Establishments) Law and Justice) to Her Majestys Secretary of State for India. The Association is unaware of any change of circumstances, since Government were addressed on the subject by the Registrar of the Appellate Side of the High Court in his letter to the Chief Secretary to Government dated 3rd September 1890 No.2115, which may have caused the Honorable the Chief Justice to now make the present proposal as regards the Registrars.

in G.O. d 11 Apl 90 No 691

G.O. d 11-11-90 No 1771

4. In the absence of any information as to the reasons of the Honorable the Chief Justice, it is impossible for the Association to deal with the subject as exhaustively and satisfactorily as it would wish to do, and the Association would therefore respectfully ask Government that, if the reasons assigned by the Association in this letter are not considered a sufficient answer to the scheme proposed, Government will be pleased to lay before the Association the special reasons, if any, advanced by the Honorable the

This can hardly be done, considering the nature of the special reason viz! the loose method of taxing costs, recently in vogue.

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Jud
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1512

the Chief Justice for the reconsideration of the scheme.

5. Pending receipt of such information the Association entirely agree with the views of the majority of the High Court as then constituted on this question, which are set forth in para 38 of the letter above referred to and are as follows:-

> 'A majority of the High Court as at present constituted 'is greatly averse to the proposed subordination of the Chief 'Officer of the Court on the Original Side and consider it - 'would be a mistake to abolish the office of Registrar on - 'that side of the Court'

The reasons given for such opinion were:-

> the dissimilarity of the work of the Registrars on the two sides; (an objection which was raised by the Chief Justice of the High Court at the time of the creation of the Court in 1863 and which the Judges in 1889 were of opinion 'would hold 'good even if a large percentage of the original suits were - 'withdrawn from the High Court');
>
> the fact that the work of the Registrar of the Court would be chiefly on the Appellate Side, and that he, being 'usually ' a covenanted civilian, holding his office for a short time 'only, having no technical knowledge and having his time fully 'occupied with his own special work, would exercise no control 'over the chief officer on the Original Side';
>
> the uncertainty as to 'whether for a salary of Rs 1000 it 'would be possible to find a solicitor competent to do the - 'work now required of the Registrar of the Original Side and 'other quasi judicial work which might be delegated to him, 'a difficulty which would certainly be increased by making - 'its holder subordinate to the other Registrar'

6. The Association fully support such reasons and in this connection the Association would also draw the attention of Government to the opinion of Sir Colley Scotland above referred to. - Referring to the work of the Registrar on the Original Side, Sir Colley Scotland wrote

> "It has become very considerable and it is in every respect "dissimilar from that of the Registrar on the Appellate Side "and requires special qualification and training. For the discharge "of these duties the Registrar should, in my Judgment, continue the "Chief Officer in Civil and Ecclesiastical matters on the Original "Side with independent ministerial responsibility, and the Registrar "on the Appellate Side the same in matters of Appeal. The distinct- "-ion to be retained in this instance is accompanied by, as I have "said, a very material difference in the duties and qualifications "of the two officers and, in my opinion, the suggested present change "in designation would tend, without any advantage, rather to weaken "the strictness with which the Judges regard the responsibility of "each Chief Officer and to impede the active and efficient discharge "of the business of the Court, (Letter dated 21st March 1863)

7. I am directed to point out that the work on the Original Side has in no way decreased in importance, and also to state that, in the - opinion of the Association, such work would be very materially increased were it not for the delay in the disposal of suits on the Original Side. In connection with this question I would draw attention to para 42 of the letter already referred to in which it is stated -

> 'It has been found by experience that if intending suitors are 'aware that their causes can be tried without delay many suits are 'brought which under other circumstances would never be proceeded 'with and it may well be that, although the Original Side may be 'relieved of a certain number of causes of comparatively small value 'yet, their place will be supplied by an increase in suits of a 'larger value and more intricate character'.

8. The delay in the disposal of suits on both sides of the - High Court and in the City Civil Court causes great dissatisfaction to the public of Madras and, as regards the Original Side of the High Court Suitors have repeatedly, to the knowledge of many Members of the Associa -tion, preferred to settle their claims out of Court even with a substan- -tial loss to themselves rather than file a suit which, under existing circumstances, would not be disposed of for at least 12 months .

9. I am also directed to state that, in the opinion of the Asso - -ciation, the present work on the Appellate Side demands the entire - attention of the Registrar of that Side, and does not rightly permit of his devoting any portion of his time to learning, or supervising any of

the work on the Original Side.

10. It is the experience of the members of the Association, and the Association believe they are correct in saying that it is also the experience of the other branches of the Profession, that the Ministerial work of the Appellate Side is more than the present staff can adequately cope with. The Association do not consider it necessary to go into any details in proof of this assertion but they are prepared to furnish such information if required. The Association are emphatically of opinion that no Registrar on the Appellate Side can undertake to efficiently discharge the work of the Registrar on the Original Side of the Court, and that any attempt to do so will certainly cause less efficient discharge of work, and less efficient control of the respective offices.

O.S.
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11. The second question in connection with the proposed scheme is the abolition of the office of one of the Assistant Registrars on the Original Side, and against any such abolition the Association most earnestly protest. The general distribution of the work in the office of the Registrar of the Original Side has already been referred to in para 11 of the Memorial of the Association dated 5th November 1894 and I have only to further remark that, besides the work therein stated as performed by the Registrar he has also to carry out the heavy quasi judicial work delegated to him by the Honorable the Judges and that the 2nd Assistant Registrar (referred to in the Memorial as the Deputy Assistant Registrar) has to perform all the duties formerly entrusted to the Judges clerk in addition to his legitimate duties.

The Finance Committee & the High Court are against the attorneys.
D
8.5

12. At present the taxing of bills of costs is done by the Registrar of the Appellate Side assisted by the 2nd Assistant Registrar of the Original Side, a procedure which hardly seems desirable, involving as it does, the attention of two officers of the Court at an unnecessary expenditure of time.

13. Whatever may be the future course adopted as regards the taxation of bills of costs the Association are of opinion that the work on the Original Side cannot be conducted with due efficiency by two officers only, and the Association respectfully submits that their branch of the profession is specially qualified to give a practical

This is for the C.J. to decide – not Govt.
D
8.5

practical

practical opinion on this question.

14. In this connection I have to point out that, so far as the Association are aware, it formed no part of the scheme brought forward in 1889, to reduce the number of officers on the original side of the High Court, and I would refer to the following views of the Honorable the Judges laid down in the letter to Government which has already been referred to.

Para 39 'The High Court is unable to concur in the proposal to
'assign to the Deputy Registrar to be appointed to the
'Original Side the duties which are now performed by the
'Clerk of the Crown'. The desirability of continuing this
'office was fully discussed in 1887 in connection with a
'proposal of the Finance Committee to combine it with that
'of Crown Prosecutor, and, on full consideration, the Honor-
'able the Judges, in their Registrar's letter No.512 dated
'3rd March 1887, after describing its duties and responsibi-
'-lities, stated that they were 'opposed to the abolition
'of the Clerk of the Crown as a separate office' The High
'Court adheres firmly to the same opinion on the subject.
'Even if it were determined to amalgamate the office with
'another that of the Deputy Registrar Original Side is one
'very illsuited for the purpose The Clerk of the Crown has
'to be in constant attendance in Court during each of the
'four annual Criminal Sessions which occupy on an average
'six days each and it would seriously impede the despatch
'of the business of the civil branch of the original Side
'and materially prejudice the interests of the suitors if
'the Deputy Registrar were withdrawn for such lengthened
'period from his legitimate duties.

Such views are those also of the Association as to the office of the Clerk of the Crown, and the Association is of opinion that the amalgamation of any of the offices in the High Court would ha the same effect on the interests of suitors as that above referre to.

15. As to para 43 of the same letter which runs as follows

'It will probably therefore be eventually found impos
-'ible to carry on the work of the Original Side even after

'the transfer of jurisdiction, with any smaller establishment than that hitherto entertained and this being so it would be very inadvisable to put into effect the reductions proposed simultaneously with the passing of the Act, as the Secretary of State suggests. In the opinion of the majority of the Judges, the best plan would probably be to defer the introduction of all the changes in establishment except that referred to in paragraph 40, till some experience of the effect of the new Act shows whether they are really feasible, and I am to suggest that the fairest way of dealing with the present Registrar of the Original Side would be to postpone any change in his office till it becomes vacant'.

I am directed to submit that the result of the working of the City Civil Court, which was introduced in lieu of the proposed extension of the Jurisdiction of the Small Cause Court, has by no means resulted in the relief of the High Court on the Original Side which was anticipated, and that, under these circumstances, the opinions of the Honorable the Judges against the introduction of the changes originally suggested in 1889 has all the more weight as regards the further reductions now in contemplation.

16. The last question in this proposed scheme to be considered is the reduction of the salaries of interpreters to which the Association is also strongly opposed. Many members of the Association are thoroughly conversant with the languages of the country and have had frequent experience of the gross injustice that results from insufficient or inaccurate interpretation of evidence.

17. In view of the importance of the duties, the absolute reliance that has to be placed on the integrity of the interpreters and the amount of work attached to the office the necessity of adequate remuneration seems beyond question. That this view is generally adopted may be assumed from the salaries paid to the interpreters of the High Courts of Calcutta and Bombay which the Association understand are as follows:-

Yes, but what is "adequate remuneration" in Madras D/8.8

Calcutta

Calcutta.

Interpreters and Translaters	
	Rs 600
	" 400
————	" 400
	" 250
	" 200
	" 150
Examiner	" 95
besides assistants whose salaries amount to ----------------	" 180
	Rs 2275.

Bombay.

Chief Translators & Interpreters	
	Rs 650
Assistant -do-	" 450
-do-	" 350
-do-	" 160
-do-	" 150
-do-	" 140
do-	" 110
-do-	" 110
-do-	" 235
-do-	" 200
-do-	" 170
Junior translators whose salaries amount to--------	" 350
	Rs 3075.

18. The Association are of opinion that so far from the salaries of the interpreters being reduced they should on the contrary, be increased and the staff (which at present consists of three interpreters one assistant and four clerks) on salaries aggregating Rs 1000/ strengthened. It is of frequent occurrence that cases, which are otherwise ripe for hearing, have to be adjourned for the sole reason that translations of documents are not ready.

The C.J. must take the initiative in such a matter as this D/8.8

19. In conclusion I am directed by the Association to strongl deprecate any of the proposed changes which, though they may result in the saving of a few hundreds of Rupees a month, cannot but have a detrimental effect on the public interests, and to point out that no reason has been submitted to the public, why the administration of justice in the Madras Presidency should be conducted on any different footing to that in force in the other Presidencies.

I have the honor to be,
Sir,
Your Obedient Servant,

James Short
Hon: Secy: Advs: Assoc.

Current-No 1572

Memorial of

Attorneys Assocn

From

JOHN ADAM Esq.,
Honorary Secretary,
Bar Association, Madras.

To

The CHIEF SECRETARY to Government,
Madras.

Sir,

I have the honour by direction of the Madras Bar Association, and in accordance with the opportunity granted in G. O. 7th March, 1895, No. 498, Judicial, para. 5, to intimate the views of the Association upon the modification, in numbers and pay, of the establishment of the High Court, proposed in para. 4 of the Order referred to.

2. The Association notes from para. 2 of the said order that, of the important subjects mentioned in the Association's letter to Government, dated 11th December, 1894, two,—*viz.*, the extension of the jurisdiction of the City Civil Court, and the introduction into the High Court of the fee system prescribed in Act VII of 1870—have not yet been considered by His Excellency in Council; and it infers from the same paragraph that an opportunity will be afforded of intimating the views of the Association upon these questions to Government, before any changes have been finally decided upon. For the purposes, therefore, of the present letter the Association assumes that no such changes as those just referred to are to be introduced.

3. The modifications now suggested are in effect three,

- i. The abolition of the second Assistant Registrar on the Original Side.
- ii. The subordination of the Registrar on the Original Side to the Registrar on the Appellate Side, and a consequent reduction of the pay of the former official and an enhancement of that of the latter.
- iii. The reduction of the pay of the Interpreters and Translators on the Original Side.

4. In G. O. 26th September, 1894, No. 2338, the object of the proposed change is stated to be "to effect savings"; and the Association is willing to admit that, even in view of the fact that the financial profit from the administration of Civil justice amounted last year to Rs. 14,54,448, a saving of even Rs. 1,050 per mensem is important. But whether the saving be large or small it can be justified only by showing that the amount to be saved is spent unnecessarily, and that its saving will not be detrimental to the speedy and effective administration of justice. The ground upon which these changes are advocated is said in the

G. O. just quoted to be the decrease of work on the Original Side of the High Court. The Association is not disposed to admit that the decrease is so important as suggested or that there is any indication that it will be permanent. There was indeed a decrease in the number of suits filed in 1893, the first year after the opening of the City Civil Court; but the inadvisability of effecting changes on the results of one year is shown by the fact that the reaction has already commenced, the suits filed in 1894 being in number 20 per cent. more than those filed in 1893. If this fact proves nothing else, it at least shows the danger of recommending important changes on such slender and uncertain grounds.

5. I am however to point out that even if it be conceded that the decrease in the work of the Original Side is permanent and so great as to justify reduction of establishment, this reason applies to only the first of the changes enumerated in para. 3 *supra*, namely the abolition of the second Assistant Registrar. The other two changes can be justified only if it be shown that the importance and difficulty of the work has diminished, that the responsibility of the officers has been lessened,—and therefore that inferior men are competent to fill their posts. No such suggestion has even been made; nor could it be sustained for a moment if advanced.

6. The second of the suggested changes is peculiarly objectionable on this ground. The reduction of salary follows from and is *per se* less objectionable than the subordination of the Registrar on the Original Side to the Registrar on the Appellate Side. The Association agrees with the Hon'ble the Judges of the High Court in their letter of 3rd September, 1890, No. 2115, that it would be difficult, if not impossible, to find a man competent to do the work who would accept the post on the conditions suggested. But even if a competent Registrar could be obtained for the salary proposed, the Association disapproves of his being subordinated to the Registrar on the Appellate Side. The latter office is invariably held by a convenanted civilian whose legal experience, before his appointment, has been confined to Criminal and Revenue Law. His experience in these matters may be of material assistance to the Judges in Appellate Side work; but it affords no qualification for supervising the Original Side work. In the class of work which comes before the Original Side, the Appellate Side Registrar has seldom up to the time of his appointment any experience whatever. He therefore does not enter office with a knowledge and training that would fit him for supervising the Original Side work. Nor is he likely to acquire such a knowledge and training while in office, for his time is taken up with his work on the Appellate Side and he holds his appointment for two or three years only. It seems to the Association a grave error to confer on the Appellate Side Registrar the power of interfering in work in which he has rarely any experience and that he has little or no opportunity of learning. A further reason against diminishing either the pay or the importance of the Registrarship of the Original Side is to be found in the fact that the duties attached to it may possibly be increased. It has often been suggested that there should be delegated to the Registrar powers to discharge such duties as the taking of accounts and disposing of references,—work which, although important in itself as requiring for its disposal both skill and experience, scarcely requires the attention of a judge. Such delegation of powers to a ministerial officer has taken place in other Courts and it is understood that the experiment has there proved successful; and as the purely judicial work of the High Court of Madras increases, it seems to be very desirable

that a well-trained and competent officer should be available on the ministerial establishment of the Court, who might if necessary be entrusted with such work as that just referred to.

7. The third proposal—to reduce the pay of the Interpreters—is equally indefensible. The Association observes that this is not a question of reducing the pay of a subordinate establishment, with little or no responsibility devolving on its members, and under abundant supervision. Each person affected holds a responsible position; it is notorious that they are now overworked; and their duties will be in no degree diminished. It is indeed impossible to exaggerate the importance of the work of these officials, the temptations to which they are subject, and the opportunities for yielding thereto. Their pay, therefore, should be such as to secure men not only of ability but of high character. This is abundantly recognised in other High Courts. In Calcutta, the chief Interpreter and Translator on the Original Side draws Rs. 600, the second and third draw each Rs. 400. In Bombay, the chief Interpreter draws Rs. 650, the second Rs. 450, the third Rs. 350. It should be observed that the work of Interpreting is of a more difficult character than mere Translation and requires much higher qualifications. This is specially to be noted in criminal work; and is recognised by the Judges presiding at Sessions, whose practice is to insist on the work being done by the chief Interpreter.

8. It does not appear from the G. O. under consideration when the proposed scheme is intended to come into operation. If it is proposed to affect the tenure of office of present incumbents, I am to point out that the feeling of insecurity thereby created will tend to make the suggested scale of salaries still less attractive to competent men.

9. I am therefore to submit in conclusion that in the opinion of the Association the only reason adduced by Government for the proposed changes is inadequate, and that the changes themselves are inadvisable and in no way calculated to promote the speedy and efficient administration of justice in the High Court.

I have the honour to be,

Sir,

Your obedient and humble servant,

John Adam

Honorary Secretary.

High Court, Madras,
25th March, 1895.

Printed at the Irish Press—Madras.

[G/9]
2,000—23-1-95.

Current No. 1548

Jud^l^ DEPARTMENT.

Memorial of
Bar Associatn

From The Hon. Sec^t.
Bar Assoc^n.

No.

Dated 28- 3- 95

Received 28- 3- 95

Enclosures 1

SUBJECT.

Forw^d. a letter from the Bar Assoc^n. intimating its views upon the modif^n. in numbers and pay of the Estt of the High Court

High Court, Madras
28. iii. 95

1548

Sir,

I have the honour to forward herewith letter from the Madras Bar Association, & to request that you will lay the same before His Excellency in Council.

I have the honour to be
Sir,
Your obedient humble servant

Chief Secretary
to Government.

[G/9]
2,000—23-1-95.

Current No. 1581

Judl. DEPARTMENT.

Memorial of Chamber of Commerce

From

The Chairman,
Chamber of Commerce,
Madras.

No.

Dated 30 } March/95.
Received 30 }
Regd. 30 }
Enclosures —
2 spare copies.

SUBJECT

Offering certain remarks on the scheme submitted by the Hon: the Judges for reorganization of the establishment of the High Court (Original side)

Judl.

The Chairman
Chamber of Commerce
Madras.

30th } March 95
30 }

Offering certain remarks on the scheme submitted by the Hon. the Judges for the reorganisation of the establishment of the High Court, Original Side

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CURRENT NO. 1581

The Chamber of Commerce,

Madras, 30th March, 1895.

Chief Secretary, 30 MAR 95, Judicial Etc. Dept.

From

G. L. CHAMBERS, Esq.,
CHAIRMAN, CHAMBER OF COMMERCE,
MADRAS.

To

THE CHIEF SECRETARY TO GOVERNMENT,
JUDICIAL DEPARTMENT,
FORT SAINT GEORGE.

Sir,

I have now the honour to offer the following remarks on the scheme submitted by the Honourable the Judges for the reorganisation of the establishment of the High Court, referred to in G. O., No. 498, Judicial of the 7th instant, which is in many respects similar to the one suggested in the Despatch from the Government of India, Department of Finance and Commerce (Salaries and Establishments) Law and Justice to Her Majesty's Secretary of State for India, dated Simla, 15th October, 1889, No. 324. in G.O. of 16-4-90, No. 1-92

2. That scheme was strenuously opposed by the Honourable the Judges of the High Court in a letter written by the Officiating Registrar of the High Court of Judicature, Appellate Side, Madras, to the Chief Secretary to Government, dated Madras, 3rd September, 1890, No. 2115, and abandoned, presumably on account of such opposition. G.O. 11-11-90, No. [illegible]

3. In the G. O. dated the 26th September, 1894, No. 2338, reviewing the Report on the Administration of Civil Justice in the Madras Presidency, 1893, Government, in view of the decrease of work on the Original Side of the High Court due to the creation of the City Civil Court, suggested the possibility of a reorganisation of the establishment of the Original Side of the High Court and consequent savings.

4. The present scheme appears to be the outcome of this suggestion, and is apparently designed, not with a view to the more active and efficient discharge of the business of the Court, but with the object of saving money.

5. The Chamber has carefully considered the views of the Honourable the Chief Justice and the Judges of the High Court, as expressed in the letter above referred to on the scheme of 1889, which, as before stated, is in many respects similar to the present one and was proposed in view of the alleged decrease of work consequent on the contemplated transfer of certain cases then cognisable by the High Court to the Madras Court of Small Causes. In those views the Chamber unanimously concurs.

6. The Chamber refers more especially to paragraphs 15, 37, 38, 42, and 43 of the said letter, which deal with the scheme in question, and which are as follows :—

> 15. The next point to consider is the amount of relief that will be afforded to the High Court by the contemplated transfer of the Jurisdiction. The whole number of Original Suits instituted in the High Court in the last 5 years (1885-89) was 1,647, or an average of 329 per annum. Out of this aggregate number 537 were suits of value not exceeding Rs. 2,500, which would come under the new jurisdiction of the Small Cause Court, and 169 were suits which, from their nature, would have been cognisable by that Court but of which the value is not now ascertainable. Supposing that half of these 169 (say 85) would have been triable by the Small Cause Court, the total number is 622, or an average of 124 annually. This is 38 per cent. of the number of suits filed, but it must not be supposed that there will be a proportionate reduction of the whole work of the Court on the Original Side, or that the reduction, so far as it goes, will represent a clear gain to the Court. The work involved in the remaining cases, which are from their superior value of greater importance, will be proportionately greater, and there necessarily remains a great amount of work unconnected with suits, *e. g.*, applications in the matter of infants, applications for probate, execution proceedings in old suits and suits now pending and the like.
>
> 37. I am now to state the views of the Honourable the Judges on certain changes in the establishment of the High Court which, with the approval of the Secretary of State it is proposed to introduce simultaneously with the creation of the new Jurisdiction.
>
> 38. It is proposed to make the Registrar on the Appellate Side, Registrar of both sides of the Court, and to substitute for the Registrar on the Original Side a Deputy Registrar on the pay of Rs. 1,000.
>
> A majority of the High Court, as at present constituted, is greatly averse to the proposed subordination of the Chief Officer of the Court on the Original Side and consider it would be a mistake to abolish the Office of Registrar on that side of the Court. Objections to the proposal were well stated in a letter written by the late Chief Justice, Sir Colley Scotland, at the time when, on the creation of the High Court, this subject was once before discussed. Referring to the work of the Registrar of the Original Side he writes :—"It has become very considerable and it is in every respect dissimilar from that of the Registrar on the Appellate Side and requires special qualification and training. For the discharge of these duties the Registrar should, in my judgment, continue the chief officer in civil and ecclesiastical matters on the Original Side with independent ministerial responsibility and the Registrar on the Appellate Side the same in matters of appeal. The distinction to be retained in this instance is accompanied by, as I have said, a very material difference in the duties and qualifications of the two officers, and in my opinion the suggested present change in designation would tend, without any advantage, rather to weaken the strictness with which the Judges regard the responsibility of each chief officer, and to impede the active and efficient discharge of the business of the Court." (Letter dated 21st March, 1863.) There has since that time been no such change of circumstances as to deprive his opinion of any of its force, and Sir C. Scotland's reasons would hold good even if a large percentage of the original suits were withdrawn from the High Court. It must be remembered that, as stated before, the remaining suits, the number of which may become much larger than the present figures indicate, are far the most important, and must give proportionately more work to the Registrar. The business of taxing costs in suits in which Solicitors are engaged would still be very considerable. Assuming that a competent man could be found amongst the Solicitors to accept the post at a salary of Rs 1,000, it is not clear to the Judges that any advantage would be gained by making him subordinate to the Registrar, whose work would be chiefly on the Appellate Side. Practically the latter, who is usually a Covenanted Civilian, holding his office for a short time only, having no technical knowledge, and having his time fully occupied with his own special work, would exercise no control over the chief officer on the Original Side. It is very doubtful whether for a salary of Rs. 1,000 it would be possible to find a Solicitor competent to do the work now required of the Registrar of the Original Side and other quasi-judicial work which may be delegated to him, and the difficulty would certainly be increased by making its holder subordinate to the other Registrar.
>
> 42. The Judges of the High Court think it very probable that the work on the Original Side will not be decreased materially by the introduction of the new scheme. It has been found by experience that if intending suitors are aware that their causes can be tried without delay, many suits are brought which under other circumstances would never be proceeded with, and it may well be that although the Original Side may be relieved of a certain number of causes of comparatively small value, yet their place will be supplied by an increase in suits of a larger value and more intricate character.
>
> 43. It will probably, therefore, be eventually found impossible to carry on the work of the Original Side, even after the transfer of Jurisdiction, with any smaller establishment than that hitherto entertained, and, this being so, it would be very inadvisable to put into effect the reductions proposed simultaneously with the passing of the Act, as the Secretary of State suggests. In the opinion of the majority of the Judges, the best plan would probably be to defer the introduction of all the changes in establishment except that referred to in paragraph 40, till some experience of the effect of the new Act shows whether they are really feasible and I am to suggest that the fairest way of dealing with the present Registrar of the Original Side would be to postpone any change in his office till it becomes vacant.

7. The Chamber would be glad to hear whether there has been any change of circumstances since that letter was written to deprive the opinion therein expressed of any of its force or to cause the Honourable the Judges to alter it, and if so what those circumstances are.

8. The Chamber is of opinion that the working of the City Civil Court for one year is totally inadequate for the purpose of ascertaining whether the business of the High Court has been thereby materially decreased so as to admit of any reduction of establishment.

9. Leaving out of consideration for a moment the opinion of the Honourable the Judges quoted above, and apart from the question whether there has been sufficient experience of the effect of the City Civil Court on the work on the Original Side of the High Court, the Chamber respectfully submits that it is most inexpedient at the present time to effect on financial grounds any changes tending to weaken the establishment of the Original Side of the High Court regard being had to the facts admitted in the Government Order on the last Administration Report, namely :—

> (*a*) That the High Court is unable to cope successfully with the Civil Suits coming before it.
>
> (*b*) That the High Court on the Original Side is a full year in arrear of its work.

10. With regard to the contemplated reductions of salaries of the Chief Interpreter from Rs. 400 to Rs. 250, the Deputy Interpreter from Rs. 250 to Rs. 175 and the Persian Interpreter from Rs. 250 to Rs. 200, the Chamber has had its attention called to the salaries paid to the Interpreters of the High Courts of Calcutta and Bombay. The Chamber presumes that the work done by the Interpreters of the High Court in Madras is not of any less importance than that done by the Interpreters in the other Presidency High Courts : and, this being so, it is at a loss to understand why there should be such a material difference between the salaries paid to these officers in Calcutta and Bombay and those now proposed to be paid to the Interpreters in Madras. It is, in the

opinion of the Chamber, most essential that the Interpreters should be men of undoubted probity and integrity, considering the very important work they have to perform, and the Chamber considers it very undesirable that the salaries of these officers should be reduced, as it appears to the Chamber doubtful whether for such diminished salaries as are proposed to be paid, thoroughly reliable, trustworthy and efficient men will be found for the post.

11. Finally, the Chamber would respectfully urge upon the consideration of Government whether the time is opportune for carrying out such changes in the internal economy of the High Court, changes which, so far as the Chamber is aware, have not been mooted in Bengal or Bombay, which are opposed by the Bar and Attorneys, and which it is currently reported have not even the unanimous support of the Judges. The controversy regarding recent legislation which culminated in the creation of the City Civil Court has unfortunately left behind a feeling of irritation and disquiet which renders a dispassionate judgment on this important subject most difficult. This state of affairs is much to be regretted; but as long as it exists the Chamber considers that the wisest course would be to introduce no further reforms in the direction of reducing the establishment on the Original Side of the High Court until it can be more clearly shown that such changes are likely to conduce to the more efficient working of the Courts.

I have the honour to be,

Sir

Your most obedient servant,

Geo. L. Chambers

Chairman.

23/7/85 G.O. 1908 Judl.

CURRENT No. 1370

Judicial {1895.} Department.

No.

FROM

The Ag. *Registrar of the High Court*
of Judicature, Appellate Side,
Madras.

Dated 19 March } 1895.
Received 19
Repd 20

CHIEF SECRETARY
19 MAR 1895
GOVERNMENT OF MADRAS

No. 775.
Enc ..

Taking exception to the course adopted in G.O. dated 7 March 1895, No. 498 Judicial and expressing a hope that no further time will be lost in obtaining the orders of the Secretary of State on the proposals of the Chief Justice in respect of the amalgamation of the two sides of the Court under one Registrar.

To await other replies to go $\frac{498}{7.3.95}$

The original of this order with connected papers was submitted to H.E. some days ago

Every letter, whether printed or in manuscript, should be docketed and abstracted on the back ; * * * * and the abstract should state clearly the purport of the letter and not merely its title subject, * * * * *

Enclosures and statements also, whether sent with letters, or merely under cover, should be numbered, docketed and abstracted. The headings of statements should be written in full to prevent mistakes, (G. O., 8th April 1893, No. 289, Public.)

CURRENT No 1370

High Court of Judicature,
Madras, 19th March 1895

No. 775.

From

D. W. G. Cowie Esquire,
Ag. Registrar of the High Court
of Judicature, Appellate Side,
Madras.

To

The Honorable J. F. Price, C.S.I.,
Chief Secretary to Government,
Fort St. George.

Honorable Sir,

I am directed by the Chief Justice to acknowledge the receipt of G.O., dated 7th March 1895, Judicial, No. 498, calling for the views of the Chamber of Commerce and the Attorneys' and Barristers' Associations on a scheme for re-organizing the establishment of the Original Side of the High Court.

2. In reply I am to say that the Chief Justice has read the Government Order in question with the utmost surprise. In the first

place His Lordship observes that the proposals are alluded to as if they were new proposals recently emanating from himself while the Government must be aware that every one of the suggestions made (except the one relating to the salaries of the High Court Interpreters) emanated from the Madras Government itself, and were put forward in that Government's letter to the Government of India dated 23rd July 1885. Subsequently the same proposals were recommended in 1886 by the Financial Commission, of which Commission one of the present members of the Madras Government was a member. In High Court's letter to Government of 3rd March 1887, No. 512, it was stated that all the Judges were in favor of them, and finally they have been approved by the Secretary of State in

G. No 1026-27
14-5-87

his

his Despatch dated 9th January 1890. No. 4. Judicial, and in a further Despatch dated 2nd June 1892. No. 23. the Secretary of State expressed his opinion that their introduction would be for the public advantage and his regret that any postponement was necessary. This being the previous history of the case, it is most surprising to the Chief Justice to find the matter treated as an entirely new and open question and one in which the Local Government was not already concluded by the directions of the Secretary of State. But, in the opinion of the Chief Justice, there are objections to the course taken of a more serious character. His Lordship readily concedes that with regard to Legislative measures or to measures of a fiscal character the public has every right to ask that full opportunity shall be given for the expression of its views. But matters relating to the internal economy and discipline of a public office are in a different category and with these the interference of voluntary associations is not desirable. Under the Letters Patent granted by Her Majesty, the duty of determining how many ministerial officers are necessary for the administration of Justice in the High Court is vested in the Chief Justice.

Such

Such being the case, it appears to His Lordship that the proper and usual course would have been to refer the petitions of the Memorialists for the consideration of the Chief Justice. The Local Government has done the reverse, and instead of referring the complaints of the Memorialists for the consideration of the Chief Justice, it has referred the proposals of the Chief Justice for the consideration of the Memorialists. The fact that some of the Memorialists are officers of the High Court and that the Secretary of State has already expressed *his* opinion on the policy of the proposals does not seem to render the course taken

be

less open to objection.

3. Were it necessary to do so, the Chief Justice could point out that many paragraphs of the Attorneys' Memorial contain some inaccuracy or misstatement of fact. Had any changes in the office really affected them in a way as to which they could justly complain, they could have addressed the Chief Justice in whose hands the control lies,- but they have not done so. As regards the Chamber of Commerce it does not appear why that body should be any more consulted as to

the

the number of officials to be employed in the High Court and the salaries to be assigned to them than upon similar subjects in connection with the Sea Custom House or the Government Secretariat.

4 The Chief Justice cannot permit any interference by irresponsible persons with his powers and duties and has a right to expect that Government will discountenance rather than encourage pretensions which lead to agitation and relaxation of discipline among public servants. For these reasons His Lordship is impelled to take exception to the course

which has been adopted and he believes that [illegible] is not one which would have the approval of the Secretary of State.

5. In conclusion I am to point out that the Government was first addressed on this subject on October 20th 1894, and in a later letter of 6th December 1894, the Chief Justice requested that the changes might be brought into force not later than 1st April 1895. The Government was informed that the principal change proposed, namely, the amalgamation of the

two

two sides of the Court under one Registrar was one of pressing importance and seeing that this proposal has received the Secretary of State's approval, the Chief Justice does not understand the cause of the delay in forwarding his proposals to Westminster. The Chief Justice hopes that no further time will be lost in obtaining the orders of the Secretary of State.

I have the honor to be,
Honorable Sir,
Your most obedient servant,

D. Lowil

Ag. Registrar.

[5]
3—21-12-93.

Papers to be read in Proceedings :—

Again G.O., dated 18 , No.

Again G.O., dated 18 , No.

Current No. of 18 , dated from

Current No. 1370 of 1895, dated 19 Mar from the Regr. of the H.C.

For Orders

Regarding the genesis of the scheme of re-organization, please see the Notes for Orders in G.O. of 10 Ap. 1891, No. 652, Judl.

It is not quite certain whether the scheme originated with Govt. or the High Court, but it seems probable that it was with the latter. However the point is of no importance.

The C.J. seems to think that Govt., for purposes of its own, is endeavouring to throw on him the whole odium of unpopular proposals. Of course there was no such intention. It was deemed unnecessary to inform the public in G.O. of 7 March 1895, No. 498, Judl., that the scheme is an old one revived, because every one is aware of the fact.

Moreover the scheme is not a sanctioned scheme which has merely to be brought into operation, as

The C.J. evidently does not appreciate the difficulties which Govt. experiences under the new system of interpellations in the Legve. Council — Does he suppose that appts. in the H.C. at home would not be subject to public criticism of the sort to which he seems to object? Of course they would be. I would point these considerations out in replying, as suggested, that we regret that the course we adopted does not meet with his approval.

It is of course the case that the old scheme was as dead as Home Rule, though the C.J. affects to think otherwise

27/3/95

I wonder who wrote his letter -

The C.J. has made certain proposals about the H.C. establt. wh. Govt. have to submit to the Sec of State. True they were in great part formulated some time ago & approved then, but it does not necessarily follow that the language used in the Registrar's letter suggests. The old scheme has dropped & fresh sanction will have to be sought to the present proposals. Govt. has power under para. 8 of the Letters Patent of 1865 to confirm or disallow any proposals relating to Establishment which are made by the C.J. & it must have authority to consult any person whose ~~opinion~~ advice would be useful ~~[illegible]~~ ~~an opinion~~. However, it will perhaps be as well not to insist upon rights but to express regret that the course adopted has not met with the C.J.'s approval.

JD 26/3/95

25/3/95

~~[illegible]~~ The papers about the 8th puisne judge will be circd. separately in a few days. The question of addressing the G. of I. about levying fees in the High Court will be taken up when this file returns from circ.

High Court Establishment

they will be approved now certain public bodies intimate that they have objections to urge against these proposals. Govt. have to express an opinion & must know what these objections are in order to secure that the proposals may be properly considered. I think therefore Govt. were fully justified in taking measures to ascertain the objections as they did. They might & probably would do so if changes in the "Custom House" were proposed wh. wd affect the merchants. The proposals are not novel but they have to be submitted as if they were new & Govt. are not "concluded" by the opinion expressed 8 years ago. Because the "associations" are allowed to intimate objections, it does not follow that when a decision has been come to they will be allowed to "interfere." The contrary is the case. Of course it is to be regretted that the course adopted does not please the C.J.

JG 29/3

The C.J. takes exception to our consulting anybody when the question of approving his proposals comes before us, but as the Hon. Mr. Bliss says he does not appreciate our difficulties when we have to confront the Legislative Council. We have a perfect right to consult whom we please, & considering public mind, we should have raised a storm if we had not taken the course we have. I think we might tell the C.J. that we regret that he disapproves of the course we have adopted, but that in all matters wh. seriously affect the public interests it is the custom of the Govt. to consult the public bodies concerned, and that on this occasion we could not disregard the agitation wh. had arisen over this subject. ✗

27/3

But we might reassure him by telling him that we would send him the answers we receive from these bodies for the favour of his remarks.

I think that it is the case that tho' the scheme is not a new one, it had ceased to exist, & was brought into life again only the other day. If the C.J. had not so revived it, it would not now be before Govt. at all.

W

31 Mar

N.B. In looking over the Leg. Council Questions & answers (put up), I do not see that we promised to give the public an opportunity of expressing their views – except in the event of the introduction of legislation affecting the High Court. But I believe Mr. Arbuthnot asked some other questions. We must be careful to be correct in our answer to the C.J. as to what we say about the Leg. Council.

W

Yes, but they did not concern this point. There was no definite promise in Council to let the public have a say [illegible]

Shd. write [illegible] fees

I think this will do, but will send to the Hon. Mr. Grose to see.

9/4/95

Yes, I think it will do

9/4

Read again G.O. of 7 Mar. 95, No. 498, Jud.
C. No. 1370 of 19 Mar. 95 from the Reg. H.C.

Order 10th April 95 No. 758
Misc.

H.E. the G. in C. greatly regrets that the course adopted in G.O. of 7 March 1895, No. 498, Jud., should have called forth so strong an expression of disapproval from the Hon. the Chief Justice. Had the Govt. anticipated any objection on His Lordship's part, he would certainly have been consulted before his proposals were made public & H.E. in C. hastens to assure the Hon. the C.J. that no disrespect to his high office was intended. At the same time the Govt. cannot admit that the publication of the scheme of reorganization was a step which ought not to have been taken. It rests with the Executive to sanction or disallow the proposals in question & the Executive is bound, before it comes to a decision, to consider the representations of all who are interested. It cannot be denied that the public is strongly interested in the reorganization of the High Court establishments far more so than in the reorganization of any ordinary pub office & the Govt. can afford to ignore the request that the public might have an opportunity of expressing its views before any definite orders were passed. To have done so would have ~~raised~~ given cause for much ~~a storm of~~ not-unreasonable remonstrance & would have led to questions in the Legislative Council which it would have been difficult for Govt. to answer satisfactorily. It is true, no doubt, that a similar scheme of reorganization was sanctioned by the Secretary of State some years ago, but the Govt. is unable to understand the Hon. the Chief Justice's surprise at finding the matter treated as an entirely new new one. It was not considered necessary to mention in G.O. dy 7 Mar. 1895, No. 498, Judl., that similar proposals were made some years ago, because everyone, presumably, is ~~[illegible]~~ aware of the fact, & the scheme was treated as a new one, because it is such. The old scheme is dead. The Sec. of State's sanction to it could not be acted upon now & the Local Govt. does not (regard itself as) pre~~[illegible]~~cluded by the directions of that authority from reconsidering the whole matter, & in the light of further information.

~~[illegible]~~

H.E. suggests that these papers should go to the C.J.

Representations on the subject have now been received from the Chamber of Commerce, the Attorneys Association & the Bar Association & ~~[illegible]~~ H.E. the G. in C. would ~~be grateful~~ feel much obliged if the Hon. the C.J. will advise ~~[illegible]~~ him ~~[illegible]~~ whether any weight ~~which~~ should be attached to the opinions expressed by the petrs.

(From orders)

5/4/95

4 Ap.

To the Hon. the C.J. with C.L. dt

DESPATCHED 11 APL 95

with C. Nos 1572, 1645 & 1581 to be kindly returned.

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signed ______)

IN G.O., No. DATED

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GOVERNMENT.

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