Judicial (1899) Department.

(1)

ORDINARY Press

G.O., Nos 290 - 291

Confidential No. 17

DATED 15 - 2 - 99

[Despatch Abstract.]

Training of Junior Civilians in Civil Judicial work. Passing orders on the proposals for the ——. Copy to the Govt of India.

G.O.	No.	Department.	Date.	G.O.
To	1470 / Con 153	Jud	9-10-1900	

செப்பனிடுபவர் பெயர்

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள் 2/05

செப்பனிட்டு முடிக்க நாள் 4/05

சரிபார்க்கும் மு.நி.பா.எ. கையொப்பம்

NOTES CONNECTED WITH G.O., Nos. 290, 291, JUDICIAL, DATED 15TH FEBRUARY 1899.

Subject—Civilian Sub-Judges.

In January 1896,—"after prolonged consideration," and after discussing and rejecting proposals to double up districts; to appoint peripatetic Judges; and to "list" a number of appointments now held by civilians so as to provide money for the scheme,—Government at last came to the conclusion that it was quite impossible to provide means for training junior civilians in civil judicial work without enhancement of expenditure (G.O., Nos. 112, 113, Judicial, dated 18th January 1896).

It accordingly went up to India with a scheme for establishing six new sub-courts and appointing to them six civilians who should be of Sub-Collector's standing, and should be Sub-Judges and also Assistant Sessions Judges. The scheme was calculated to cost $1\frac{1}{2}$ lakhs per annum.

India, however (G.O., No. 1174, Judicial, dated 14th July 1896), would not sanction the scheme. It suggested once more,—though it knew perfectly well that the proposal had been condemned by the High Court and by Government in 1882 and 1896,—that doubling up of districts might be tried, and it suggested, as an alternative scheme, that the object in view might be attained by substituting six civilians for six of the present native Sub-Judges, which would reduce the cost of the scheme to Rs. 48,000 per annum.

! ! (Intld.) A.E.H.

It also said (para. 5 of its letter) that it was not shown "by detailed figures and specific reports as to each locality in which it is proposed to establish a new court that such a court is necessary, and before the Government of India could come to a conclusion upon the scheme placed before them, it would be necessary that detailed information of this nature should be supplied."

This letter in fact (doubling up of districts being out of the question) left this Government two alternatives open,—either to substitute six civilians for six native Sub-Judges, or to make out a good enough case by details and figures to persuade India that six new sub-courts

at a cost of Rs. 1,50,000 per annum were necessary.

The High Court was accordingly asked in G.O., No. 1174, Judicial, dated 14th July 1896, to say whether it liked the idea of having six native Sub-Judges replaced by six junior civilians, and was invited to make out a good case for Government to go up to India for an increase of six new sub-courts.

The current * is the reply. It is in the form of separate minutes.

The Honourable the Chief Justice has, as usual, "no remarks to offer," no more has Mr. Justice Boddam.

The remaining four Judges are unanimous in entirely rejecting the proposal to substitute junior civilians for six native Sub-Judges. They are sure that this would result in a dead-lock as far as work is concerned, and they point out that it would so diminish the District Munsifs' chances of promotion, which are already sufficiently small, there being some 130 of them all competing for vacancies among the 14 Sub-Judges.

There is probably no question but that this view is correct.

In other points Mr. Justice Subramania Aiyar's minute is useless, and Mr. Justice Shephard's little better.

Mr. Davies and Mr. Benson have gone into the question at length.

Mr. Davies says he is "afraid, after careful study, that we should be quite unable to show that any material increase is required in the number of our superior civil courts."

In order, therefore, to find funds for the civilian Sub-Judges he returns once more to the proposal to double up districts.† He modifies the old proposal somewhat by proposing to appoint to each of the amalgamation a native who should do most of the civil work and the lighter sessions cases, but nevertheless his scheme is open to all the old objections which were found before to render its prototypes hopeless. People will have to go great distances for justice, so that the occurrence of crime will be suppressed: the District Judge would have more courts than he could anyhow superintend and visit: he would do less civil work than ever, and so know less than ever of his munsifs and be less than ever fit for the High Court. It is submitted that Mr. Benson's argument is alone enough to condemn the scheme. He points out that it would reduce our District Judges (who have already been

* Letter from the Registrar of the High Court, No. 1207, dated 15th July 1897.

Good.
(Intld.) A.E.H.

None.
(Intld.) A.E.H.

† Chingleput with South Arcot.
Kurnool with Bellary.
North Malabar with South Malabar. (a)
Vizagapatam with Ganjám.

(a) NOTE.—This requires, in his opinion, the transfer of Palghat taluk to Coimbatore district.

(Intld.) A.T.A.

(3)

Quite so.
(Intld.) H.M.W.

(Intld.) A.T.A.
(„) A.E.H.

reduced from 20 to 16 under the Provincial Service scheme) to 12. There would be six civilians under training for these 12 posts, besides others who might apply for them without special training, so that promotion would be so slow that the judicial line would be even worse served than it now is and the recruiting ground for the High Court narrowed more than ever.

Mr. Justice Benson's minute is strongly opposed to any amalgamation of districts, though he goes as far as to say that Kurnool and Bellary might perhaps with several disadvantages be doubled up as an experiment. He then goes on to furnish Government with exactly what it wanted, a detailed proof of the necessity of additional sub-courts. He thinks that at least three more sub-courts are wanted at once, and it is submitted that he has made out his case, and that it is only by the establishment of such additional courts that the training of junior civilians can be accomplished satisfactorily.

But at present his scheme is financially out of the question.

He argues that as three new sub-courts are anyhow required, the cost of appointing civilians to them should only be taken as the cost of a Sub-Collector *minus* that of a Sub-Judge, or Rs. 2,064 per mensem, and against that expenditure he sets off the saving of Rs. 3,732 which will accrue as soon as the four Provincial Service District Judgeships are filled up.

But at the present juncture India is not at all likely to see it in that light, and will reply that the four Provincial Service men have not yet been appointed, so that no saving has yet resulted, and that the salaries of the three civilian Sub-Judges are anyhow an increase over the present charges, and that therefore the real increased cost is Rs. 75,000 per annum, a sum which they cannot at present see their way to sanctioning.

It is submitted that there is no immediate hurry over this scheme. It has been on the anvil some 15 years already, and a year or two more delay will not greatly matter. This being so, it seems better to wait until times are better and then introduce a good scheme like Mr. Benson's, rather than try and introduce at once at all costs some other scheme which can only be maimed and dwarfed for want of requisite funds, and the effort

to find money for which will result in retrenchments in directions which will do harm, and which in a few years' time, when money is again plentiful, will appear to have been unnecessary, if not ill-advised.

Submitted therefore that the whole scheme may lie over *sine die*, and the High Court be informed that Government's hands are tied for the present by want of funds.

(Intld.) W.F(RANCIS).
23-8-97.

I have been more than once pretty carefully over the schemes put forward by the Hon'ble Judges who have noted on this subject, and I do not see anything has been proposed which is workable without a much greater outlay than any of the Hon'ble gentlemen seem to have foreseen.

There is but one point upon which all who have noted are agreed: that is, that the substitution of covenanted officers in the place of six existing Subordinate Judges is simply impossible. This view can, I think, be unconditionally accepted: there can be no doubt as to its correctness.

Yes.
(Intld.) H.M.W.
(„) A.E.H.

Any scheme for the training of junior civilians for judicial work must therefore be based on the foundation that there must be extra expenditure which may however possibly be met by savings in the Judicial department: if it cannot be there can be but small doubt that with the present and prospective heavy calls upon the public purse, the Government of India will have none of it for some years to come.

Now every scheme put forward will entail extra expense which will *not* be covered by savings proposed. It is true that the Hon'ble Mr. Davies in a light-hearted way sketches out a scheme which he thinks, but wrongly, will involve no extra expense. The Hon'ble Mr. Benson has put forward another on which he has evidently bestowed considerable care and thought, but he too has overlooked factors which will necessitate considerably greater expenditure than he has anticipated.

Now to turn to the different views expressed and schemes advanced, I will take the two civilian judges first, and the Hon'ble Mr. Davies first.

Mr. Davies starts with the proposition that "we should be quite unable to show that any material increase is required in the number of our superior civil courts."

(4)

He, however, considers that four more District Munsifs are imperatively necessary, viz., in Madura, South Arcot, Gódávari and Kistna.

The four extra District Munsifships he proposes should be the starting point of the training of junior civilians for judicial work (para. 8), the pay being Rs. 800 (para. 7).

To meet the cost of this scheme he would throw the following Judgeships into one—

(1) Chingleput and South Arcot (Chingleput to be abolished).

(2) Bellary and Kurnool (Kurnool to be abolished).

(3) Vizagapatam and Ganjám (Vizagapatam to be abolished).

(4) North and South Malabar (North Malabar to be abolished).

In lieu of the abolished courts he would put a Subordinate Judge with powers of an Additional Sessions Judge at the stations at which Judgeships have been abolished.

He says of all the twenty District and Sessions Judges, that he "cannot point to one who has too much work,"—an assertion which is open to argument and which is diametrically opposed to what is said by the Hon'ble Mr. Benson as well as to the fact that sessions in many districts often run into one another. I think that the Hon'ble Mr. Davies is not quite correct as to his assertions, but be that as it may, there remains the fact that with the abolition of the courts proposed by him there must whatever may be done a great deal of work which *must* go to the District and Sessions Courts which are left and the transaction of which *must* involve considerable trouble and expense to the parties concerned to say nothing of the extra work which would fall upon the District and Sessions Judges. In para. 10 the Hon'ble Mr. Davies enters upon the question of means. In doing so, however, he has overlooked the facts that the proposed abolition of the establishments of the District and Sessions Judges will involve extra pensionary charges, which will have to go against the savings and that he has provided nothing for the building and furnishing of the courts for the four new District Munsifs: further too it does not seem at all unlikely that as the Sub-Judges who have to take the abolished Judge's courts will have a good

I think Mr. Benson's view is the more accurate.

(Intld.) A.T.A.
(„) A.E.H.

(Intld.) A.T.A.
(„) A.E.H.

deal more to do than the ordinary Sub-Judge has, their establishment will require strengthening—another charge against the contemplated savings. Again from para. 6 of the note it would appear that the Hon'ble gentleman contemplates moving the proposed Sub-Judge of Kurnool to another station—Nandyal (a poisonous * hole) or Guntakal—and the surviving Judge of the Ganjám *cum* Vizagapatam district to Chicacole—these schemes involve two new court-houses. He apparently would locate the Judge's court for North + South Malabar at Tellicherry, but he says nothing definite on this point.

An extra Sub-Judge in the Ganjám *cum* Vizagapatam district seems part of the Hon'ble Mr. Davies' scheme and, if it is, there would have to be added to the cost of it the building and furnishing of yet another Sub-Judge's court and the charges for pension. It will be seen from the calculation in the margin of para. 8 of the memorandum that none of the items referred to above have been taken into account. That taken together they will amount to a very large sum there cannot be a shadow of a doubt.

Saying though that the scheme did not involve a pie of extra expenditure, I doubt very much indeed whether the throwing together of districts as proposed would ever work; take for instance Bellary + Anantapur + Kurnool, which would form a huge charge even with a Sub-Judge to assist. South Malabar, too, I have always understood gave the Judge in charge of it quite enough to do. Vizagapatam also with the opening up of the country by the railway and the increase of litigation which follow civilization in India will ere long become of itself no light charge.

It is all very well to make out schemes on paper, but putting them into practice is a very different thing. The Hon'ble Mr. Benson's plan appears more likely to prove workable than that put forward by the Hon'ble Mr. Davies, but that too, though based on different lines, seems now to have taken into account sundry points which should have been.

To begin with, I doubt whether the Government of India will regard the source from which the Hon'ble gentleman proposes to meet the cost of his scheme as a *saving*. This source is the saving arising from the difference

This is usually discovered after changes have been made which cannot be undone.

(Intld.) A.T.A.
(„) A.E.H.

* Not so in the new quarter near the railway station, which is well elevated and healthy enough.

(Intld.) H.M.W.

(Intld.) A.T.A.

Most undesirable.
(Intld.) H.M.W.
(„) A.T.A.

(Intld.) A.T.A.

(Intld.) A.T.A.

These amalgamations may look enough on paper, where it is difficult to realize the great areas of the districts and the distance to be travelled by parties with consequence expense, trouble and waste of time.

(Intld.) A.T.A.
(„) A.E.H.

Yes, indeed.
(Intld.) H.M.W.

Of course. This court and Tanjore alone discredit Mr. Justice Davies' sweeping assertion about no District and Session Judges having too much to do.

(Intld.) A.T.A.
(„) A.E.H.

(b)

Provincial or S[illegible]
pointed as Judges to th[illegible]
assigned to the Provincial [illegible] and
the Provincial scheme. I [illegible] not consider that the saving under this head could be taken towards the cost of providing extra Sub-Judgeships any more than that arising from carrying the Provincial Service scheme into effect as regards Collectors, Sub-Collectors, etc., could be legitimately regarded as applicable to meeting the cost of, say, improving the pay of taluk gumastahs. But granting that this view is wrong, there are other points which have been overlooked.

The Hon'ble Mr. Benson's scheme differ from that of the Hon'ble Mr. Davies, in that he would start junior civilians in training as Sub-Judges and not as District Munsifs. He would reserve the Sub-Judgeships of the Nilgiris for a covenanted civilian for the reasons given in para. 3 of his memorandum and provide three new Sub-Judgeships to be filled by covenanted officers. Both he and the Hon'ble Mr. Davies make up six officers by counting the Registrar and Deputy Registrar of the High Court as being under judicial training.

As regards reserving the Sub-Judgeship of the Nilgiris for a covenanted officer, it is to be observed that adopting this course would be doing what Mr. Benson deprecates in para. 2 of his note: though my remarks refer to a much larger number than one, the principle is the same: the reduction proposed would be cutting down the already small number of prizes open to the District Munsifs—a very large body of hardworking, hardworked, and intelligent officers: that the inefficient officer* who has held this post for the last fifteen years is a European and a barrister is no logical reason why when he goes another European should be put in and a reservation of it in favour of Europeans alone be made.

But putting a young civilian into the particular post is open to further objection. Owing to the weakness and inefficiency of the present Sub-Judge the court has for some years been a perfect bear garden, and the Bar, especially the European part of it, is allowed to say and do what it likes. That this is the case is a matter of public notoriety. The state of the court is as bad as it

* Mr. Clarke, Sub-Judge.

r atta to it was everything that one cou ish, there is yet another objection to putting a young civilian in this appointment. This is that he would be removed from the personal superintendence and control of the Judge, and that Ootacamund is the station of all others where a young fellow would be the most tempted to amusement to the detriment of his work, and it is one where he would have no one on the spot to look after him. It would be very pleasant, no doubt, to the service to have an appointment such as this open to it, but having it would, I fear, not lead to proper training for a Judgeship.

However saying that the objections made to having a raw young hand put into the Sub-Judgeship of the Nilgiris are not considered sufficiently weighty, there is for consideration the three other new Sub-Judgeships proposed by the Hon'ble Mr. Benson.

His scheme provides for the bare pay of these and he has entirely overlooked the fact that for these three Sub-Judges three courts will have to be built and furnished, and that no allowance has been made by him for the cost of establishments or for pensionary charges. This he has apparently done on the score that the three extra Sub-Judges are necessary, even though such a thing as training junior civilians had never been thought of, but as he proposes to utilize these three new posts for training purposes, I consider that all charges connected with them should be debited to the scheme. They will be no small sum: the cost of the scheme will be still greater if the saving owing to the introduction of the Provincial Service scheme is not to be taken as a set-off: whether it is or not the cost of the Hon'ble Mr. Benson's scheme will clearly be much more than he anticipates. He suggests in a half-hearted way (para. 10) that if to provide funds for the training of junior civilians for judicial work the clubbing of districts is considered necessary, the experiment might be tried as regards Kurnool and Bellary: he, however, speaks of the Bellary Court as *already overworked*, and it is therefore not very clear how an already overworked man is to get through a lot of more extra work.

(Intld.) A.T.A.

This seems to me the best course. I am disposed to think that a little technical knowledge of this kind is all that is really wanted.

(Intld.) A.E.H.

(6)

As for knocking any other two Judgeships into one, he says that it cannot be done.

Admitting that the money saved by transferring four Judgeships to the Provincial Service could be devoted to the Hon'ble Mr. Benson's scheme, and that it finally worked out with a balance to spare, which it would not, there would be but scant chance of the Government of India agreeing to the appropriation of such balance to the increase of the salaries of the more heavily-worked Judges. Government fought hard enough against the plan of having always two second-grade Collector and Judge appointments—an iniquitous imposition—but the Government of India remained obdurate: it would be as stony-hearted in the matter of giving any Judge more pay.

The Hon'ble Justices Shephard and Subramani Aiyar do not treat the subject at anything like the length or with the detail that it has been by their colleagues.

The Hon'ble Mr. Shephard "concurs generally in the views expressed by Mr. Justice Davies," though he does not go into his grounds for so doing. He apparently approves of the doubling up of districts as indicated by the Hon'ble Mr. Davies—from which it is to be inferred that he looks to this as the source from which to find funds to float the scheme for training.

He, however, differs materially from the Hon'ble Mr. Davies as regards starting the judicial training of junior civilians by appointing them as District Munsifs. On this point he is in agreement with the Hon'ble Mr. Benson.

But he differs from the Hon'ble Mr. Benson in proposing that the junior civilians should commence their training not as Sub-Judges, *but as Assistants to Judges without appellate powers, without any jurisdiction of their own, and at the same time continuing their legal studies and working at drawing up decrees and orders —in fact they would be what is called "learning boys",—very much in the position of a recently joined Assistant to a Collector.* What their pay should be the Hon'ble Mr. Shephard does not suggest; nor does he make a word of comment on [illegible] strongly-expressed assertions of h[illegible] civilian colleagues—the [illegible] extra District M[illegible]

tra Sub-Judges, are imperatively neces-
ary to carry on the work now devolving
n the courts. He says nothing as to
the question of the establishments and
accommodation of these sucking Judges.
In fact his scheme is one of very sketchy
outline. It seems, however, to me
that the plan proposed by him is the
best, from the educational point of view,
but how are the young civilians under
training to be treated? Are they to re-
main "learning boys" until their turn to
be promoted as Judges comes, or are they
before that occurs to have independent
jurisdiction and powers of appeal? If so,
in what capacity? If as Sub-Judges,
some of the existing Sub-Judges must be
turned out to make room for them, or
extra Sub-Judgeships must be created,
and for these new courts must be built
and establishments entertained. In the
end the scheme would apparently work
out pretty nearly the same in cost as
that of the Hon'ble Mr. Davies.

Yes.
(Intld.) A.E.H.

The Hon'ble Mr. Subramani Aiyar
is even briefer than the Hon'ble Mr.
Shephard. His view is, like that of the
Hon'ble Mr. Benson, that three or four
Sub-Judgeships should be created for the
training of junior civilians, but he would
apparently not give them independent
jurisdiction. He, too, suggests their
studying law, and even passing an
examination after a year's training. He
contemplates the period of instruction
extending to only two years. His plan
is in fact pretty much the same as that
recently followed in the case of Mr. J.
H. Munro which the Hon'ble gentleman
apparently considers to have been a
failure, probably because Mr. Munro
had too much freedom and too little of
the "learning boy."

As regards the question of funds, the
Hon'ble Mr. Subramani Aiyur observes
that "the additional cost must be met
by the State in the interests of the jud-
icial administration of this Presidency."
This is probably how any scheme that
may be adopted—if any ever is—will
have to be financed.

Whatever scheme may be devised—it
means extra expenditure—not of a small
sum but of a large amount if carried out
in its entirety. There is no chance
war, plague, pestilence, and famine
of getting anything extra
anything that can "be
ary

(Intld.) A.T.A.

But the note has already shown that this is inexpedient and unworkable.

(Intld.) H.M.W.
(„) A.T.A.

* This could never be done unfortunately. Such retracing of steps is in practice impossible except in the rarest cases.

(Intld.) A.T.A.

Quite true. Mr. Justice Davies was never a travelling district officer and knows nothing in practise of the troubles and difficulties thrown on parties by the existence of courts at a great distance. Even as an Assistant he refused to travel and tour—I was in Tinnevelly with him at the time.

(Intld.) A.T.A.

(Intld.) A.E.H.

So am I—though the Government of India suggest it. They do not realize the difference in area between Madras Districts of 5,000 to 8,000 square miles, and none so small as 3,000 square miles and the districts in other provinces where 3,000 square miles is unusually large.

(Intld.) A.T.A.
(Intld.) A.E.H.

The knocking together of two districts might be tried with the proviso that if it proves a failure, the abolished Judgeship should be restored. This would give funds for one Sub-Judge, but then there would be the difficulty of finding a court-house for him. I do not feel much doubt as to what will be the result of such an experiment: the sucking Judge may be fairly well trained, but it will be at the expense of "utter smash" in the districts which have been converted into a single Judgeship.

It is a question, and a serious one, whether the game—even though experimental—would be worth the candle: *facile est descensus Averni*, etc.: the knocking together of districts never had an advocate amongst officers who knew anything of the matter and had gone really into it and never will; the limit has been (geographical difficulties being taken into consideration) already reached in this respect as regards both Revenue and Judicial administration.

(Intld.) J.F.P(RICE).
6-9-97.

Note for the Hon'ble Member.

The file regarding the training of junior civilians in judicial work is re-submitted. The papers relating to the Tinnevelly Sub-Court, which do not appear to be necessary in connection with the general question, have been removed for another file.

(Intld.) A.R.K(NAPP).
8-9-98.

(Intld.) G.S(TOKES).
9-9-98.

I don't see my way to adding anything of value to the office notes on this subject. I agree with the High Court that the suggestion that six of the native Sub-Judges might be supplanted by junior civilians should be firmly rejected.

Nothing, it appears to me, can be done till the financial clouds roll by.

I am opposed to the 'doubling-up' of districts suggested by Mr. Justice Davies. There is no unanimity amongst the Judges as to what should be done. Mr. Justice Benson's proposals, as shown in the office note, would entail considerable expenditure in excess of what he provides for.

2. Personally I think that the urgency of providing special judicial training for young civilians is much exaggerated. No doubt the tendency of our civil litigation is to make the conduct of a suit one chain of technicality; but perhaps it is not altogether an evil that the District Judges should not have been brought up, as the District Munsifs are, as experts in the discovery of technical flaws. Their experience as Magistrates, and in rent suits and suits regarding village offices, should sufficiently accustom young civilians to deal with evidence, and to record a judgment on facts, while those of them who have any aptitude for judicial work will rapidly acquire the requisite familiarity with civil procedure, and the law relating to stamps, limitation and registration of documents. No want of judicial training will prevent an industrious and clever man, with the education of a young civilian, from rapidly becoming an efficient District Judge. Of this our service has furnished many examples. On the other hand, no amount of judicial training will make a good Judge of a lazy man who takes no delight in his work.

3. Anyhow, I am inclined to think that, as suggested in the office notes, the subject must be hung-up *sine die* until our revenues admit of a largely increased expenditure on new courts.

(Intld.) H.M.W(INTERBOTHAM).
2-12-98.

I agree generally with my Hon'ble colleague and consider that no practical steps can be taken in the matter for the present.

(Intld.) A.T.A(RUNDEL).
7-12-98.

I also agree generally. I would only suggest that we might clear the ground by (1) firmly deciding against the idea that the young civilian should be an ordinary working Sub-Judge, and (2) deciding in favour of his being a 'learning boy.' The office might consider how best to work this out.

(Intld.) A.E.H(AVELOCK).
30-12-98.

N.B.—The Judges have taken trouble over this matter. I would suggest their being thanked.

(Intld.) A.E.H.
30-12-98.

I quite agree.
(Intld.) A.T.A.

I think it highly probable, but a little training in technicalities, as 'learning boys', would probably be of help. Mr. Justice Shephard seems to favour this, and the Chief Secretary's note supports it.

(Intld.) A.E.H.

True.
(Intld.) A.E.H.

Yes.
(Intld.) A.E.H.

(8)

If we decide at once against the young civilian being an ordinary working Sub-Judge, the existing Sub-Judgeships need no longer be kept sub. *pro tem.* They are so kept, I understand, solely to allow of the holders of the Sub-Judgeships being reverted,—if it should be decided to replace them by civilians.

(Intld.) A.E.H.
30-12-98.

ORDER—No. 290, Judicial, dated 15th February 1899.

After a careful consideration of the question, His Excellency the Governor in Council is of opinion that no effective measures for the training of junior civilians in civil judicial work can be introduced without a considerable increase of expenditure, and that, as the present condition of the finances does not admit of such an increase, the proposed reform must stand over until the prospects are brighter. The Government is at the same time indebted to the Hon'ble the Judges of the High Court for their useful and suggestive criticisms on the subject, and fully agrees in their views that the proposal to substitute six junior civilians for six of the existing uncovenanted subordinate judges is impracticable. The opinions of the Hon'ble the Judges differ on the question of the form which the judicial training of junior civilians should take. It is unnecessary at present to discuss this side of the question: the Government is however inclined to agree with the Hon'ble Mr. Justice Shephard that in any arrangement which may eventually be made for effecting the object in view it will be preferable to attach junior officers to the Courts of District Judges purely for training, rather than to attempt to combine with their training any independent judicial charge.

(Intld.) A.R.K. 6-1-99. (Intld.) G.S. 7-1-99.
(Intld.) H.M.W. 13-1-99.
(Intld.) A.E.H. 27-1-99.

To the Hon'ble the Chief Justice, with C.L.

ENDORSEMENT—No. 291, Judicial, dated 15th February 1899.

Copy forwarded to the Government of India for information.

(Intld.) G.S.

I don't much like this, but defer to His Excellency's opinion.

(Intld.) H.M.W.

I am greatly obliged to Mr. Winterbotham for his considerate treatment of my proposal.

(Intld.) A.E.H.

The office might prepare a short note on the *feasibility* of putting young Assistant Collectors, for say six months, for training under District Judges, —in addition to the Revenue training which they now receive from Collectors. I make this suggestion with the object of starting discussion on the details of the proposal.

(Intld.) A.T.A. 2-2-99.

Office—
Note please.
(Intld.) G.S. 3-2-99.

(Intld.) A.E.H.
27-1-99.

Government (1899) of Madras.

JUDICIAL.

CONFIDENTIAL.

Recd. } *1899.* *Enclosures*

Regd. *Spare copies*

d/ 15th.

G.O., No. 290, 29/2 February 1899.

FEBRUARY.

Training of Junior Civilians in Civil Judicial Work.

Passing orders on the proposals for the —. Copy to the Government of India.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again G.O., No. 1174, Judicial, dated 14th July 1896.

READ—also the following paper:—

From D. W. G. COWIE, Esq., Registrar of the High Court of Judicature, Madras, to the Chief Secretary to Government, dated 15th July 1897, Dis. No. 1207.

With reference to G.O., No. 1174, Judicial, dated 14th July 1896, regarding the training of junior civilians in civil judicial work, I am directed to forward minutes recorded by the Hon'ble Justices Shephard, Subramania Aiyar, Davies and [illegible] that the Hon'ble the Chief Justice and Mr. Justice Boddam [illegible] remarks to offer.

ENCLOSURES.

Minute by the Hon'ble Mr. Justice Davies.

[Memorandum on G.O., No. 1174, Judicial, dated 14th July 1896.]

The two questions put to us by Government are whether six of the present uncovenanted Subordinate Judges should be replaced by six junior civilians or whether there has been such an increase of work generally as to call for the creation of six new Subordinate Courts to which junior civilians might be appointed.

2. There can be no doubt as to our answer to the first question. Our present Subordinate Judges are, with one exception (Mr. Munro, a junior civilian lately appointed to act at Calicut), men of long and varied experience with great capacity for work of which their hands are full. To substitute for these senior and capable men young and inexperienced civilians would end in a dead-lock.

3. As regards the second question, I am afraid, after careful study, that we should be quite unable to show that any material increase is required in the number of our superior Civil Courts. We have twenty (20) District Judges and 14 Subordinate Judges. While, as already observed, the latter have amply sufficient work to do, the same cannot be said of the District Judges. I cannot point to one who has too much work, while I could name several who have too little, notably, him of Kurnool. On the other hand, where an increased staff is really required is in the grade of District Munsifs. An application has lately been received for the appointment of an extra Munsif in the Madura district, which must be complied with, and there is a pressing necessity for the employment of at least three more Munsifs—one in each of the districts of South Arcot, Gódávari and Kistna.

4. The immediate object which the Government have in view, of the expediency of which we are all agreed including the Government of India, is the training of some junior civilians to fit them to fill the important post of District and Sessions Judges to which they must in due course be appointed. It may, however, here be noted that the number of such appointments exclusively reserved for the members of the Covenanted Civil Service which has hitherto been will, under recent rules, be reduced to 16 ere long, as the Provincial Service is to be provided with four of them. So that in connection with this subject we have also to take into consideration training of the members of the Provincial Service who will aspire to become District and Sessions Judges. These men will no doubt be picked from among the uncovenanted Subordinate

and, no doubt, so far as the civil work of a Judge is concerned, they are already duly qualified. It is on the criminal side that they require more experience, and therefore more of them than at present should be invested with the powers of an Assistant Sessions Judge. Acting in that double capacity they can at once take the place, and do almost the same work as some of our District Judges and a reduction in the number of these can thereby be effected. The Sub-Judges will be just as efficient as District Judges for the disposal of original suits and civil appeals, and the only difference will be that the graver session cases and criminal appeals will not be triable by them. They will also not have quite the same administrative work, but there will be an enormous saving in salaries from which the expense of providing special appointments for the training of junior civilians can be met.

5. Let me give an illustration of how the scheme could be worked. Suppose the districts of South Arcot and Chingleput were amalgamated or linked together into one district and Sessions Judgeship, the Judge having his head-quarters at, say, Cuddalore, and a Subordinate and Assistant Sessions Judge being posted to the combined district and having his head-quarters at Chingleput in lieu of the present Judge. The substituted Subordinate Judge will then at Chingleput be able to do all the civil work which the present Judge is doing, and he would be able to try all sessions cases except the gravest ones there also. The trial of such sessions cases arising in the Chingleput district as are triable only by a Sessions Judge could be either held at Cuddalore with which there is easy railway communication, or the Sessions Judge could periodically go on circuit to Chingleput for their trial. There will then be no inconvenience whatever to the people. All the trials, criminal and civil, would then be held as they are now. The District and Sessions Judge would no doubt have some additional work in regard to the graver sessions cases and criminal appeals and in regard to the administration of a second district. But considering that the work of the Judge of South Arcot is anything but heavy, the extra work would not be more than he could do, and he would always be able at a push to transfer some of his judicial work to the Subordinate Judge.

6. In this manner there are at least four District Courts which, in my opinion, could advantageously abolished and Sub-Courts established in their place, namely, Chingleput, Kurnool, North Malabar and Vizagapatam. Thus Chingleput could be united with South Arcot, Kurnool with Bellary, North Malabar with South Malabar, and Vizagapatam with Ganjám. It is true that this linking of districts was considered to be altogether impracticable in 1883; but since then railways have altered the whole complexion of affairs. The South Indian Railway connecting Chingleput with South Arcot had only recently been opened. A railway now runs through the heart of the Kurnool district connecting it with Bellary, and Vizagapatam and Ganjám are also now traversed throughout by the East Coast Railway. The extension of the Madras Railway from Calicut to Tellicherry is, it is believed, under contemplation. I have already endeavoured to show how, in the case of Chingleput and South Arcot, the amalgamation would be detrimental to no one and similar observations could be made in all the other cases. As regards North Malabar and South Malabar, Calicut, the station of the Judge of South Malabar, is situated at the extreme end of the South Malabar district, and the North Malabar district comes down within a few miles of it, and many of the villagers of North Malabar would find it easier to come to Calicut than villagers of South Malabar itself find it to be, and there seems no reason why the North Malabar and the South Malabar districts should not be under one Judge as it is under one Collector, following the precedent of North and South Tanjore which has worked well as a single district since the amalgamation in 1884.* With regard to Kurnool, the former proposal was to link it with Cuddapah; but considering the alignment of the railway, Bellary or perhaps Kistna would seem to be the more convenient district. The head-quarters of the Subordinate Judge could be conveniently fixed on the line of railway either at Nandyal or at Guntakal instead of at Kurnool itself, which is quite out of the way. In the amalgamated districts of Vizagapatam and Ganjám, the head-quarters of the Judge should probably be at Chicacole as it was formerly, and as being the most central station, and it might be necessary, owing to distances even by rail, to have two Subordinate Judges in this amalgamated district, namely, one at Vizagapatam and one at Berhampur, the present head-quarters of the two District Judges. These are, however, matters of detail which can be arranged if the principle that I have suggested is adopted.

* On reconsideration I think the combination would be too much for one Judge to manage and would modify my proposal by suggesting that the Palghat division should be taken away from South Malabar and added to the Coimbatore district, and then the amalgamation of North and South Malabar might be made.

7. Taking it then that we can have five extra Subordinate Judgeships in lieu of the four District Judgeships superseded, we have here the desired training ground for junior civilians; but it is, in my opinion, a training ground of too advanced a stage for any young civilian who has not previously done any civil judicial work. The work of a Subordinate Judge *cum* Assistant Sessions Judge is nearly of the same importance as that of a District and Sessions Judge; and if a junior civilian wants training for the latter post, he equally requires it for the post of a Subordinate Judge. I would therefore make a candidate for employment in the judicial service begin his training at a lower stage, namely, as a District Munsif. It is in that position only that he can best learn how original suits are conducted and fit himself for hearing appeals from decisions in such cases. It is only by this means that he can hope to hold his own with his

brother Subordinate Judges with the many years of training they have had in the Lower Courts of first instance. The experience which young civilians get as Revenue officers and Magistrates, excellent though it be, will not answer the purpose sufficiently to justify their being pitchforked straight into the highest kind of civil work, with the elementary details of which they are not familiar. I would therefore insist upon it, that they should be Munsifs first and Subordinate Judges afterwards. After four or five years of service as Revenue officers they should have attained sufficient acquaintance with the country and its people as to make them good Judges of fact as well as of law. It is at this period that they attain the rank of a Head Assistant Collector, and therefore their pay, if they enter the judicial service as Munsifs, should be made the same as that of a Head Assistant Collector, namely, Rs. 800 a month. I should retain them as Munsifs for three years, or so, and then let them become eligible for Subordinate Judgeships, that is to say, in their eighth year of service. They will then be about the rank of a Sub-Collector in the sister service, and their pay as a Subordinate Judge should therefore be the same as that of a Sub-Collector, namely, Rs. 1,200 a month. After four or five years' further service as a Subordinate and Assistant Sessions Judge they will no doubt be fit to act in the post of a District and Sessions Judge to which standing they will then ordinarily have attained. For the proper working of this scheme I would impress upon the Government the absolute necessity of requiring an officer who has once elected to join the judicial service in its higher branches, to remain in that service—not indefinitely of course—but until some much greater prize offer itself to him. I would fix the period for his final selection as that upon which he enters into the Subordinate Judge's grade. The present system by which a man is a Judge to-day and a Collector to-morrow and *vice versâ* has the most evil results from a judicial point of view.

8. I propose, therefore, that four District Munsifships be created as soon as possible to be held by junior civilians. This proposal will serve the twofold object of supplying the four additional District Munsifs that are urgently required and of furnishing the first stepping stones for the training of junior civilians in judicial work and they could of course be posted at the head-quarters of an experienced Judge to guide them as they begin work. These appointments together with the appointment of the Deputy Registrar of the High Court, which is now held by a civilian and which, it is trusted, will always be held by a civilian, will provide five men in training for these five Subordinate Judgeships to be created for the ultimate employment of civilians alone, and these five Subordinate Judgeships together with the appointment of the Registrar of the High Court, which is always held by a civilian, will, in their turn, provide for the training of six men for the twelve District Judgeships left to the civil service. It is calculated* that the savings effected by the abolition of four District Judgeships and their establishments will exactly meet the cost of the five Subordinate Judgeships and four Munsifships and their establishments. The civil service will thereby have no cause for complaint that its emoluments, as a whole, have been reduced, for they are only redistributed, while the judicial service as such will be vastly improved by the change as every superior Judicial officer will be a trained man.

* *Judicial Officers.*

			Rs.
Savings—			
4 District Judgeships at Rs. 2,300	..	..	9,200
Expenditure—			
5 Subordinate Judgeships at Rs. 1,200	..	..	6,000
4 Munsifships at Rs. 800	..	..	3,200
			9,200

Establishment.

Savings—		
4 District Courts' establishments at Rs. 720	..	2,880
Expenditure—		
5 Sub-Courts' establishments at Rs. 370	..	1,850
4 Munsifs' Courts' establishments at Rs. 250	..	1,000
		2,850

9. I beg to claim for the scheme which I have sketched no originality, but only that old proposals are worked out in such a manner as to render practicable what was considered impossible before. Its paramount advantage is that it entails no extra cost upon the State, the principal obstacle placed in our way by the Government of India, while it secures not only the chief object in view, namely, the training of junior civilians in civil judicial work, but also the training of our present Subordinate Judges for sessions work which four of them will henceforth be called upon to perform, and at the same time it adds, what is urgently demanded, four more Judicial officers of the most useful class to our list; and I submit that these results will be gained without any loss of efficiency. It cannot be disputed that at present there is a great waste of judicial power in our District Courts. Even with incompetent men such as we now have there is not enough work to occupy their whole time, and of course with competent men the work would be still less sufficient. The reduction, therefore, in the number of these highly paid officers and the substitution in their place of a cheaper agency cannot be objected to, especially when the substitutes will be as competent to do the work that will devolve upon them as those they are replacing.

The only objection that I foresee may be raised is that the charge of two districts instead of one may be more than one Judge can well manage and that inconvenience will be caused to the public by the long distances which parties may have to travel to the head-quarters of the Judge. On the first point my answer would be that in every court in which a Subordinate Judge is to be posted for a District Judge, the work is light, or at all events not heavy and that the District Judge will be able to transfer, if need be, to the officer in charge of that court, some of the

judicial work which he has been hitherto doing himself. My answer to the second point would be that nearly all the work now going to a particular court-house will go to the same court-house in future (for instance all the original suits that arise in Chingleput will go to the Chingleput Subordinate Court and all the civil appeals arising in that district can be either transferred by the Judge to the Chingleput Subordinate Judge's Court or that court can be empowered to receive such appeals direct) and then in the very few cases in which the parties would have to travel a further distance than they formerly did in order to reach the one remaining District Court, there are now railway communications which did not exist before. One other merit of the scheme is that it is simple, inasmuch as it involves no changes or alterations in the existing Revenue and Magisterial divisions. Further we shall have nine courts instead of four, and there is no reason to fear that they will not pay their own way as all our up-country courts are doing.

10. Although the scheme might be sanctioned as a whole at once, it need be carried out only gradually. A beginning could be made by abolishing the Kurnool and the Chingleput District Courts. This will set free funds (salaries Rs. 4,600 and establishments Rs. 1,440, equalling Rs. 6,040) sufficient to meet the cost of the two Sub-Judges necessarily required in their places at the present usual rates (salaries Rs. 1,000 and establishments Rs. 740, equalling Rs. 1,740) and of the four Munsifs urgently demanded for themselves and for the preliminary training of young civilians at civilian rates (salaries Rs. 3,200 and establishments Rs. 1,000, equal to Rs. 4,200), making a total expenditure of Rs. 5,940 as against a saving of Rs. 6,040. The abolition of the North Malabar and Vizagapatam District Courts can wait till the five Sub-Judgeships for civilians are required.

25th January 1897. (Intld.) J.A.D.

Minute by the Hon'ble Mr. Justice Subramania Aiyar.

[Memorandum on G.O., No. 1174, Judicial, dated 14th July 1896.]

I am entirely unable to agree in the proposal to substitute covenanted civil servants for any of the existing Subordinate Judges. A good portion of the work done by the latter cannot be properly performed except by persons possessing considerable knowledge and experience of civil litigation. To appoint to offices involving such important duties members of the covenanted service lacking the requisite knowledge and experience cannot but prove most detrimental to the administration of justice in this Presidency. If in support of this statement proof were necessary, I would refer to the experiment now being made in the district of Malabar. The experiment has, I believe, given very great dissatisfaction to the suitors concerned. I am bound, therefore, to say that the substitution of covenanted officers in the place of six existing Subordinate Judges is simply impossible.

Nevertheless it is absolutely necessary provision should be made for giving from time to time to a few junior covenanted officers at least a training that would enable them to discharge the duties of a District Judge fairly satisfactorily. In my view the only practicable course which the circumstances of the case allow, is to create not less than three or four places to be filled by covenanted officers. These officers should be made Subordinate Judges and attached to important districts like Malabar, Tanjore, Tinnevelly, etc. They should not however have charge of any definite part of the district, but should be required to try only such cases as may be transferred to them by the District Judge. For the first few months simple and easy original suits should be selected and sent to them, comparatively difficult cases being sent for disposal after months. Appellate work should not be entrusted to them at all. Moreover to add to the usefulness of the training thus given, it is quite necessary that the officers thus appointed as additional Subordinate Judges should pass within a year from the date of their appointment a not difficult examination in the Civil Procedure Code and Transfer of Property Act, as also in the leading principles of Hindu Law and Specific Relief Act. They should possess some knowledge of the fundamental rules of general law. I would, therefore, require them to study an elementary book on the subject, such as Dr. Holland's work on Jurisprudence and answer a paper on the subject along with those on the three Acts already mentioned and Hindu Law.

One other point to be borne in mind is that the officers to be appointed as additional Subordinate Judges must not be of less than 8 or 9 years' standing, so that, after serving as such for a couple of years, they would be fairly fit to assume the responsible position of a District Judge.

The additional cost which the proposal will entail must be met by the State in the interests of the judicial administration of the Presidency. I have, however, no doubt that the new appointments would, in some measure, contribute towards effecting a reduction of arrears which the general increase in civil litigation is almost constantly tending to accumulate in various parts of the Presidency.

In conclusion, I would observe that the question of taking the necessary steps in the matter under consideration has been too long deferred and ought not to be delayed longer.

5th May 1897. (Intld.) S.S.

Minute by the Hon'ble Mr. Justice Benson.

[Memorandum on G.O., No. 1174, Judicial, dated 14th July 1896.]

We are not, as I understand it, asked to discuss *de novo* and *ab initio* the best method of training junior civilians for the office of District and Sessions Judge. That has been already done at considerable length and certain conclusions have been definitely arrived at. I do not, therefore, consider it necessary to discuss whether civilians should or should not begin their training by serving for a time as District Munsifs. I think it is enough to say that though that course has some advantages, these are, in my opinion, counterbalanced by greater disadvantages. I understand that it has been determined that the training of junior civilians is to be given by making them pass through the grade of Sub-Judge and that what we are now asked for is our opinion as to whether "the ends in view will be sufficiently served by the substitution of six junior civilians for six of the present uncovenanted Subordinate Judges or whether such strong necessity for six additional courts exists as to render the establishment of six new Sub-Courts imperative and unavoidable."

2. In my opinion, and, I believe, in the unanimous opinion of the High Court, the former alternative is altogether impracticable. It, in effect, means the substitution of six European Judges wholly inexperienced in civil work for six of the most able and experienced Native Judges, who by long service and proved ability have risen through the various grades of District Munsifs to appointments as Subordinate Judges. The work of a Subordinate Judge is almost exclusively civil. Facility in its rapid and correct disposal can only be acquired by long practice. This practice the native Subordinate Judge, before his appointment as such, has obtained by long years of service as a District Munsif. The young civilian would have had no similar experience of civil judicial work. His only experience would have been in criminal work. He would not attain facility in civil work in less than two or three years, by which time he would be required to pass on to fill a vacancy among the District Judges. The result would be a succession of inexperienced men in lieu of the present experienced men; the task, already most difficult, of keeping down arrears, would become impossible, and a dead-lock in the despatch of work would inevitably follow. Another most important objection to this proposal is that it would, by a stroke of the pen, sweep away almost one half of the Sub-Judgeships to which the District Munsifs (114 in number) look forward as the legitimate reward of long and meritorious service. Such a diminution of such Judgeships would seriously injure the popularity and efficiency of the subordinate judicial service and would require very strong reasons indeed to justify it.

3. These considerations, however, do not apply to the Subordinate Judgeship of the Nilgiris. For various special reasons Government, it is understood, desires that this post should usually be held by an European. It has hitherto been held by an European barrister who is not a civilian and who did not rise from the District Munsif's grade. The pressure of work is less than in an ordinary Sub-Judgeship, so that there is more time for study and for consulting authorities. The average file in 1893–95 was 106 original suits and 623 small cause suits. Some of the former were of a kind which elsewhere are disposed of by District Munsifs. The Subordinate Judge also sat at Coimbatore for part of 1895–96 and disposed of civil appeals referred to him by the District Judge. As a Magistrate he also disposed of criminal work. There is a fairly efficient European and Native Bar at Ootacamund and Coimbatore. The conditions, therefore, are favourable for training an officer for the post of a District and Sessions Judge, and the appointment of a civilian to this court will not disappoint the legitimate expectations of the District Munsifs in regard to promotion. I am, therefore, of opinion that this post might ordinarily be reserved for a civilian in training for the post of District and Sessions Judge.

4. I have examined fully and in detail the great increase that has taken place in recent years in the work of the superior Mufussal Courts, and the conditions under which they are now disposing of that work; and I have come to the conclusion that a permanent increase of at least three courts is imperatively needed if the judicial work is to be dealt with as promptly and efficiently as the public has a right to demand that it shall be. This increase is imperatively demanded by the growth of litigation and independently of the question of training f District Judgeships, but advantage may appropriately be taken of the creation of the new courts reserve three Sub-Courts for civilians and thus provide the required training for District Judg

5. In this connection it is necessary to bear in mind that the work of the District a Sessions Courts and of the Subordinate Judges' Courts must be looked at together. T Subordinate Judges' Courts are, in fact, overflow courts for the disposal of such civil work the District Judge is unable to cope with. In the majority of districts, the District Judge v formerly able, with the aid of District Munsifs alone, to dispose of all the civil work. Wh he could not do so, a Sub-Judge, or two or three Sub-Judges, were appointed to aid him a the number can be increased or diminished wi[th] the work. In considering, therefore, wheth any increase or decrease of Subordinate Judges is necessary, the work not of the Subordina Judges alone, but of the Subordinate Judges and District and Sessions Judges together must regarded. Had the Government of India duly borne this fact in mind, it would not have de with the proposal to have six additional Subordinate Judges as a proposal involving an increa

(12)

of 40 per cent. in the number of such Judges (*vide* paragraph 5 of Mr. Secretary Hewett's letter printed in the Government Order under reply), but rather as involving only an increase of 18 per cent. in the number of superior courts that is of District and Sessions Judges' and of Subordinate Judges' Courts taken together, which is obviously the correct way of stating the proposal in its essential bearings.

6. It will be in the recollection of Government that the last general re-organization of the judicial establishments of this Presidency was in 1884, in pursuance of the recommendations of a Special Committee of which Mr. (now Sir Philip) Hutchins was the moving spirit. The alleged "waste of judicial energy" in the superior courts was then carefully considered, and the recommendations of the committee to adjust the number of the courts to the work to be done by them were given effect to except in the case of the Kurnool District and Sessions Court, which the committee thought might be abolished, the work being done by the District and Sessions Judges of Bellary and Cuddapah and a Subordinate Judge at Tadpatri, but which Government for reasons connected with criminal administration refused to abolish. Since that time a very great increase has taken place in both the original and appellate work which comes up for disposal by the superior courts. In paragraph 6 of letter from the Government of Madras to the Government of India, printed in G.O., No. 113, Judicial, dated 18th January 1896, it was pointed out that between 1885 and 1894 such increase in the civil work amounted to about 30 per cent. and that though the number of sessions cases fell by some 13 per cent. the criminal appeals rose by no less than 93 per cent. I have now prepared the annexed statement in which the average number of suits (original, small cause and appellate) and of sessions cases and criminal appeals in each district in the three years (1881–83) preceding the re-organization is shown side by side with the corresponding figures of the past three years (1894–96). The figures for the Sub-Judgeships of the Nilgiris and Cochin are omitted since these are special and exceptional appointments, in which the Subordinate Judges discharge other functions besides those of Subordinate Judges. It will be seen that if the superior judiciary were to be increased in proportion to the increase of work, it would be necessary to add some ten Judges (either Sub-Judges or District Judges) to the present staff. Experience, however, has shown that so large an addition is not necessary. The courts have, by strenuous exertions, disposed of a larger volume of work than was expected of them in 1884, but in recent years the quality of the work has suffered from the excessive pressure under which it is disposed of and Government has also been under the repeated necessity of appointing temporary Subordinate Judges to assist in working off the constantly accumulating arrears in various districts. Since 1892 such assistance has been given in no less than five districts, viz., Tinnevelly (twice), Vizagapatam, Trichinopoly, Gódávari and Nellore (twice), while the Subordinate Judge of Bellary and Salem has been deputed from those districts to North Arcot and Coimbatore with the result that the civil work, original and appellate, in Bellary is now some eighteen months in arrear. By the last return from the Kistna district there are pending in that district no less than 1,158 appeals before the District Judge and 308 appeals before the Sub-Judge. Of these some 580 were rent appeals and nearly 900 were other appeals. Of those pending before the District Judge, no less than 843 had been pending for more than six months and the return showed that the rent appeals disposed of in that quarter had, on the average, been on the file for *almost two years*, while the other appeals disposed of had been on the file for about *two and-a-half years*. It is, I think, a grave reflection on the administration that appeals should remain undisposed of for so long, and this is especially true in regard to the rent suits, inappropriately classed as *summary* suits. In most of these there is a point of law which is brought to the High Court in second appeal, which probably is not disposed of for some eighteen months. Thus the so-called summary suit probably lasts three and-a-half years, and as the point in dispute is usually one that recurs in the following years, fresh suits have to be filed on the same matter in each year pending the final disposal, in order to save the bar by limitation. The result is a mass of litigation, expense and ill-feeling between landlord and tenant, which a prompter disposal of the suits would avoid or at least minimise. At the present time, there is about a year's civil work or more in arrear in each of the following District Courts outside the Kistna district, viz., Vizagapatam (Original Suits 43, Appeal Suits 500), Trichinopoly (Original Suits 65, Appeal Suits 359), Nellore (Original Suits 141, Appeal Suits 429), Bellary (Original Suits 48, Appeal Suits 523), Chinglepat (Original Suits 19, Appeal Suits 213), South Arcot (Original Suits 19, Appeal Suits 259), while five of the Sub-Courts have about a year's work in arrear, mostly original suits.

These facts and our general experience of the conditions under which the work is now done lead to the conclusion that it is now imperatively necessary to assist the superior courts by the permanent appointment of at least three additional Subordinate Judges. One of these would be for the three southern districts of Tinnevelly, Madura and Trichinopoly. One for the four central districts of Coimbatore, Salem, North Arcot and Nellore, and one for the two great and wealthy northern delta districts of Kistna and Gódávari. Salem being thus otherwise provided for, the present Sub-Judge of Bellary and Salem should become the Sub-Judge of Bellary and Vizagapatam, and should assist the District Judges of those districts in turn, according to the rate of business in their courts. The work in each of these districts is more than a District Judge alone can dispose of, but three Judges for the two districts ought to be able to prevent the accrual of arrears.

7. I shall now state in some detail the considerations which show the necessity for each of the three permanent additions proposed by me. The following statement shows in detail the *arerage additional* work that has been filed in the superior courts in each group of districts for which assistance is now proposed in each year of the past triennium (1894–96) as compared with the corresponding figures for the triennium (1881–83) preceding the reorganization of 1884.

Statement showing the *average additional* cases filed in the superior courts of each district in each of the years 1894–96, as compared with the average of the years 1881–83.

	O.S.	A.S.	S.C.S.	Sess. C.	Cr. A.
Group I.					
Tinnevelly	32	—70	901	20	82
Madura	51	316	971	— 8	104
Trichinopoly	11	— 7	420	— 30	40
	94	239	2,292	—18	226
Group II.					
Coimbatore	20	73	..	53	65
Salem	13	..	13	— 9	70
North Arcot	19	371	..	—48	39
Nellore	24	138	77	—31	5
	76	582	90	—35	179
Group III.					
Kistna	22	887	1,968	5	16
Gódávari	61	127	1,877	—35	16
	83	1,014	3,845	—30	32

Group I.—Tinnevelly has one permanent Sub-Judge, and has, for some time past, also had a temporary Sub-Judge. All these officers have made strenuous exertions to keep down arrears, but at the end of 1896 there were still 96 original suits and 487 civil appeals in arrear. The cases, both civil and criminal, are fought out with great pertinacity, and the sessions cases are unusually troublesome to deal with and have largely increased in number in recent years, instead of diminishing as is the case in most other districts.

Madura has two permanent Sub-Judges. The increase in civil litigation has been enormous, but the district has been fortunate in having had exceptionally able District and Sub Judges in recent years and the arrears are, in consequence, unimportant. With less able Judg arrears would certainly have accumulated, as they did some years ago.

Trichinopoly has no permanent Sub-Judge, but it had a temporary Sub-Judge for si months in 1894. The arrears at the end of 1896 were O.S. 65, A.S. 359, that is, full work fo an extra Sub-Judge for one year.

Group II.—Coimbatore (excluding the Nilgiris) has no permanent Sub-Judge, but th Bellary-Salem Sub-Judge was deputed to do duty there for a year in 1895–96 in order to clea off arrears, with the result of leaving the Bellary Court some eighteen months in arrear with it civil work at the end of 1896, and this, without clearing the files of the Coimbatore Court, whe there were 39 O.S. and 139 A.S. pending at the end of the year. The number of sessions case in Coimbatore has almost doubled since 1881–83 and is now the largest in the Presidency, whil the number of criminal appeals has grown sixfold.

The number of O.S. has more than doubled and there has been a substantial increase i civil appeals. The work of the district (O.S. 38, A.S. 321, sessions cases 119, criminal appeal 83) is now manifestly beyond the powers of a single Judge.

Salem has had the services of the Bellary-Salem Sub-Judge when required, and i consequently free from arrears of importance.

North Arcot has no permanent Sub-Judge, but it had the services of the Bellary-Salem Sub-Judge for six months in 1894.

The civil, original and appellate work has doubled since 1881–83 and is now (O.S. 4 A.S. 534) more than one Judge can adequately deal with, in addition to the criminal wor of the Sessions Court.

Nellore has no permanent Sub-Judge, but a temporary Sub-Judge was appointed for nin months in 1895–96 to clear off arrears. Notwithstanding this the arrears at the end of 189 stood at the enormous total of 141 O.S. and 539 A.S. It is true that the extent of these arrea was in part due to what may be regarded as temporary causes connected with the *personnel* of th court, but the civil litigation (original and appellate) of the district has doubled since 1881–8 and now stands at the considerable figure of O.S. 44 and A.S. 338.

Group III.—Kistna had no permanent Sub-Judge until January 1st, 1895, when, owing to the immense accumulation of arrears (*vide* details in paragraph 6 *supra*), the Sub-Judge of Ellore in the adjacent district of Gódávari was transferred to Kistna. The original civil suits in Kistna have almost doubled since 1881–83, while the appeal suits have multiplied fourfold. The average number now is O.S. 48 and A.S. 1167. No doubt many of the latter are rent appeals which can be disposed of in batches, but the figures already referred to in paragraph 6 *supra* make it manifest that the civil work of this district is more than one man can adequately cope with, in addition to the criminal work of the district.

Gódávari had two permanent Sub-Judges until one was removed to Kistna, as already related, in 1895. The civil litigation of the district is, as might be expected from its wealth, enormous, and is rapidly increasing. Since 1881–83 the average number of the original suits filed in each year in the superior courts has arisen from 58 to 119, the small cause suits from 913 to 2,790 and the appeal suits from 559 to 686. At the close of 1896 the arrears were 145 O.S. and 553 A.S. It is manifest that even with two Sub-Judges arrears can hardly be kept down. With only one (as at present) they must rapidly accumulate. It is moreover certain that the work of the courts will in the near future largely increase in these two districts and in the adjacent districts of Nellore, Vizagapatam and Ganjám, owing to the opening of the East Coast Railway and the impetus to trade that will be given thereby. It will however be time enough to provide for that increase when it actually occurs.

8. An estimate of the work that each additional Sub-Judge can perform may be made by taking the average outturn of work of all the regular Sub-Judges (*i.e.*, excluding Cochin and the Nilgiris) in 1895. It is as follows:—O.S. 57, A.S. 200, S.C.S. 1179 and sessions cases 5.*

Bearing these figures in mind and remembering that if civilians are appointed to the new Sub-Judgeship they will, from inexperience in civil work, be probably less capable of rapid disposal than the present experienced Sub-Judges, it may well be doubted whether an additional Sub-Judge for each group, especially for the first and third, will suffice to keep down arrears, but for the present I am disposed to think that we should attempt the task.

* *Note.*—Compare, as a matter of interest, the average outturn of work by each District and Sessions Judge in the same year. It is as follows:—O.S. 19, A.S. 375, S.C.S. 25, sessions cases 53, Cr. A. and Revision cases 83, besides the administrative supervision of all courts in each district.

9. I wish to make it clear to Government that these three additional courts are imperatively required and must be provided in order merely to meet the growth of litigation and apart from the question of training junior civilians in civil work; but advantage may, I submit, be properly taken of this increase of courts to provide for the necessity, admitted on all sides, of providing some civil judicial training for these officers before they are appointed to be District and Sessions Judges.

10. It has been mentioned above that the "waste of judicial power" which was noticed by the Committee of 1883 in the District and Sessions Court of Kurnool was not then remedied. Since that time the civil appeals in Kurnool have trebled in number and there has been an increase in all other branches of work, both civil and criminal, in the District and Sessions Court, but the total work is not yet enough to fully occupy the District and Sessions Judge.

Since 1883 the isolation of the Kurnool district has been partly removed by the opening of the Bellary-Kistna Railway which connects portions of the Kurnool district with Bellary and the objection to merging Kurnool with Bellary is, perhaps, now for this reason, less than the objection which then existed to merging Kurnool with Cuddapah, the proposal which was negatived by Government.

If it is essential to make some economy towards the cost of the new courts, the two districts of Kurnool and Bellary might, as an experiment, be now united for judicial purposes, the District and Sessions Court at Kurnool being abolished and a Sub-Court being established at Kurnool in its place. The Sub-Judge should also be appointed Assistant Sessions Judge. He would thus be able to dispose of nearly all the work that is now done by the District and Sessions Judge. The graver sessions cases would have to go to the Sessions Judge at Bellary and the Judge there as District Judge would still have to deal with some very limited classes of civil suits, but the bulk of the work, both civil and criminal, could be done by the Subordinate Judge at Kurnool. The disadvantage of the scheme is that the Court at Kurnool, which even now is not fully occupied, would have less than at present to do, while the court at Bellary, already overworked, would have its work increased, by the graver sessions cases and by appeals from the Sub-Court at Kurnool as well as by the administrative control of all the courts in the Kurnool district. In regard to the graver sessions cases, the disadvantages pointed out by Government in the latter part of paragraph 4 of the letter of the 18th January 1896 to the Government of India already quoted, still exist, though somewhat lessened by the existence of the railway. It may well be doubted whether the economy involved would compensate for all these disadvantages. In my opinion it certainly would not. I do not refer to the suggestion that other districts might be merged in a similar manner. I consider such merging to be absolutely impracticable. It has been declared to be so by the Committee of 1883, by Government and by the High Court on more than one occasion. The papers are before Government and need not, I think, be further referred to.

11. With the exception of the suggestion in the last paragraph, I am unable to point out any direction in which economy can be effected in the judicial establishments.

As, however, the three extra courts now asked for are imperatively demanded by the growth of litigation and as the mufussal Civil Courts in this Presidency are self-supporting, I cannot think that the Government of India will refuse to sanction them unless their cost can be met by savings in other courts. Such savings are in the nature of things practically impossible in a department which has long been the subject of careful control and the work and needs of which are always growing, so as to necessitate increased, rather than to admit of reduced, expenditure. I may, however, point out that, when the scheme for the Provincial Civil Service is given effect to, four Covenanted Civilian District Judges, each on a salary of Rs. 2,333 *per mensem*, will be replaced by four Provincial Service District Judges each on a monthly salary of Rs. 1,400 (on the average). This will produce a saving in the salaries of the Judges of the superior courts amounting to Rs. 3,732 *per mensem*. A portion of this saving may, I submit, be applied most appropriately in defraying the extra cost involved in having Civilian rather than Uncovenanted Sub-Judges in the three new courts and in the existing Sub-Court of the Nilgiris. The average pay of a Subordinate Judge may be taken to be Rs. 650 and that of a Civilian Sub-Judge of the standing of a Sub-Collector Rs. 1,166. The difference, Rs. 516 for each court, is the extra cost of having Civilian Sub-Judges. This for the four courts is Rs. 2,064 *per mensem*, which is not much more than half the savings from the salaries of the Judges which will result from the Provincial Service scheme.

12. In this connection I wish to press on the notice of Government that the taking away of four District Judgeships from the Civil Service under the Provincial Service scheme will both lessen the extent of the field for the selection of Civilian Judges for the High Court, and by rendering the judicial branch less attractive, will tend to depreciate the quality of its *personnel*. If the economy proposed in paragraph 10 *supra* be adopted, it will operate, *pro tanto*, in the same direction. To counterbalance this and to render the judicial branch of the Civil Service more attractive, I would suggest to Government the adoption of the proposal of the Committee of 1883, viz., that the salaries of the four most important District Judgeships (Madura, Tanjore, South Malabar and Gódávari) be raised from Rs. 2,333-10-8 to Rs. 2,750. The extra cost would be Rs. 1,666-10-8 *per mensem*, which is just the balance of the savings from the salaries of the District Judges under the Provincial Service scheme after meeting the extra cost (Rs. 2,064) of providing civilians as Sub-Judges for four courts, as proposed in this letter. The small prospect of getting one of the two seats in the High Court reserved by law for civilians is not enough to make good men give up the better prospects of the revenue side with ten appointments better than a collectorate to look forward to. In the North-West Provinces, the District Judges in the two higher grades get Rs. 3,000 and Rs. 2,500, and in the lower grade Rs. 2,250. Without some improvement in their prospects, the best men will continue to choose the revenue line to the injury of the higher judiciary including the High Court. With only 15 or 16 District Judgeships instead of 20 as at present, the field of selection for the High Court will be much restricted and it is the more essential to get good men to join the restricted service.

Moreover, the District Judges having now nothing to look forward to, retire almost invariably as soon as they have earned a pension. Their services are thus lost to the Bench just when their experience has made them valuable, and they burden the pension list at an unduly early age. The proposal I have made would enable Government to offer the best of them some inducement to remain.

13. To sum up—

(1) I submit that it is impracticable to provide for the training of Civilian District Judges by the substitution of junior civilians for six of the existing Uncovenanted Sub-Judges. Such an arrangement would result in a deadlock in the disposal of work, and would disappoint the reasonable expectation of the lower native judiciary in regard to promotion.

(2) But there is not the same objection to reserving the Sub-Judgeship of the Nilgiris for a civilian in training, and this should, I think, be done when a vacancy occurs.

(3) The immense increase in civil litigation in recent years renders it imperative necessary to at once strengthen the superior courts by an addition of three Sub-Judges. This addition must be made independently of any question of training civilians for District Judgeships but advantage should be taken of the increase to reserve the new courts for civilians and to provide the desired training.

(4) The four Sub-Judgeships thus reserved together with the Registrarship and the Deputy Registrarship (A.S.) of the High Court which are usually held by civilians, would probably provide a sufficient training ground for Civilian District Judges, especially as the number of these will be reduced to 16 under the Provincial Service scheme.

(5) If another court is required as a training ground or if it is a *sine qua non* that some economy in the salaries of the Judges of the superior courts should be made towards the extra cost of having Civilian Sub-Judges, the district of Kurnool may be merged with that of Bellary for judicial purposes, and the District and Sessions Judge of Kurnool may be replaced by a Sub-Judge with the powers of an Assistant Sessions Judge. There are, however, serious disadvantages inseparable from the scheme.

(6) No other districts can, under any circumstances, be advantageously merged.

(7) Only the difference between the salaries of the four Civilian Sub-Judges and the salaries of four Uncovenanted Sub-Judges can properly be regarded as the cost of the scheme for training junior civilians. This amounts to Rs. 2,064 *per mensem* and may be appropriately met from savings made by the reduction (Rs. 3,732 *per mensem*) in the salaries of District Judges under the Provincial Service scheme. The balance of such savings should be devoted to improving the superior judiciary by increasing the salaries of the four most important District and Sessions Judges.

14. It is not, I think, necessary that the Civilian Sub-Judges should be posted to the new courts now proposed, nor is it necessary that any three particular Sub-Courts should be reserved for them. To do so would impose on the suitors of those localities a succession of inexperienced Civil Judges. They should be posted to such Sub-Courts as might from time to time be thought most suitable for giving them adequate training in civil work, regard being had to the quality of the bar, the experience of the District Judge and the state of the files of the court. Ordinarily they should be posted to courts with moderate files, at the head-quarters of District Judges, and with able and respectable bars. The District Judges by exercising their powers of transfer should regulate the work of the Sub-Judges in accordance with their capacity and experience, looking as much to the necessity for giving them adequate legal training, as for obtaining a full volume of work from them.

12th May 1897.

(Signed) R. S. BENSON.

(14)

Statement showing the average institutions in each District and Sessions Court (including Sub-Court) for the years 1881 to 1883 and 1894 to 1896.

District.	Average for three years.	Suits.		Appeals.		Criminal.		Remarks.
		O.S.	S.C.	Regular.	Miscellaneous. (Institution of only available.)	Sessions cases.	Appeals.	
Arcot (North)	1881-83 ..	24	..	198	16	98	13	
	1894-96 ..	43	..	568	17	50	52	
Arcot (South)	1881-83 ..	19	1,013	252	28	58	22	
	1894-96 ..	23	..	253	5	38	49	
.. .. ..	1881-83 ..	38	473	179	12	97	28	
	1894-96 ..	29	* 199	337	11	81	66	* Instituted in Sub-Court in 1894.
(South)	1881-83 ..	37	..	465	68	48	9	
	1894-96 ..	92	497	446	21	31	37	
C. gieput	1881-83 ..	19	..	325	23	50	14	
	1894-96 ..	24	..	454	10	35	35	
Coimbatore (*excluding the Nilgiris*).	1881-83 ..	18	..	238	† 10	66	18	† Instituted in 1883.
	1894-96 ..	‡ 38	..	309	12	119	83	‡ Includes institution in Coimbatore Additional Sub-Court in 1895 and 1896.
Cuddapah	1881-83 ..	13	..	173	16	50	19	
	1894-96 ..	22	..	227	20	51		
Ganjám	1881-83 ..	22	..	204	16	44		
	1894-96 ..	41	21	258	10	24	32	
Gódávari	1881-83 ..	58	913	511	48	72	18	
	1894-96 ..	119	2,790	657	29	37	34	
Kistna	1881-83 ..	26	..	266	14	33	14	
	1894-96 ..	48	§ 1,968	1,141	26	38	30	§ Instituted in Sub-Court in 1896.
Kurnool	1881-83 ..	7	..	50	7	35	11	
	1894-96 ..	11	..	147	6	42	28	
dura	1881-83 ..	88	1,568	393	34	91	33	
	1894-96 ..	139	2,519	721	22	83	137	
Malabar (North)	1881-83 ..	47	1,501	568	54	31	6	
	1894-96 ..	41	1,675	598	26	27	22	
Malabar (South)	1881-83 ..	117	703	1,072	126	75	25	
	1894-96 ..	127	1,524	990	34	60	84	
Nellore	1881-83 ..	20	..	186	14	55	23	
	1894-96 ..	44	85	319	19	24	78	
Salem	1881-83 ..	18	..	263	30	67	88	
	1894-96 ..	31	53	278	15	90	19	
Tanjore	1881-83 ..	178	3,724	633	85	57	114	
	1894-96 ..	156	5,978	718	48	83	15	
Tinnevelly	1881-83 ..	47	789	440	62	103	97	
	1894-96 ..	79	1,690	415	17	58	17	
inopoly	1881-83 ..	39	420	289	..	28	57	
	1894 ..	41	183	345	33	44	23	
apatam	-83 ..							
	94-96 ..	31	..	438	19	22	36	

(14)

Minute by the Hon'ble Mr. Justice Shephard.

[Memorandum on G.O., No. 1174, Judicial, dated 14th July 1896.]

In the order of Government, dated 14th July 1896, two questions are propounded, viz., (1) "whether the end in view (the training of junior civilians for judicial work) will be sufficiently served by the substitution of six junior civilians for six of the present Uncovenanted Sub-Judges," and (2) "whether such a strong necessity for additional courts exists as to render the establishment of six new sub-courts imperative and unavoidable." The first question, I have no hesitation in answering in the negative. If the present Sub-Judges are not overworked, their work is certainly not so light and easy that six of them could be spared and as many ill-informed and untrained civilians substituted in their place. Such a measure would be disastrous in the interests of the public. And it would not, I think, conduce to the end in view, namely, the better legal training of young civilians. It seems to have been assumed, in framing the first question as well as the second, that an officer in training for the bench can be trusted to do the work which now falls to the lot of Sub-Judges.

At the best the training, which is likely to be secured for members of the Civil Service, is an imperfect one. But to make the system at all successful and also to reconcile it with the interests of the public, I think it is essential that for the first two or three years at least probationers should be restricted to carefully selected work and not expected to accomplish the amount of work usually accomplished by Sub-Judges. I would, therefore, deprecate the idea that a case for reinforcement of the judicial staff must needs be made out before any system of training can be established. The two matters ought in my opinion to be kept distinct. If six extra Sub-Judges are required, the want cannot, I think, be properly supplied in the manner suggested. On the other hand, if the second question above stated be answered, as I should answer it, in the negative, it still remains necessary to contrive means for rendering members of the Civil Service more fit for the office of District Judge than they now are.

I would here observe that, after further consideration of the question, I am not now prepared to stand by the views expressed in the Registrar's letter of the 12th March 1895. I think the difficulty of linking two districts together under one Judge is, in some instances, less than was then supposed, and that, if some such scheme as that sketched by Mr. Justice Davies were adopted and competent persons occupied the office of District Judge, no material increase in the higher branch of the judicial service would be required. I observe that, although the amalgamation of districts is not referred to in the order of Government above cited, it is prominently mentioned in Mr. Hewett's letter of the 30th May 1896. I conceive, therefore, it is well we should expr our views on the question. I concur generally in the views expressed by Mr. Justice Davies his minute. But I think it would be a mistake to appoint junior civilians as District Mu with an independent charge. Much of the work of a District Munsif would be beyond them capacity, being no less difficult than the work done by Sub-Judges. I think a selection of work ought to be made for them by the District Judge from the cases within a District Munsif's jurisdiction or from other cases as might be most suitable. In any event I would not allow officers in the first stage of their apprenticeship any appellate powers whatever. The venience of the present state of things is never more conspicuous than it is in cases when made District Judges deal as appellate courts with judgments of officers far more learned experienced than themselves. And the misfortune is that, as matters are now arranged, there is in several of the District Courts but little civil work which is not of an appellate character. Probably legislation in the form of an amendment of the Civil Courts Act is required to rectify this state of things.

I would suggest that the young civilian, when first appointed to judicial work, should be in name and in fact an assistant to the District Judge, discharging only such duties as the latter may think fit to impose upon him. Those duties should not be confined to the mere trying of causes, but should include such work as the drawing up of decrees and orders—work which is generally left to the sheristadar or clerks. The young civilian should also, during the period apprenticeship, be required to pursue the legal studies which, I believe, are begun before he cor to this country, but rarely, as far as I can discover, carried on after that date. Unless C Servants, desirous of adopting the judicial branch, are required to specialize and seriously ap their prop s to the study of law, we shall never have a class of District Judges competent to ti not agree r place alongside of the native judiciary and to command the respect of the bar. I the High C with the commonly received opinion that the posts of Registrar and Deputy Registrar i office is almost y sufficient training for judicial work. I believe the work of the form to do the drudgery himself and ative. In order to learn law and the practice of it, a man need to be said for the other office. not merely to superintend others in doing it. There is more requires the presence of a profess But then the difficulty is that the technical work of the office like, the court needs a proficier ional lawyer. For the work of drafting decrees, orders and th separate department were fo yer, not a mere apprentice. If, as I hope may be the case candidates for judicial office, wh er members of the Civil Service o a school in w apprenticeship. throug

18th May 1897.

Order—No. 290 Judicial, dated 15 February 1899.

After a careful consideration of the question, His Excellency the Governor in Council is of opinion that no effective measures for the training of junior civilians in civil judicial work can be introduced without a considerable increase of expenditure, and that, as the present condition of the finances does not admit of such an increase, the proposed reform must stand over until the prospects are brighter. The Government is at the same time indebted to the Honourable the Judges of the High Court for their useful and suggestive criticisms on the subject, and fully agrees in their views that the proposal to substitute six junior civilians for six of the existing uncovenanted subordinate judges is impracticable. The opinions of the Honourable the Judges differ on the question of the form which the judicial training of junior civilians should take. It is unnecessary at present to discuss this side of the question: the Government is however inclined to agree with the Hon'ble Mr. Justice Shephard that in any arrangement which may eventually be made for effecting the object in view it will be preferable to attach junior officers to the courts of District Judges purely for training, rather than to attempt to combine with their training any independent judicial charge.

(True Extract.)

Chief Secretary.

To the Honourable the Chief Justice (with C.L.).

Endorsement—No. 291, Judicial, dated 15 February 1899.

Copy forwarded to the Government of India for information.

G. STOKES,
Chief Secretary.

Exd. C. M. Thumbuswamy.

Dis. No. 1207.

High Court of Judicature,
Madras, 15th July 1897.

(16)

From

D. W. C. Cowie, Esquire,
Registrar of the High Court of Judicature,
Madras.

To

The Honorable Mr. J. F. Pride, C.S.I.,
Chief Secretary to the Government of Madras.

Honorable Sir,

With reference to G.O., No.1174, Judicial, dated 14th July 1896, regarding the training of Junior Civilians in civil judicial work, I am directed to forward minutes recorded by the Honorable Justices Shephard, Subramania Aiyar, Davies and Benson and to state that the Honorable the Chief Justice and Mr. Justice Boddam have no remarks to offer.

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

D. W. C. Cowie

Registrar.

Minute by the Hon'ble Mr Justice Davies.

17

G. O. No. 1174, Judicial

14th July 1896.

TRAINING OF JUNIOR CIVILIANS IN CIVIL JUDICIAL WORK

Communicating to the Honorable the Judges of the High Court for opinion on certain points in letter from the Government of India regarding the—

MEMORANDUM.

First part, para 3 of the Order - I

(1). The two questions put to us by Government are whether six of the present uncovenanted Subordinate Judges should be replaced by six junior civilians or whether there has been such an increase of work generally as to call for the creation of six new Subordinate Courts to which junior civilians might be appointed.

Since appointed Ag Dist Judge Kistna

(2). There can be no doubt as to our answer to the first question. Our present Subordinate Judges are, with one exception (Mr. Munro, a junior civilian lately appointed to act at Calicut) men of long and varied experience with great capacity for work of which their hands are full. To substitute for these senior and capable men young and inexperienced civilians would end in a dead-lock.

(3). As regards the second question, I am afraid, after careful study, that we should be quite unable to show that any material increase is required in the number of our superior Civil Courts. We have

(18)

twenty (20) District Judges and 14 Subordinate Judges. While, as already observed, the latter have amply sufficient work to do, the same cannot be said of the District Judges. I cannot point to one who has too much work, while I could name several who have too little, notably, him of Kurnool. On the other hand where an increased staff is really required is in the grade of District Munsifs. An application has lately been received for the appointment of an extra Munsif in the Madura District, which must be complied with, and there is a pressing necessity for the employment of at least three more Munsifs—one in each of the Districts of South Arcot, Godavari and Kistna.

(4). The immediate object which the Government have in view, of the expediency of which we are all agreed including the Government of India, is the training of some junior civilians to fit them to fill the important post of District and Sessions Judges to which they must in due course be appointed. It may, however, here be noted that the number of such appointments, exclusively reserved for the members of the covenanted civil service which has hitherto been 20, will, under recent rules, be reduced to 16 ere long, as the Provincial service is to be provided with 4 of them. So that in connection with this subject we have also to take into consideration the training of the members of the Provincial service who will aspire to become District and Sessions Judges. These men will no doubt be picked

Please see G.O. 82 Pub. 2-2-95 flagged D re the appt of Sub Judges as Asst Sessions Judges

from among the uncovenanted Subordinate Judges, and, no doubt, so far as the civil work of a Judge is concerned, they are already duly qualified. It is on the criminal side that they require more experience, and therefore more of them than at present should be invested with the powers of an Assistant Sessions Judge. Acting in that double capacity they can at once take the place, and do almost the same work as some of our District Judges and a reduction in the number of these can thereby be effected. The Sub-Judges will be just as efficient as District Judges for the disposal of original suits and civil appeals, and the only difference will be that the graver Session cases and Criminal appeals will not be triable by them. They will also not have quite the same administrative work, but there will be an enormous saving in salaries from which the expense of providing special appointments for the training of junior civilians can be met.

(5). Let me give an illustration of how the scheme could be worked. Suppose the Districts of South Arcot and Chingleput were amalgamated or linked together into one District and Sessions Judgeship, the Judge having his head-quarters at, say, Cuddalore, and a Subordinate and Assistant Sessions Judge being posted to the combined District and having his head-quarters at Chingleput in lieu of the present Judge. The substituted Subordinate Judge will then at Chingleput be able to do all the Civil work which the present

Judge is doing, and he would be able to try all Sessions cases except the gravest ones there also. The trial of such Sessions cases arising in the Chingleput District as are triable only by a Sessions Judge could be either held at Cuddalore with which there is easy railway communication, or the Sessions Judge could periodically go on circuit to Chingleput for their trial. There will then be no inconvenience whatever to the people. All the trials, criminal and civil, would then be held as they are now. The District and Sessions Judge would no doubt have some additional work in regard to the graver Sessions cases and criminal appeals and in regard to the administration of a second district. But considering that the work of the Judge of South Arcot is anything but heavy, the extra work would not be more than he could do, and he would always be able at a push to transfer some of his judicial work to the Subordinate Judge.

Very difficult in practise. The bar wd have to go too, & a considerable estabt — MA

How so. The Dt Judge wd have appeals and some orgl jurisdiction I suppose. MA

This wd never do MA

(6). In this manner there are at least four District Courts which in my opinion could be advantageously abolished and Sub-Courts established in their place, namely, Chingleput, Kurnool, North Malabar and Vizagapatam. Thus Chingleput could be united with South Arcot, Kurnool with Bellary, North Malabar with South Malabar and Vizagapatam with Ganjam. It is true that this linking of districts was considered to be altogether impracticable in 1883; but since then railways have altered the whole complexion of affairs. The South Indian Railway connect-

Pages 32, 33, 41, 67 and 93 of the book file

dispose MA

ing Chingleput with South Arcot had only recently been opened. A railway now runs through the heart of the Kurnool District connecting it with Bellary, and Vizagapatam and Ganjam are also now traversed throughout by the East Coast Railway. The extension of the Madras Railway from Calicut to Tellicherry is, it is believed, under contemplation. I have already endeavoured to show how, in the case of Chingleput and South Arcot, the amalgamation would be detrimental to no one and similar observations could be made in all the other cases. As regards North Malabar and South Malabar, Calicut, the station of the Judge of South Malabar, is situated at the extreme end of the South Malabar District, and the North Malabar District comes down within a few miles of it, and many of the villagers of North Malabar would find it easier to go to Calicut than villagers of South Malabar itself find it to be, and there seems no reason why the North Malabar and the South Malabar Districts should not be under one Judge as it is under one Collector, following the precedent of North and South Tanjore which has worked well as a single district since the amalgamation in 1884. x With regard to Kurnool, the former proposal was to link it with Cuddapah; but considering the alignment of the Railway, Bellary or perhaps Kistna would seem to be the more convenient district. The head-quarters of the Subordinate Judge could be conveniently fixed on the line of railway either at Nan-

x On reconsideration I think the combination would be too much for one Judge to manage and would modify my proposal by suggesting that the Palghaut Division should be taken away from South Malabar, and added to the Coimbatore District, and then the amalgamation of North and South Malabar might be made.

dyal or at Guntakal instead of at Kurnool itself which is quite out of the way. In the amalgamated districts of Vizagapatam and Ganjam, the head-quarters of the Judge should probably be at Chicacole as it was formerly, and as being the most central station, and it might be necessary, owing to distances even by rail, to have two Subordinate Judges in this amalgamated district, namely, one at Vizagapatam and one at Berhampore, the present head-quarters of the two District Judges. These are, however, matters of detail which can be arranged if the principle that I have suggested is adopted.

(7). Taking it then that we can have five extra Subordinate Judgeships in lieu of the four District Judgeships superseded, we have here the desired training ground for junior civilians, but it is, in my opinion, a training ground of too advanced a stage for any young civilian who has not previously done any civil judicial work. The work of a Subordinate Judge *cum* Assistant Sessions Judge is nearly of the same importance as that of a District and Sessions Judge ; and if a junior civilian wants training for the latter post he equally requires it for the post of a Subordinate Judge. I would therefore make a candidate for employment in the judicial service begin his training at a lower stage, namely, as a District Munsif. It is in that position only that he can best learn how Original Suits are conducted and fit himself

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for hearing appeals from decisions in such cases. It is only by this means that he can hope to hold his own with his brother Subordinate Judges with the many years of training they have had in the Lower Courts of First Instance. The experience which young civilians get as Revenue Officers and Magistrates, excellent though it be, will not answer the purpose sufficiently to justify their being pitchforked straight into the highest kind of civil work, with the elementary details of which they are not familiar. I would therefore insist upon it, that they should be Munsifs first and Subordinate Judges afterwards. After four or five years of service as Revenue Officers they should have attained sufficient acquaintance with the country and its people as to make them good Judges of fact as well as of law. It is at this period that they attain the rank of a Head Assistant Collector, and therefore their pay, if they enter the judicial service as Munsifs, should be made the same as that of a Head Assistant Collector, namely, Rs. 800 a month. I should retain them as Munsifs for three years, or so, and then let them become eligible for Subordinate Judgeships, that is to say, in their eighth year of service. They will then be about the rank of a Sub-Collector in the sister service, and their pay as a Subordinate Judge should therefore be the same as that of a Sub-Collector, namely, Rs. 1,200 a month. After four or five years' further service as a Subordinate and Assistant Sessions Judge they will no doubt be fit to act in the post of a District

(24) 112

and Sessions Judge to which standing they will then ordinarily have attained. For the proper working of this scheme I would impress upon the Government the absolute necessity of requiring an officer who has once elected to join the judicial service in its higher branches, to remain in that service—not indefinitely of course—but until some much greater prize offers itself to him. I would fix the period for his final selection as that upon which he enters into the Subordinate Judge's grade. The present system by which a man is a Judge to-day and a Collector to-morrow and *vice versâ* has the most evil results from a judicial point of view.

(8). I propose, therefore, that four District Munsifships be created as soon as possible to be held by junior civilians. This proposal will serve the two-fold object of supplying the four additional District Munsifs that are urgently required and of furnishing the first stepping stones for the training of junior civilians in civil judicial work and they could of course be posted at the head-quarters of an experienced Judge to guide them as they begin work. These four appointments together with the appointment of the Deputy Registrar of the High Court which is now held by a civilian and which, it is trusted, will always be held by a civilian will provide five men in training for the five Subordinate Judgeships to be created for the ultimate employment of civilians alone, and these five Subordinate Judgeships together with the appointment

*Judicial officers.	*Savings*—		
	4 District Judgeships at Rs. 2,300 ...		Rs. 9,200
	Expenditure—		
	5 Subordinate Judgeships at Rs. 1,200 ...	,,	6,000
	4 Munsifships at ,, 800 ...	,,	3,200
		,,	9,200
Establishment.	*Savings*—		
	4 District Courts' establishments at Rs. 720 ...	,,	2,880
	Expenditure—		
	5 Sub-Courts' establishments at Rs. 370 ...	,,	1,850
	4 Munsifs' Courts' establishments at Rs. 250 ...	,,	1,000
		,,	2,850

of the Registrar of the High Court which is always held by a civilian, will, in their turn, provide for the training of six men for the twelve District Judgeships left to the civil service. It is calculated * that the savings effected by the abolition of four District Judgeships and their establishments will exactly meet the cost of the five Subordinate Judgeships and four Munsifships and their establishments. The Civil Service will thereby have no cause for complaint that its emoluments, as a whole, have been reduced, for they are only redistributed, while the judicial service as such will be vastly improved by the change as every superior Judicial Officer will be a trained man.

(9). I beg to claim for the scheme which I have sketched no originality but only that old proposals are worked out in such a manner as to render practicable what was considered impossible before. Its paramount advantage is that it entails no extra cost upon the State, the principal obstacle placed in our way by the Government of India, while it secures not only the chief object in view, namely, the training of junior civilians in Civil Judicial work, but also the training of our present Subordinate Judges for Sessions work which four of them will henceforth be called upon to perform, and at the same time it adds, what is urgently demanded, four more Judicial Officers of the most useful class to our list; and I submit that these results will be gained without any loss of efficiency.

Vide please page 5 flagged N of file No. 315-1631-5-02 and page 41 of the book file

Mr. Justice Davies' idea on this subject seems somewhat Utopian.
M.D.

(96) 1302

It cannot be disputed that at present there is a great waste of judicial power in our District Courts. Even with incompetent men such as we now have there is not enough work to occupy their whole time, and of course with competent men the work would be still less sufficient. The reduction, therefore, in the number of these highly paid officers and the substitution in their place of a cheaper agency cannot be objected to, especially when the substitutes will be as competent to do the work that will devolve upon them as those they are replacing.

The only objection that I foresee may be raised is that the charge of two districts instead of one may be more than one Judge can well manage and that inconvenience will be caused to the public by the long distances which parties may have to travel to the head-quarters of the Judge. On the first point my answer would be that in every Court in which a Subordinate Judge is to be posted for a District Judge, the work is light, or at all events not heavy and that the District Judge will be able to transfer, if need be, to the officer in charge of that Court, some of the judicial work which he has been hitherto doing himself. My answer to the second point would be that nearly all the work now going to a particular Court-house will go to the same Court-house in future (for instance all the original

suits that arise in Chingleput will go to the Chingleput Subordinate Court and all the civil appeals arising in that district can be either transferred by the Judge to the Chingleput Subordinate Judge's Court or that Court can be empowered to receive such appeals direct) and then in the very few cases in which the parties would have to travel a further distance than they formerly did in order to reach the one remaining District Court, there are now railway communications which did not exist before. One other merit of the scheme is that it is simple, inasmuch as it involves no changes or alterations in the existing Revenue and Magisterial divisions. Further, we shall have nine Courts instead of four, and there is no reason to fear that they will not pay their own way as all our up-country Courts are doing.

but what about suits that arise in (say) Kallakurichi taluk of South Arcot? They wd also go to Chingleput. And all the Chingleput Sessions cases wd have to go to Cuddalore. H.F.

(10). Although the scheme might be sanctioned as a whole at once, it need be carried out only gradually. A beginning could be made by abolishing the Kurnool[x] and the Chingleput District Courts. This will set free funds (salaries Rs. 4,600 and establishments Rs. 1,440, equalling Rs. 6,040) sufficient to meet the cost of the two Sub-Judges necessarily required in their places at the present usual rates (salaries Rs. 1,000 and establishments Rs. 740, equalling Rs. 1,740) and of the four Munsifs urgently demanded for themselves and for the preliminary training of young civilians at civilian rates (salaries Rs. 3,200 and establishments Rs. 1,000, equal to

x The proposal made in 1884 to abolish this Court was not carried out - pp 102, 175 & 220 of the book file

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Rs. 4,200) making a total expenditure of Rs. 5,940 as against a saving of Rs. 6,040. The abolition of the North Malabar and Vizagapatam District Courts can wait till the five Sub-Judgeships for civilians are required.

25—1—97. J. A. D.

~~*Note.*—The 4th paragraph of the G.O. regarding the recasting of the form of statement of receipts and charges will be a matter for the Registrar to deal with.~~

(True copy.)

Illegible

15th July 1897. Registrar.

1896 Minute by the Honorable Mr. Justice Subrahmanya Aiyar

MEMORANDUM

99

ON

G. O., No. 1174, Judicial, dated 14th July 1896.

I am entirely unable to agree in the proposal to substitute covenanted civil servants for any of the existing Subordinate Judges. A good portion of the work done by the latter cannot be properly performed except by persons possessing considerable knowledge and experience of civil litigation. To appoint to offices involving such important duties members of the covenanted service lacking the requisite knowledge and experience cannot but prove most detrimental to the administration of justice in this Presidency. If in support of this statement proof were necessary, I would refer to the experiment now being made in the District of Malabar. The experiment has, I believe, given very great dissatisfaction to the suitors concerned. I am bound, therefore, to say that the substitution of covenanted officers in the place of six existing Subordinate Judges is simply impossible.

Nevertheless it is absolutely necessary provision should be made for giving from time to time to a few junior covenanted officers at least a training that would enable them to discharge the duties of a District Judge fairly satisfactorily. In my view the only practicable course which the circumstances of the case allow, is to create not less than 3 or 4 places to be filled by covenanted officers. These officers should be made Subordinate Judges and attached to important Districts like Madura, Malabar, Tanjore, Tinnevelly, &c. They should not however have charge of any definite portion of the District, but should be required to try only such cases as may be transferred to them by the District Judge. For the first few months simple and easy original suits should be selected and sent to them, comparatively difficult cases being sent

to them for disposal afterwards. Appellate work should not be entrusted to them at all. Moreover to add to the usefulness of the training thus given, it is quite necessary that the officers thus appointed as additional Subordinate Judges should pass within a year from the date of their appointment a not difficult examination in the Civil Procedure Code and Transfer of Property Act, as also in the leading principles of Hindu Law and Specific Relief Act. They should possess some knowledge of the fundamental rules of general law. I would, therefore, require them to study an elementary book on the subject, such as Dr. Holland's work on Jurisprudence and answer a paper on the subject along with those on the three Acts already mentioned and Hindu Law.

One other point to be borne in mind is that the officers to be appointed as additional Subordinate Judges must not be of less than 8 or 9 years' standing, so that, after serving as such for a couple of years, they would be fairly fit to assume the responsible position of a District Judge.

The additional cost which the proposal will entail must be met by the State in the interests of the judicial administration of the Presidency. I have, however, no doubt that the new appointments would, in some measure, contribute towards effecting a reduction of arrears which the general increase in civil litigation is almost constantly tending to accumulate in various parts of the Presidency.

In conclusion, I would observe that the question of taking the necessary steps in the matter under consideration has been too long deferred and ought not to be delayed longer.

S. S.

5th May 1897.

(True copy.)

D. & S. Court

5th July 1897. Registrar.

Minute by the Honourable Mr. Justice Benson.

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MEMORANDUM

ON

G. O. No. 1174, Judicial, dated 14th July 1896.

We are not, as I understand it, asked to discuss *de novo* and *ab initio* the best method of training junior Civilians for the office of District and Sessions Judge. That has been already done at considerable length and certain conclusions have been definitely arrived at. I do not, therefore, consider it necessary to discuss whether Civilians should or should not, begin their training by serving for a time as District Munsifs. I think it is enough to say that though that course has some advantages these are, in my opinion, counterbalanced by greater disadvantages. I understand that it has been determined that the training of junior Civilians is to be given by making them pass through the grade of Sub-Judge and that what we are now asked for is our opinion as to whether "the ends in view will be sufficiently served by the substitution of six junior Civilians for six of the present uncovenanted Subordinate Judges or whether such strong necessity for six additional Courts exists as t render the establishment of six new Sub-Courts imperative and unavoidable."

2. In my opinion, and, I believe, in the unanimous opinion of the High Court, the former alternative is altogether impracticable. It, in effect, means the substitution of six European Judges wholly inexperienced in civil work for six of the most able and experienced native Judges, who by long service and proved ability have risen through the various grades of District Munsifs to appointments as Subordinate Judges. The work of a Subordinatate Judge is almost exclusively civil. Facility in its rapid and correct disposal can only be acquired by long practice. This practice the native Subordinate Judge, before his appointment as such, has obtained by long years of service as a District Munsif. The young civilian would have had no similar experience of civil judicial work. His only experience would have been in criminal work. He would not attain facility in civil

work in less than two or three years by which time he would be required to pass on to fill a vacancy among the District Judges. The result would be a succession of inexperienced men in lieu of the present experienced men; the task, already most difficult, of keeping down arrears, would become impossible, and a dead-lock in the despatch of work would inevitably follow. Another most important objection to this proposal is that it would, by a stroke of the pen, sweep away almost one half of the Sub-Judgeships to which the District Munsifs (114 in number) look forward as the legitimate reward of long and meritorious service. Such a diminution of such Judgeships would seriously injure the popularity and efficiency of the subordinate judicial service and would require very strong reasons indeed to justify it.

3. These considerations, however, do not apply to the Subordinate Judgeship of the Nilgiris. For various special reasons Government, it is understood, desires that this post should usually be held by an European. It has hitherto been held by an European Barrister who is not a Civilian and who did not rise from the District Munsif's grade. The pressure of work is less than in an ordinary Sub-Judgeship, so that there is more time for study and for consulting authorities. The average file in 1893—5 was 108 Original Suits and 623 Small Cause Suits. Some of the former were of a kind which elsewhere are disposed of by District Munsifs. The Subordinate Judge also sat at Coimbatore for part of 1895—6 and disposed of civil appeals referred to him by the District Judge. As a Magistrate he also disposed of criminal work. There is a fairly efficient European and Native Bar at Ootacamund and Coimbatore. The conditions, therefore, are favourable for training an officer for the post of a District and Sessions Judge and the appointment of a Civilian to this Court will not disappoint the legitimate expectations of the District Munsifs in regard to promotion. I am, therefore, of opinion that this post might ordinarily be reserved for a Civilian in training for the post of District and Sessions Judge.

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4. I have examined fully and in detail, the great increase that has taken place in recent years in the work of the superior Mufussal Courts, and the conditions under which they are now disposing of that work; and I have come to the conclusion that a permanent increase of at least three Courts is imperatively needed if the judicial work is to be dealt with as promptly and efficiently as the public has a right to demand that it shall be. This increase is imperatively demanded by the growth of litigation and independently of the question of training for District Judgeships but advantage may appropriately be taken of the creation of the new Courts to reserve three Sub-Courts for Civilians and thus provide the required training for District Judges.

5. In this connection it is necessary to bear in mind that the work of the District and Sessions Courts and of the Subordinate Judges' Courts must be looked at together. The Subordinate Judges' Courts are, in fact, overflow Courts for the disposal of such civil work as the District Judge is unable to cope with. In the majority of Districts, the District Judge was formerly able, with the aid of District Munsifs alone, to dispose of all the civil work. Where he could not do so, a Sub-Judge, or two or three Sub-Judges, were appointed to aid him and the number can be increased or diminished with the work. In considering therefore, whether any increase or decrease of Subordinate Judges is necessary, the work not of the Subordinate Judges alone, but of the Subordinate Judges and District and Sessions Judges together must be regarded. Had the Government of India duly borne this fact in mind, it would not have dealt with the proposal to have six additional Subordinate Judges as a proposal involving an increase of 40 per cent. in the number of such Judges (*vide* para. 5 of Mr. Secretary Hewett's letter printed in the G. O. under reply), but rather as involving only an increase of 18 per cent. in the number of superior Courts that is of District and Sessions Judges' and of Subordinate Judges' Courts taken together, which is obviously the correct way of stating the proposal in its essential bearings.

6. It will be in the recollection of Government that the last general re-organization of the judicial establishments of this Presidency was in 1884, in pursuance of the recommendations of a Special Committee of which Mr. (now Sir Philip) Hutchins was the moving spirit. The alleged "waste of judicial energy" in the superior Courts was then carefully considered, and the recommendations of the Committee to adjust the number of the Courts to the work to be done by them were given effect to except in the case of the Kurnool District and Sessions Court, which the Committee thought might be abolished, the work being done by the District and Sessions Judges of Bellary and Cuddapah and a Subordinate Judge at Tadpatri, but which Government for reasons connected with Criminal administration refused to abolish. Since that time a very great increase has taken place in both the Original and Appellate work which comes up for disposal by the superior Courts. In para. 6 of letter from the Government of Madras to the Government of India, printed in G. O., No. 113, Judicial, dated 18th January 1896, it was pointed out that between 1885 and 1894 such increase in the civil work amounted to about 30 per cent. and that though the number of Sessions Cases fell by some 13 per cent. the criminal appeals rose by no less than 93 per cent. I have now prepared the annexed statement in which the average number of suits (original, small cause and appellate) and of Sessions Cases and Criminal Appeals in each District in the three years (1881—3) preceding the re-organization is shown side by side with the corresponding figures of the past three years (1894—6). The figures for the Sub-Judgeships of the Nilgiris and Cochin are omitted since these are special and exceptional appointments, in which the Subordinate Judges discharge other functions besides those of Subordinate Judges. It will be seen that if the superior judiciary were to be increased in proportion to the increase of work, it would be necessary to add some ten Judges (either Sub-Judges or District Judges) to the present staff. Experience, however, has shown that so large an addition is not necessary. The Courts have, by strenuous

exertions, disposed of a larger volume of work than was expected of them in 1884, but in recent years the quality of the work has suffered from the excessive pressure under which it is disposed of and Government has also been under the repeated necessity of appointing temporary Subordinate Judges to assist in working off the constantly accumulating arrears in various Districts. Since 1892 such assistance has been given in no less than five Districts, *viz.*, Tinnevelly (twice), Vizagapatam, Trichinopoly, Godavari and Nellore (twice), while the Subordinate Judge of Bellary and Salem has been deputed from those Districts to North Arcot and Coimbatore with the result that the civil work, original and appellate, in Bellary is now some eighteen months in arrear. By the last return from the Kistna District there are pending in that District no less than 1158 appeals before the District Judge and 308 appeals before the Sub-Judge. Of these some 580 were rent appeals and nearly 900 were other appeals. Of those pending before the District Judge, no less than 843 had been pending for more than six months and the return showed that the rent appeals disposed of in that quarter had, on the average, been on the file for *almost two years*, while the other appeals disposed of had been on the file for about *two and a half years*. It is, I think, a grave reflection on the administration that appeals should remain undisposed of for so long, and this is especially so in regard to the rent suits, inappropriately classed as *summary* suits. In most of these there is a point of law which is brought to the High Court in Second Appeal, which probably is not disposed of for some eighteen months. Thus the so-called summary suit probably lasts three and half years, and as the point in dispute is usually one that recurs in the following years, fresh suits have to be filed on the same matter in each year pending the final disposal, in order to save the bar by limitation. The result is a mass of litigation, expense and ill-feeling between landlord and tenant, which a prompter disposal of the suits

would avoid or at least minimise. At the present time, there is about a year's civil work or more in arrear in each of the following District Courts outside the Kistna District, *viz.*, Vizagapatam (Original Suits 43, Appeal Suits 500), Trichinopoly (Original Suits 65, Appeal Suits 359), Nellore (Original Suits 141, Appeal Suits 539), Bellary (Original Suits 48, Appeal Suits 523), Chingleput (Original Suits 19, Appeal Suits 413), South Arcot (Original Suits 19, Appeal Suits 259), while five of the Sub-Courts have about a year's work in arrear, mostly original suits.

These facts and our general experience of the conditions under which the work is now done lead to the conclusion that it is now imperatively necessary to assist the Superior Courts by the permanent appointment of at least three additional Subordinate Judges. One of these would be for the three southern Districts of Tinnevelly, Madura and Trichinopoly. One for the four central Districts of Coimbatore, Salem, North Arcot and Nellore and one for the two great and wealthy northern delta Districts of Kistna and Godavari. Salem being thus otherwise provided for, the present Sub-Judge of Bellary and Salem should become the Sub-Judge of Bellary and Vizagapatam, and should assist the District Judges of those Districts in turn, according to the state of business in their Courts. The work in each of these Districts is more than a District Judge alone can dispose of, but three Judges for the two Districts ought to be able to prevent the accrual of arrears.

7. I shall now state in some detail the considerations which show the necessity for each of the three permanent additions proposed by me. The following statement shows in detail the *average additional* work that has been filed in the superior Courts in each group of Districts for which assistance is now proposed in each year of the past triennium (1894-6) as compared with the corresponding figures for the triennium (1881—3) preceding the re-organization of 1884.

Statement showing the *average additional* cases filed in the superior Courts of each District in each of the years 1894—6, as compared with the average of the years 1881—3.

	O. S.	A. S.	S. C. S.	Sess. C.	Cr. A.
Group I.					
Tinnevelly	32	—70	901	20	82
Madura	51	316	971	— 8	104
Trichinopoly	11	— 7	420	—30	40
	94	239	2292	—18	226
Group II.					
Coimbatore	20	73	...	53	65
Salem	13	...	13	— 9	70
North Arcot	19	371	...	—48	39
Nellore	24	138	77	—31	5
	76	582	90	—35	179
Group III.					
Kistna	22	887	1968	5	16
Godavari	61	127	1877	—35	16
	83	1014	3845	—30	32

Group I. Tinnevelly has one permanent Sub-Judge, and has, for sometime past, also had a Temporary Sub-Judge. All these officers have made strenuous exertions to keep down arrears, but at the end of 1896 there were still 96 original suits and 487 civil appeals in arrear. The cases, both civil and criminal, are fought out with great pertinacity, and the Sessions Cases are unusually troublesome to deal with and have largely increased in number in recent years, instead of diminishing as is the case in most other Districts.

Madura has two permanent Sub-Judges. The increase in civil litigation has been enormous, but the District has been fortunate in having had exceptionally able District and Sub-Judges in recent years and the arrears are, in consequence, unimportant. With less able Judges arrears would certainly have accumulated, as they did some years ago.

Trichinopoly has no permanent Sub-Judge, but it had a temporary Sub-Judge for six months in 1894. The arrears at the end of 1896 were O. S. 65, A. S. 359, that is, full work for an extra Sub-Judge for one year.

Group II.—Coimbatore (excluding the Nilgiris) has no permanent Sub-Judge, but the Bellary-Salem Sub-Judge was deputed to do duty there for a year in 1895-6 in order to

clear off arrears, with the result of leaving the Bellary Court some eighteen months in arrear with its civil work at the end of 1896, and this, without clearing the files of the Coimbatore Court, where there were 39 O. S. and 139 A. S. pending at the end of the year. The number of Sessions Cases in Coimbatore has almost doubled since 1881-3 and is now the largest in the Presidency, while the number of Criminal Appeals has grown six fold.

The number of O. S. has more than doubled and there has been a substantial increase in Civil Appeals. The work of the District (O. S. 38, A. S. 321, Sessions Cases 119, Criminal A. 83) is now manifestly beyond the powers of a single Judge.

Salem has had the services of the Bellary-Salem Sub-Judge when required, and is consequently free from arrears of importance.

North Arcot has no permanent Sub-Judge but it had the services of the Bellary-Salem Sub-Judge for six months in 1894.

The civil, original and appellate work has doubled since 1881-3 and is now (O. S. 43, A. S. 534) more than one Judge can adequately deal with, in addition to the criminal work of the Sessions Court.

Nellore has no permanent Sub-Judge but a temporary Sub-Judge was appointed for nine months in 1895-6 to clear off arrears. Notwithstanding this the arrears at the end of 1896 stood at the enormous total of 141 O. S. and 539 A. S. It is true that the extent of these arrears was in part due to what may be regarded as temporary causes connected with the *personnel* of the Court, but the civil litigation (original and appellate) of the District has doubled since 1881-3 and now stands at the considerable figure of O. S. 44 and A. S. 338.

Group III.—*Kistna* had no permanent Sub-Judge until January 1st, 1895, when owing to the immense accumulation of arrears (*vide* details in para. 6 *supra*) the Sub-Judge of Ellore in the adjacent District of Godavari was transferred to

Kistna. The original Civil Suits in Kistna have almost doubled since 1881-3, while the appeal suits have multiplied four-fold. The average number now is O. S. 48 and A. S. 1167. No doubt many of the latter are rent appeals which can be disposed of in batches, but the figures already referred to in para. 6 *supra* make it manifest that the civil work of this District is more than one man can adequately cope with, in addition to the criminal work of the District.

Godavari had two permanent Sub-Judges until one was removed to Kistna, as already related, in 1895. The civil litigation of the District is, as might be expected from its wealth, enormous, and is rapidly increasing. Since 1881-3 the average number of the Original Suits filed in each year in the superior Courts has arisen from 58 to 119, the Small Cause Suits from 913 to 2790 and the Appeal Suits from 559 to 686. At the close of 1896 the arrears were 145 O. S. and 553 A. S. It is manifest that even with two Sub-Judges arrears can hardly be kept down. With only one, (as at present) they must rapidly accumulate. It is moreover certain that the work of the Courts will in the near future, largely increase in these two Districts and in the adjacent Districts of Nellore, Vizagapatam and Ganjam, owing to the opening of the East Coast Railway and the impetus to trade that will be given thereby. It will however be time enough to provide for that increase when it actually occurs.

8. An estimate of the work that each additional Sub-Judge can perform may be made by taking the average out-turn of work of all the regular Sub-Judges (*i. e.* excluding Cochin and the Nilgiris) in 1895. It is as follows :— O. S. 57, A. S. 200, S. C. S. 1179 and Sessions Cases 5.*

Bearing these figures in mind and remembering that if Civilians are appointed to the new Sub-Judgeship they will, from inexperience in civil work, be probably

* *Note.*—Compare, as a matter of interest, the average out-turn of work by each District and Sessions Judge in the same year. It is as follows :— O. S. 19, A. S. 375, S. C. S. 25, Sessions Cases 53, Cr. A. & Revision Cases, 83, besides the administrative supervision of all Courts in each District.

less capable of rapid disposal than the present experienced Sub-Judges, it may well be doubted whether an additional Sub-Judge for each group, especially for the first and third, will suffice to keep down arrears, but for the present I am disposed to think that we should attempt the task.

9. I wish to make it clear to Government that these three additional Courts are imperatively required and must be provided in order merely to meet the growth of litigation and apart from the question of training junior Civilians in civil work; but advantage may, I submit, be properly taken of this increase of Courts to provide for the necessity, admitted on all sides, of providing some civil judicial training for these officers before they are appointed to be District and Sessions Judges.

10. It has been mentioned above that the "waste of judicial power" which was noticed by the Committee of 1883 in the District and Sessions Court of Kurnool was not then remedied. Since that time the Civil Appeals in Kurnool have trebled in number and there has been an increase in all other branches of work both Civil and Criminal, in the District and Sessions Court, but the total work is not yet enough to fully occupy the District and Sessions Judge.

Since 1883 the isolation of the Kurnool District has been partly removed by the opening of the Bellary-Kistna Railway which connects portions of the Kurnool District with Bellary and the objection to merging Kurnool with Bellary is, perhaps, now for this reason, less than the objection which then existed to merging Kurnool with Cuddapah, the proposal which was negatived by Government.

If it is essential to make some economy towards the cost of the new Courts, the two Districts of Kurnool and Bellary might, as an experiment, be now united for judicial purposes, the District and Sessions Court at Kurnool being abolished and a Sub-Court being established at Kurnool in its place. The Sub-Judge should also be appointed

Assistant Sessions Judge. He would thus be able to dispose of nearly all the work that is now done by the District and Sessions Judge. The graver Sessions Cases would have to go to the Sessions Judge at Bellary and the Judge there as District Judge would still have to deal with some very limited classes of civil suits, but the bulk of the work, both civil and criminal, could be done by the Subordinate Judge at Kurnool. The disadvantage of the scheme is that the Court at Kurnool, which even now is not fully occupied, would have less than at present to do, while the Court at Bellary, already overworked, would have its work increased, by the graver Sessions Cases and by appeals from the Sub-Court at Kurnool as well as by the administrative control of all the Courts in the Kurnool District. In regard to the graver Sessions Cases the disadvantages pointed out by Government in the latter part of para. 4 of the letter of the 18th January 1896 to the Government of India already quoted, still exist, though somewhat lessened by the existence of the Railway. It may well be doubted whether the economy involved would compensate for all these disadvantages. In my opinion it certainly would not. I do not refer to the suggestion that other Districts might be merged in a similar manner. I consider such merging to be absolutely impracticable. It has been declared to be so by the Committee of 1883 by Government and by the High Court on more than one occasion. The papers are before Government and need not, I think, be further referred to.

11. With the exception of the suggestion in the last paragraph, I am unable to point out any direction in which economy can be effected in the judicial establishments.

As, however, the three extra Courts now asked for are imperatively demanded by the growth of litigation and as the Mufassal Civil Courts in this Presidency are self supporting, I cannot think that the Government of India will refuse to sanction them unless their cost can be met by savings in other Courts. Such

savings are in the nature of things practically impossible in a department which has long been the subject of careful control and the work and needs of which are always growing, so as to necessitate increased, rather than to admit of reduced, expenditure. I may, however, point out that, when the scheme for the Provincial Civil service is given effect to, four Covenanted Civilian District Judges, each on a salary of Rs. 2,333 *per mensem*, will be replaced by four Provincial service District Judges each on a monthly salary of Rs. 1,400 (on the average). This will produce a saving in the salaries of the Judges of the superior Courts amounting to Rs. 3,732 *per mensem*. A portion of this saving may, I submit, be applied most appropriately in defraying the extra cost involved in having Civilian rather than Uncovenanted Sub-Judges in the three new Courts and in the existing Sub-Court of the Nilgiris. The average pay of a Subordinate Judge may be taken to be Rs. 650 and that of a Civilian Sub-Judge of the standing of a Sub-Collector Rs. 1,166. The difference, Rs. 516 for each Court, is the extra cost of having Civilian Sub-Judges. This for the four Courts is Rs. 2,064 *per mensem*, which is not much more than half the savings from the salaries of the Judges which will result from the Provincial service scheme.

12. In this connection I wish to press on the notice of Government, that the taking away of four District Judgeships from the Civil service under the Provincial service scheme will both lessen the extent of the field for the selection of Civilian Judges for the High Court, and by rendering the judicial branch less attractive, will tend to depreciate the quality of its *personnel*. If the economy proposed in para. 10 *supra* be adopted, it will operate, *pro tanto*, in the same direction. To counterbalance this and to render the judicial branch of the Civil service more attractive, I would suggest to Government the adoption of the proposal of the Committee of 1883, *viz.*, that the salaries of the four most important District Judgeships (Madura, Tan-

jore, S. Malabar and Godavari) be raised from Rs. 2,333-10-8 to Rs. 2,750. The extra cost would be Rs. 1,666-10-8 *per mensem*, which is just the balance of the savings from the salaries of the District Judges under the Provincial service scheme after meeting the extra cost (Rs. 2,064) of providing Civilians as Sub-Judges for four Courts, as proposed in this letter. The small prospect of getting one of the two seats in the High Court reserved by law for Civilians is not enough to make good men give up the better prospects of the Revenue side with ten appointments better than a Collectorate to look forward to. In the North-West Provinces, the District Judges in the two higher grades get Rs. 3,000 and Rs. 2,500, and in the lower grade Rs. 2,250. Without some improvement in their prospects, the best men will continue to choose the Revenue line to the injury of the higher judiciary including the High Court. With only 15 or 16 District Judges instead of 20 as at present, the field of selection for the High Court will be much restricted and it is the more essential to get good men to join the restricted service.

Moreover, the District Judges having now nothing to look forward to, retire almost invariably as soon as they have earned their pension. Their services are thus lost to the Bench just when their experience has made them valuable, and they burden the pension list at an unduly early age. The proposal I have made would enable Government to offer the best of them some inducement to remain.

13. To sum up :—

(1). I submit that it is impracticable to provide for the training of Civilian District Judges by the substitution of junior Civilians for six of the existing Uncovenanted Sub-Judges. Such an arrangement would result in a deadlock in the disposal of work, and would disappoint the reasonable expectation of the lower native judiciary in regard to promotion.

(2). But there is not the same objection to reserving the Sub-Judgeship of the

Nilgiris for a Civilian in training, and this should, I think, be done when a vacancy occurs.

(3). The immense increase in civil litigation in recent years renders it imperatively necessary to at once strengthen the superior Courts by an addition of three Sub-Judges. This addition must be made independently of any question of training Civilians for District Judgeship, but advantage should be taken of the increase to reserve the new Courts for Civilians and thus provide the desired training.

(4). The four Sub-Judgeships thus reserved together with the Registrarship and the Deputy Registrarship (A. S.) of the High Court which are usually held by Civilians, would probably provide a sufficient training ground for Civilian District Judges, especially as the number of these will be reduced to 16 under the Provincial service scheme.

(5). If another Court is required as a training ground or if it is a *sine qua non* that some economy in the salaries of the Judges of the superior Courts should be made towards the extra cost of having Civilian Sub-Judges, the District of Kurnool may be merged with that of Bellary for Judicial purposes, and the District and Sessions Judge of Kurnool may be replaced by a Sub-Judge with the powers of an Assistant Sessions Judge. There are, however, serious disadvantages inseparable from the scheme.

(6). No other Districts can, under any circumstances, be advantageously merged.

(7). Only the difference between the salaries of the four Civilian Sub-Judges and the salaries of four Uncovenanted Sub-Judges can properly be regarded

as the cost of the scheme for training junior Civilians. This amounts to Rs. 2,064 *per mensem* and may be appropriately met from savings made by the reduction (Rs. 3,732 *per mensem*) in the salaries of District Judges under the Provincial service scheme. The balance of such savings should be devoted to improving the superior judiciary by increasing the salaries of the four most important District and Sessions Judges.

14. It is not, I think, necessary that the Civilian Sub-Judges should be posted to the new Courts now proposed, nor is it necessary that any three particular Sub-Courts should be reserved for them. To do so would impose on the suitors of those localities a succession of inexperienced Civil Judges. They should be posted to such Sub-Courts as might from time to time be thought most suitable for giving them adequate training in civil work, regard being had to the quality of the bar, the experience of the District Judge and the state of the files of the Court. Ordinarily, they should be posted to Courts with moderate files, at the Head-Quarters of District Judges, and with able and respectable bars. The District Judges by exercising their powers of transfer should regulate the work of the Sub-Judges in accordance with their capacity and experience, looking as much to the necessity for giving them adequate legal training, as for obtaining a full volume of work from them.

R. S. BENSON.
12—5—97.

(True copy.)

D. & S. Court

15th July 1897. Registrar.

Statement showing the average institutions in each District and Sessions Court (including Sub-Court) for the years 1881 to 1883 and 1894 to 1896.

District.	Average for three years.	Suits.		Appeals.		Criminal.		Remarks.
		O. S.	S. C.	Regular.	Miscellaneous (Institution of 88 only available.)	Sessions Cases.	Appeals.	
Arcot (North) ...	1881—83	24	...	198	16	98	13	
	1894—96	43	...	568	17	50	52	
Arcot (South) ...	1881—83	19	1013	252	23	58	22	
	1894—96	23	...	253	5	38	49	
Bellary	1881—83	38	473	179	12	97	28	
	1894—96	29	*199	337	11	81	66	* Institution in Sub-Court in 1894.
Canara (South) ...	1881—83	37	...	465	68	48	9	
	1894—96	92	497	446	21	31	37	
Chingleput	1881—83	19	...	325	23	50	14	
	1894—96	24	...	454	10	35	35	
Coimbatore (*excluding the Nilgiris*).	1881—83	18	...	238	† 10	66	18	† Institution in 1883.
	1894—96	‡ 38	...	309	12	119	83	‡ Includes institution in Coimbatore Additional Sub-Court in 1895 & 1896.
Cuddapah	1881—83	13	...	173	16	50	19	
	1894—96	22	...	227	20	51	44	
Ganjam	1881—83	22	...	204	16	44	16	
	1894—96	41	21	258	10	24	32	
Godavari	1881—83	58	913	511	48	72	18	
	1894—96	119	2790	657	29	37	34	
Kistna	1881—83	26	...	266	14	33	14	
	1894—96	48	$ 1968	1141	26	38	30	$ Instituted in Sub-Court in 1896.
Kurnool	1881—83	7	...	50	7	35	11	
	1894—96	11	...	147	6	42	28	
Madura	1881—83	88	1568	393	34	91	33	
	1894—96	139	2549	721	22	83	137	

Statement showing the average institutions in each District and Sessions Court (including Sub-Court) for the years 1881 to 1883 and 1894 to 1896.

District.	Average for three years.	Suits.		Appeals.		Criminal.		Remarks.
		O. S.	S. C.	Regular.	Miscellaneous (Institution of 83 only available.)	Sessions Cases.	Appeals.	
Malabar (North) ...	1881—83	47	1501	568	54	31	6	
	1894—96	41	1675	598	26	27	22	
Malabar (South) ...	1881—83	117	703	1072	126	75	25	
	1894—96	127	1524	990	34	60	84	
Nellore	1881—83	20	...	186	14	55	23	
	1894—96	44	85	319	19	24	28	
Salem	1881—83	18	...	263	30	76	18	
	1894—96	31	53	278	15	67	88	
Tanjore	1881—83	178	3724	633	85	90	19	
	1894—96	156	5978	718	48	57	114	
Tinnevelly	1881—83	47	789	440	62	83	15	
	1894—96	79	1690	415	17	103	97	
Trichinopoly ...	1881—83	28	...	293	18	53	17	
	1894—96	29	420	289	15	28	57	
Vizagapatam	1881—83	41	183	345	33	44	23	
	1894—96	31	...	433	9	22	36	

Hon. Justice Shephard.

(29) 29 27th

MEMORANDUM

ON

G. O., No. 1174, Judicial, dated 14th July 1896.

In the Order of Government, dated 16th July 1896, two questions are propounded, *viz.*, (1) "Whether the end in view (the training of junior civilians for judicial work) will be sufficiently served by the substitution of six junior civilians for six of the present uncovenanted Sub-Judges," and (2) "Whether such a strong necessity for additional Courts exists as to render the establishment of six new Sub-Courts imperative and unavoidable." The first question, I have no hesitation in answering in the negative. If the present Sub-Judges are not overworked, their work is certainly not so light and easy that six of them could be spared and as many ill-informed and untrained civilians substituted in their place. Such a measure would be disastrous in the interests of the public. And it would not, I think, conduce to the end in view, namely, the better legal training of young civilians. It seems to have been assumed, in framing the first question as well as the second, that an officer in training for the bench can be trusted to do the work which now falls to the lot of Sub-Judges.

At the best the training, which is likely to be secured for members of the Civil Service, is an imperfect one. But to make the system at all successful and also to reconcile it with the interests of the public, I think it is essential that for the first two or three years at least probationers should be restricted to carefully selected work and not expected to accomplish

the amount of work usually accomplished by Sub-Judges. I would, therefore, deprecate the idea that a case for reinforcement of the judicial staff must needs be made out before any system of training can be established. The two matters ought in my opinion to be kept distinct. If six extra Sub-Judges are required, the want cannot, I think, be properly supplied in the manner suggested. On the other hand, if the second question above stated be answered, as I should answer it, in the negative, it still remains necessary to contrive means for rendering members of the Civil Service more fit for the office of District Judge than they now are.

I would here observe that, after further consideration of the question, I am not now prepared to stand by the views expressed in the Registrar's letter of the 12th March 1895. I think the difficulty of linking two Districts together under one Judge is, in some instances, less than was then supposed, and that, if some such scheme as that sketched by Mr. Justice Davies were adopted and competent persons occupied the office of District Judge, no material increase in the higher branch of the judicial service would be required. I observe that, although the amalgamation of Districts is not referred to in the Order of Government above cited, it is prominently mentioned in Mr. Hewett's letter of the 30th May 1896. I conceive, therefore, is it well we should express our views on the question. I concur generally in the views expressed by Mr. Justice Davies in his minute. But I think it would be a mistake to appoint junior civilians as District Munsifs with an independent charge. Much of the work of a District Munsif would be beyond their capacity, being no less difficult than the work done by

Sub-Judges. I think a selection of work ought to be made for them by the District Judge from the cases within a District Munsif's jurisdiction or from other cases as might be most suitable. In any event I would not allow officers in the first stage of their apprenticeship any appellate powers whatever. The inconvenience of the present state of things is never more conspicuous than it is in cases when newly-made District Judges deal as appellate Courts with judgments of officers far more learned and experienced than themselves. And the misfortune is that, as matters are now arranged, there is in several of the District Courts but little civil work which is not of an appellate character. Probably legislation in the form of an amendment of the Civil Courts Act is required to rectify this state of things.

I would suggest that the young civilian, when first appointed to judicial work, should be in name and in fact an Assistant to the District Judge, discharging only such duties as the latter may think fit to impose upon him. Those duties should not be confined to the mere trying of causes, but should include such work as the drawing up of decrees and orders—work which is generally left to the sheristadar or clerks. The young civilian should also, during the period of apprenticeship, be required to pursue the legal studies which, I believe, are begun before he comes to this country, but rarely, as far as I can discover, carried on after that date. Unless civil servants, desirous of adopting the judicial branch, are required to specialize and seriously apply themselves to the study of law, we shall never have a class of District Judges competent to take their proper place along-

side of the native judiciary and to command the respect of the Bar. I do not agree with the commonly received opinion that the posts of Registrar and Deputy Registrar in the High Court afford any sufficient training for judicial work. I believe the work of the former office is almost entirely administrative. In order to learn law and the practice of it, a man needs to do the drudgery himself and not merely to superintend others in doing it. There is more to be said for the other office. But then the difficulty is that the technical work of the office requires the presence of a professional lawyer. For the work of drafting decrees, orders and the like, the Court needs a proficient lawyer, not a mere apprentice. If, as I hope may be the case, a separate department were formed for such technical work, it might serve as a school in which candidates for judicial office, whether members of the Civil Service or not, might pass through an apprenticeship.

H. H. S.

18*th May* 1897.

(True copy.)

Registrar.

15th July 1897.

(41)

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

3

Judicial (1897) Department.

CURRENT No. 2997

CONFIDENTIAL. C

CHIEF SECRETARY
16. JUL. 1897
GOVERNMENT OF MADRAS

From

The Registrar,
High Court of Judicature,
Madras.

Order

No. 1207

Dated 15th July 1897

Received

Registered

Enclosures – 4

Spare copies

SUBJECT.

Forwarding minutes recorded by the Honorable Justices Shephard, Subramania Aiyar, Davies and Benson on G.O., No.1174, Judicial, dated 14th July 1896.

Returned on 30-3-98 without orders to submit at ...

Resubd 14/4/98 Resubd to Hm 10-9-98 Judicial DEPARTMENT.

[5 G. / 25] 500–17-5-97.

Returned 31-8-98

C. No. 2997

C 14-11-98 C 6-12-98

R 3-12-98 R 7-12-98 R 30-12-98

Notes connected with G.O. No 290-291 Judl 15-2-99

3 H. E. THE GOVERNOR.

1 THE HON'BLE ~~MR.~~ Sir H.S. ~~BLISS, K.C.I.E.~~ ✓

2 THE HON'BLE MR. Arundel ~~GROSE, C.I.E.~~ ✓

SUBJECT

Civilian Subjudges

42

1 P

G.O. sent to Press 4-2-99

Proof sent

Press for ...

"Press"

Please print these notes in half margin and show proof. The order at the end also may be printed with the original notes.

[signature] 17-2-99

FOR ORDERS.

In Jan. 1896, — "after prolonged consideration," after discussing & rejecting proposals to double up Districts; ~~...~~; to appoint peripatetic judges; and to "list" a number of appointments now held by civilians so as provide money for the scheme, — Govt. at last came to the conclusion that it was quite impossible to provide means for training junior civilians in civil judicial work without enhancement of expenditure. (G.O. 112-3.J / 18.1.96. Flag G)

It accordingly wrote up to India with a scheme for establishing six new Sub Courts & appointing to them six civilians who should be of Sub Collector's standing, & should be Sub Judges & also Asst. Sessions

Insofar. The scheme was calculated to cost 1½ lakhs per annum.

India, however, (Jo. 1174.T. 14.7.96 flag T.) would not sanction the scheme. It suggested once more, though it knew perfectly well that the proposal had been condemned by the High Court and by Govt. 1882 & 1896, — that doubling up of districts might be tried, and it suggested as an alternative scheme that the object in view might be attained by substituting six civilians for six of the present native subjudges which would reduce the cost of the scheme to Rs 45.000 per annum.

It also said, (para 5. of its letter), that it was not shown by detailed figures & specific reports as to each locality in which it is proposed to establish a new Court that such a court is necessary, and before the Govt. of India could come to a conclusion upon the scheme placed before them, it would be necessary that detailed information of this nature shd be supplied."

Or

(43)

2P

This letter in fact (doubling up of districts being out of the question) left the Govt two alternatives open, — either to substitute six civilians for six native subjudges, or to make out a good enough case by details & figures to persuade India that six new Sub Courts at a cost of Rs 1.50.000 per annum were necessary.

The High Court was accordingly asked in Jo. 1174.T. 14.7.96 flag T to say whether it filled the idea of having six native subjudges replaced by six junior civilians, ~~or else~~ and was invited to make out a good case for Govt to go up to India for an increase of six new Sub Courts.

The current is the reply. It is in the form of separate minutes.

The Hon. the Chief Justice has, as usual, "no remarks to offer". Those are Mr. Justice Boddam.

The remaining four judges are unanimous in entirely rejecting the proposal to substitute junior civilians for six native subjudges. They are sure that this will result in a deadlock as far as work is concerned, & they point out that it would so diminish the District Munsiffs

chances of promotion, which are already sufficiently small, there being some 130 of them all competing for one vacancies among the 14 Subjudges.

There is probably no question but that this view is correct.

In other points Mr. Justice Subramania Ayyar's minute is useless, & Mr. Justice Shephard's little better.

Mr. Davies & Mr. Benson have gone into the question at length.

Mr. Davies says he is "afraid, after careful study, that we should be quite unable to show that any material increase is required in the number of our superior Civil Courts".

In order therefore to find funds for the Civilian Subjudges he returns once more to the proposal to Double up Districts.* He modifies the old proposal somewhat by proposing to appoint to each of the amalgamations a native who should do most of the Civil work & the lighter Sessions cases, but nevertheless his scheme is open to all the old objections which were found before to render its adoption hopeless. People will

* Chingleput with South Arcot
Kurnool with Bellary
N. Malabar with S. Malabar
Vizag.m with Ganjam

Note. This measure in his opinion, the transfer of Palghat failed to Coim. before Dist.

the occurrence of

Act (44)

3P

Act

have to go great distances for justice, so that crime will be suppressed: the Dist. Judge would have more courts than he could ever superintend & visit: he would do less civil work than ever, & so know less than ever of his munsiffs & be less than ever fit for the High Court. It is submitted that Mr. Benson's argument is alone enough to condemn the scheme. He points out that it would reduce our District Judges (who have already been reduced from 20 to 16 under the Provincial Service scheme) to 12. There will be six civilians under training for these 12 posts, besides others who might apply for them without special training, so that promotion will be so slow that the Judicial line will be even worse served than it now is & the recruiting ground for the High Court narrowed more than ever.

Mr. Justice Benson's minute is strongly opposed to any amalgamation of districts, though he goes as far as to say that Kurnool & Bellary might perhaps with several disadvantages be doubled up as an experiment. He

... tion, which are

then goes on to furnish Govt with exactly what it wanted, a detailed proof of the necessity of additional Sub. Courts. He thinks that at least three more Sub. Courts are wanted at once, and it is submitted that he has made out his case, & that it is only by the establishment of such additional Courts that the training of junior Civilians can be accomplished satisfactorily.

But at present his scheme is financially out of the question.

He argues that as three new Sub Courts are anyhow required, the cost of appointing Civilians to them should only be taken as the cost of a Sub Collector minus that of a Subjudge, or Rs 2064 per mensem, and against that expenditure he sets off the saving of Rs 3.732 which will accrue as soon as the four Provincial Service District Judgeships are filled up.

But at the present juncture India is not at all likely to see it in that light, & will reply that the four Provincial Service men have not yet been appointed, so that no saving has yet resulted,

4P (45)

and that the salaries of the three Civilian Subjudges are anyhow an increase over the present charges, & that therefore the real increased cost is Rs. 75.000 per annum, a sum which they cannot at present see their way to sanctioning.

It is submitted that there is no immediate hurry over this scheme. It has been on the anvil some 15 years already, and a year or two more delay will not greatly matter. This being so, it seems better to wait until times are better and then introduce a good scheme like Mr. Benson's, rather than ~~[illegible]~~ try and introduce at once at all costs some other scheme which can only be maimed and dwarfed for want of requisite funds, & ~~will~~ ~~lead~~ ~~to~~ the effort to find money for which will result in retrenchments in directions which will do harm, & which in a few years time, when money is again plentiful, will appear to have been unnecessary if not ill advised.

Submitted therefore that the whole scheme may lie over one

upon the question of means. In doing so however he has overlooked the facts that the proposed abolition of the establishments of the District & Sessions Judges will involve extra pensionary charges, ~~[illegible]~~ ~~[illegible]~~ which will have to go against the saving and that he has provided nothing for the building and furnishing of Courts for the four new District Munsiffs: further too it does not seem at all unlikely that if the Sub Judges who have to take the abolished Judges Courts will have a good deal more to do than the ordinary Sub Judge has, their establishments will require strengthening – another charge against the contemplated saving. Again on page 6 of the note it would appear that the Honble gentleman contemplates moving the present Sub Judge of Kurnool to another station – Dindigul (a poisonous hole) or Putukal – and the surviving Judge of the Ganjam cum Vizagapatam District to Chicacole: these schemes involve two new Court-houses. He apparently would locate the Judges Courts for N & S Malabar at Tellicherry but he says nothing about[illegible] on

AA

This is usually discovered after changes have been made wh. cannot be undone. AA

Not so in the new quarter near the railway station wh. is well elevated and healthy enough. HS

[illegible] HS

AA

AA

[G. / 25]
1,000—8-5-97.

.... DEPARTMENT.

C. No. 7P (48)

H. E. THE GOVERNOR.

THE HON'BLE MR. BLISS, C.I.E.

THE HON'BLE MR. GROSE, C.I.E.

SUBJECT.

FOR ORDERS.

AA

AA

These amalgamations may look well enough on paper, where it is difficult to realize the great areas of the districts & the distance to be travelled by parties with consequent expense, trouble & waste of time. AA

this point.

An extra Sub Judge in the Ganjam cum Vizagapatam District seems part of the Honble Sir D. Arnes Scheme and if it is then would have to be added to the cost of the building & furnishing of yet another Sub Judges Court and the charges for pension. It will be seen from the calculation in the margin of para 8 of the memorandum that none of the items referred to above have been taken into account.

That taken together they will amount to a very large sum there cannot be a shadow of a doubt.

Saying though that the scheme did not involve a piece of extra expenditure I doubt very much indeed whether the throwing together of districts as proposed would ever work; take for instance Bellary & Anantapur & Kurnool, which would form a huge charge even with a Sub Judge

to assist. South Malabar too I have always understood gave the Judge in charge of it quite enough to do. Vizagapatam also with the opening up of the country by the railway and the increase of litigation which follows civilization in India will ere long become of itself no light charge.

It is all very well to make out schemes on paper but putting them into practice is a very different thing. The Hon'ble Mr. Benson's plan appears more likely to prove workable than that put forward by the Hon'ble Mr. Davies but that too though based on different lines seems not to have taken into account sundry points which should have been.

To begin with I doubt whether the G of I will regard the sources from which the Hon'ble Gentleman proposes to meet the cost of his scheme as a saving. This source is the saving arising from the difference between the cost of Covenanted and Provl or Statutory Officers appointed as Judges to the four posts assigned to the Provincial Service under the Provincial Scheme. I do not consider that the saving under this head could be taken towards the cost of providing extra Sub-Judge- ships any more than that arising

yes indeed HW

Of course - This Court & Tanjore alone discredit Mr. Justice Davies's sweeping assertion about no Dt & Sess. Judge having too much to do.

AA

AA

H. E. THE GOVERNOR.

THE HON'BLE MR. BLISS, C.I.E.

THE HON'BLE MR. GROSE, C.I.E.

DEPARTMENT.

C. No.

SUBJECT. 49

FOR ORDERS.

could be legitimately regarded as applicable to meeting the cost of say improving the pay of Taluq Gomastahs.

But granting that this view is wrong there are other points ~~[illegible]~~ which have been overlooked.

The Hon'ble Mr Benson's scheme differs from that of the Hon'ble Mr Davies in that he would start junior Civilians in training as Sub Judges and not as District Munsifs.

He would reserve the Sub Judgeships of the Nilgiris for a Covenanted Civilian for the reasons given in para 3 of his memorandum and provide three new Sub Judgeships to be filled by Covenanted Officers.

Both he and the Hon'ble Mr Davies make up ten Officers by counting the Registrar & Dy. Registrar of the High Court as being under judicial training.

As regards reserving the Sub Judgeship of the Nilgiris for a Covenanted Officer it is to be observed that in doing this Government would be doing what Mr Benson deprecates in para 2 of his note: though this refers to

much larger number than one, the principle is the same: the reductions proposed would be cutting down the already small number of prizes open to the British Civilians - a very large body of hardworking hardworked and intelligent Officers; that the inefficient Officer who has held this post for the last fifteen years is a European and a barrister is no logical reason why when he goes, another European should be put in and a reservation of it in favour of Europeans alone be made.

But putting a young Civilian into this particular post is open to further objection. Owing to the weakness and inefficiency of the present Sub Judge the Court has for some years been a perfect bear garden and the bar especially the European part of it is allowed to say and do what it likes. That this is the case is a matter of public notoriety. The state of the Court is as bad as it can be and things can be only set right by a firm and experienced Judge.

But allowing that the Court and the bar attached to it was everything that one could wish, there is yet another objection to putting a young Civilian into this appointment. This is that he would be removed from the personal superintendence and control of the Judge and that obtaining in the station of all others where a young fellow would be the

A W Lang

[G./25]
500—17-5-07.

DEPARTMENT.

C. No.

H. E. THE GOVERNOR.

THE HON'BLE MR. BLISS, C.I.E.

THE HON'BLE MR. GROSE, C.I.E.

SUBJECT

98

50

FOR ORDERS.

most tempted to amusement to the detriment of his work and in one where he would have no one on the spot to look after him.

It would be very pleasant no doubt to the Service to have an appointment such as this open to it but having it would I fear not lead to proper training for a Judgeship.

However saying that the objections made to having a new young hand put into the Sub Judgeships of the Nilgiries are not considered sufficiently weighty, there is for consideration the three other new Sub Judgeships proposed by the Hon'ble Mr. Benson.

His scheme provides for the bare pay of these and he has entirely overlooked the fact that for these three Sub Judges three Courts will have to be built and furnished and that no allowance has been made by him for the cost of establishment or for the necessary charge. This he has apparently done on the score that the three extra Sub Judges are necessary - [illegible] though such a thing as training never entered*.

They will be no small sum: the cost of the scheme will be still greater if the saving owing to the introduction

*. had never been thought of but as he proposes to utilize these three new posts for the training purposes I consider that all charges connected with them should be debited to the scheme.

AW

of the Provincial Service Scheme is not
to be taken as a test of: whether it
is or not the cost of the trouble to
Benson's scheme will clearly be
much more than he anticipates.

He suggests in a half hearted
way (para 10) that if the trouble funds
for the training of Junior Civilians
for judicial work the clubbing
of districts is considered necessary,
the experiments might be tried as
regards Kurnool & Bellary.: he
however speaks of the Bellary Courts
as already overworked and he is
therefore to any clear how are
already overworked Juniors is to
get through a lot more district
work.

As for knocking out other two
Judgeships with one he says that
is exceeds be done.

Admitting that the money saved
by transferring four Judgeships to
the Provincial Service could be devoted
to the Hon'ble Mr Benson's scheme
and that it finally worked out with
a balance to share, which it would
not, there would be but scant
chance of the Govt of India agreeing
to the appropriation of such balance
to the increase of the salaries of
the more heavily worked Judges. Govt
complain hard enough against the
plan of having always two second
grade Collector and Judge appointments
— an exceptional exception — but
the G of I demanded ordinarily
it would be as strong hearted

[G. 26] 500—17-5-97.

DEPARTMENT.

C. No.

101

H. E. THE GOVERNOR.
THE HON'BLE MR. BLISS, C.I.E.
THE HON'BLE MR. GROSE, C.I.E.

SUBJECT

51

FOR ORDERS.

In the matter of powers of Judge more
Bary.
The Hon'ble Justices Shephard and Subr-
maniyar do not treat the subject
as any thing like the length or with
the detail that it has been by their
Colleagues. " "
The Hon'ble Mr. Shephard concurs generally
in the views expressed by Mr Justices
Davies " though he does not go into the
hands for so doing. He apparently approves
of the clubbing up of districts and
endorses of the Hon'ble Mr. Davies from
which it is to be inferred that he
does not see any source from which
to find funds to floate the scheme
for the training.
The however differs materially
from the Hon Mr. Davies as
as regards starting the judicial
training of Junior Civilians by ap-
pointing them as Dist. Munsifs. On
this point he is in agreement with
the Hon'ble Mr Benson.
But he differs from the Hon'ble
Mr. Benson in proposing that

the Junior Civilians should commence their training not as Sub Judges but as Assistants to Judges without appellate powers, without any jurisdiction of their own, and at the same time continuing their legal studies and working at drawing up decrees and orders: in fact they would be what is called "learning boys" – very much in the position of a recently joined Asst. to a Collector. What their pay should be the Hon'ble Mr Shephard does not suggest – nor does he make a word of comment on the strongly ~~[illegible]~~ expressed assertions of both his Civilian Colleagues, ~~that~~ the one that four extra Dist. Munsiffs, the other that three extra Sub Judges are imperatively necessary to carry on the work now devolving on the Courts. He says nothing as to the question of the establishment and accommodation of these sucking Judges. In fact his scheme is one of very sketchy outline.

It seems however to me that the plan proposed by him is the best from the educational point of view, but how are the young Civilians under training to be treated?: are they to remain "learning boys" until their turn to be promoted as Judges comes or are they ~~[illegible]~~ before that occurs to have independent jurisdiction and powers of appeal: if so in what capacity?: if as Sub Judges

This seems to me the best course. I would not want to think but a little practical knowledge of this kind is all that is really wanted.
H.A.B.

$\left[\frac{G.}{25}\right]$
500—17-5-97.

..................DEPARTMENT.

C. No. ....

H. E. THE GOVERNOR.

THE HON'BLE MR. BLISS, C.I.E.

THE HON'BLE MR. GROSE, C.I.E.

SUBJECT

11 P

(52)

FOR ORDERS.

Some of the existing Sub Judges must be turned out to make room for them or extra Sub Judgeships must be created & for these new Courts must be built & establishments entertained. In the end the scheme would apparently work out pretty nearly the same in cost as that of the Hon'ble Mr. Davies.

The Hon'ble Mr. Subramani Aiyer is even briefer than the Hon'ble Mr Shephard. His view is, like that of the Hon'ble Mr. Benson, that three or four Sub-Judgeships should be created for the training of Junior Civilians but he would apparently not give them independent jurisdictions. He too suggests their studying law, and even passing an examination after a year's training. He contemplates the period of instruction extending to only two years. His plan is in fact pretty much the same as that recently followed in the case

of Mr. J. H. Munro which the Hon'ble gentleman apparently considers to have been a failure probably because Mr. Munro had too much freedom and too little of the "learning boy".

As regards the question of funds the Hon'ble Mr. Subramania Iyer observes that "the additional cost must be met by the State in the interests of the judicial administration of this Presidency".

This is probably true how any scheme that may be adopted — if any ever is — will have to be financed.

Whatever scheme may be devised it means extra expenditure — not of a small sum but of a large amount if carried out in its entirety. There is no chance with war plague pestilence and famine in the land of getting anything extra out of India. Anything that can be done therefore must be done on a very humble scale to begin with.

The knocking together of two districts might be tried with the proviso that if it proves a failure the abolished judgeships should be restored. This would give funds for one Sub Judge but then there would be the difficulty of finding a Court house for him. I do not feel much doubt as to what will be the result of such an experiment.

|| AA

But the note has already shown that this is inexpedient & unworkable. R.S.

AA

This could never be done unfortunately; such retracing of steps is in practise impossible except in the rarest cases.

AA.

[G. / 25]

500—17-5-97.

DEPARTMENT.

C. No.

H. E. THE GOVERNOR.

THE HON'BLE MR. BLISS, C.I.E.

THE HON'BLE MR. GROSE, C.I.E.

SUBJECT

12P

(53)

FOR ORDERS.

: the succeeding judge may be fairly well trained but it will be at the expense of "utter smash" in the districts which have been converted into a single judgeship.

It is a question and a serious one whether the game — even though experimental — would be worth the candle: *facilis est descensus Averni*.

: the knocking together of districts never had an advocate amongst officers who knew anything of the matter and had gone really into it and never will; the limit has been (geographical difficulties being taken into consideration) already reached in this respect as regards both Revenue and Judicial Administration.

HO
6/2/97.

Quite true. Mr. Justice Davies was never a travelling Dt. Officer & knows nothing in practise of the troubles & difficulties thrown on parties by the existence of courts at a great distance. Even as an asst. he refused to travel & tour — I was in Tinnevelly with him at the time.

AA

[G/73.]
I.O. 4-7-98.

C. 10-9-98
Rec'd from ... 19-10-98

Recorded ... 21-10-98

Judicial

NOTE FOR THE H.M. (54)

13 P

The file regarding the training of Junior Civilians in judicial work is resubmitted. The papers relating to the Tinnevelly sub-court, which do not appear to be necessary in connection with the general question, have been removed for another file.

A.
8/9/98

9/9/98.

14 P
55

I don't see any way to
adding anything of
value to the office
notes on this subject -
I agree with the High Court
that the suggestion that
Six of the Native Sub Judges
might be supplanted
by junior Civilians
should be firmly
rejected -
Nothing, it appears to
me, can be done till
the financial clouds
roll by -
I am opposed to the
'doubling-up' of
Districts suggested by
Mr. Jno. Davies -
There is no unanimity
amongst the Judges
as to what should be
done - Mr. Justice
Benson's proposals

To Agra I — though the
Govt of I. suggest it. They
do not realize the difference
in area between Madras Dts
of 5000 to 8000 sq. miles &
none so small as 3000 s.m.
and the districts in other
provinces where 3000 sq. m.
is unusually large.
MA

I quite agree.
M.A.

as shown in the office
note, would entail
considerable expenditure
in excess of what he
provides for –

2. Personally I think that
the urgency of providing
special judicial training
for young civilians is
much exaggerated –

No doubt the tendency
of our civil litigation
is to make the conduct
of a suit one chain
of technicality; but
perhaps it is not
altogether an evil that
the District Judges should
not have been brought
as the District Munsiffs
are, as experts in the
discovery of technical
flaws –
Their experience as
magistrates, and in rent
suits and suits

56

regarding village offices
should sufficiently
accustom young civilians
to deal with evidence
and to record a judgment
on facts, while those
of them who have any
aptitude for judicial
work will rapidly
acquire the requisite
familiarity with
civil procedure, & the
law relating to stamps,
limitation & registration
of documents –
No want of judicial
training will prevent
an industrious and
clever man, with the
education of a young
civilian, from rapidly
becoming an efficient
District Judge – Of
this our Service has
furnished many
examples –
On the other hand no
amount of judicial
~~work~~ training will

make a good Judge
of a lazy man who
takes no delight in
his work —

3 - Anyhow, I am inclined
to think that, as suggested
in the office notes, the
the subject must be
hung-upe sine die until
our revenues admit
of a largely increased
expenditure on rival
Courts -

H.S.
2-12-98 -

I agree generally with
my Hon. Colleague & consider
that no practical steps can
be taken in the matter
for the present.

A.A.
7.12.98

I also agree generally. I would only suggest
that we might clear the ground by (1) finally
deciding against the idea that the [illegible]
[illegible] should be an ordinary working [illegible]

16 P

57

[illegible] might consider [illegible] but [illegible]
out
[illegible]
30-12-98

N.B. The Judges have taken trouble over
the matter. I would suggest their being
thanked
[illegible]
[illegible] 98

[illegible] decide at once against the [illegible] idea
should be an ordinary working [illegible] judge; the
existing sub. [illegible] need not [illegible]
[illegible] [illegible]. They have no [illegible]
[illegible] solely to [illegible] or the [illegible]
of the sub. [illegible] being [illegible] —
if it should be decided to replace them
by [illegible]
[illegible]
30-12-98

9 Copies
Rdy 10/10/96

No. 1174, JUDICIAL, 14TH JULY 1896.

58

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following paper :—

G.O., Nos. 112-13, Judicial, dated 18th January 1896.

READ—also the following paper :—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 30th May 1896, No. 784.

I am directed to acknowledge the receipt of your letter No. 113, dated the 18th January last, on the subject of the proposed introduction of certain measures for the training of junior civilians in the Madras Presidency in civil judicial work.

They involve the creation of six subordinate judgeships on Rs. 1,166-10-8 each per mensem, to be held exclusively by members of the Indian Civil Service whom it is also intended to appoint Assistant Sessions Judges. It is estimated that the total cost of each subordinate court presided over by a member of the Civil Service would not probably exceed Rs. 25,000 per annum, in which case the total extra expenditure involved by the measure would not be above Rs. 1,50,000 per annum. The matter has, it is stated, been considered by the Madras Government in communication with the High Court of Madras, and His Excellency in Council has accepted the opinion of the Hon'ble Judges that it is impossible to meet the additional expenditure involved by merging any of the lighter district courts in neighbouring district courts, as had been suggested in the correspondence with the Government of India in 1883 and 1884. Before elaborating a scheme upon the lines indicated in your letter, His Excellency in Council has requested an expression of the views of the Government of India on the subject.

2. In reply, I am to say that the Government of India adhere to the opinions as to the importance of training junior civilians in judicial work in order to fit them for the office of District Judge, which were expressed in the Home Department letter No. 1818, dated 21st December 1882, and they thoroughly approve of the object which the Government of Madras have in view in suggesting the measures proposed in your letter under reply. It appears to them, however, that there are serious objections to the present scheme in the form in which it has been presented.

3. The Governor-General in Council observes that, in consulting the High Court upon the suggestion that training in civil judicial work should be provided for junior civilians, the Madras Government adopted the position that it was essential to the acceptance of any scheme that it should not involve material enhancement of expenditure, and advanced the suggestion made by the Government of India in the previous correspondence upon the subject, viz., that two or three of the lighter district courts should be merged in neighbouring district courts. The Government of Madras have, or the Judges of the High Court referring them to the previous correspondence upon the subject, again carefully considered the question and come to the conclusion that the amalgamation of any two districts is altogether impracticable. The Government of Madras have, however, not stated in any detail the grounds which have led to this conclusion,

and the Government of India regret that, upon the information at present before them, they are unable to recede from the position taken up in Mr. (now Sir Alexander) Mackenzie's letter No. 1487, dated 5th October 1882, that the cost of employing junior civilians as civil judges ought to be met by some arrangement for redistributing the superior judicial officers in the presidency and possibly by some reduction in the number of subordinate judges and munsifs. In adhering to this opinion the Governor-General in Council has not overlooked the fact that in Mr. Master's letter, No. 1799, dated 11th November 1882, the Government of Madras stated that they preferred to abandon the idea of creating an establishment of assistant judges if the concession were coupled with the two conditions of doubling up of districts and decreasing the native judiciary, both of which the High Court considered to be inadmissible.

4. With reference to the argument contained in paragraph 5 of your letter under reply, I am to point out that the relation of receipts to expenditure taken by itself could, under no circumstances, justify the establishment of courts which had not been shown to be requisite for the due discharge of judicial work at the places where they are located. As, however, the question of the cost of the administration of justice in the Madras Presidency has been adduced in argument, I am to invite a reference to the resolution by the Government of India in the Department of Finance and Commerce, No. 101, dated 9th January 1890, to which was attached an abstract statement of receipts and expenditure connected with the administration of civil justice in the year 1885. The Governor in Council will observe that the excess of receipts over charges in the Madras Presidency was in that year Rs. 37,000 only, and not Rs. 7,56,942 as stated in your letter. The estimate of the surplus of receipts over charges in 1894 (Rs. 15,94,607) would no doubt require to be correspondingly diminished; but, as has been already stated, the establishment of additional courts should be justified not upon the relation of receipts to expenditure, but by proof that additional courts are actually required.

5. The recommendation now made by the Madras Government for an addition to the judicial service has not been supported by any detailed argument showing that the increase of judicial work in the presidency necessitates the strengthening of the courts. Figures are indeed given in paragraph 6 of your letter under reply to show that the work of the courts in the Madras Presidency has increased during the past ten years by an amount which is estimated at 30 per cent., and it is stated that there would be no difficulty in preparing detailed proposals for the location of several additional subordinate courts. It is not, however, shown by detailed figures and specific reports as to each locality in which it is proposed to establish a new court that such a court is necessary, and before the Government of India could come to a conclusion upon the scheme placed before them, it would be necessary that definite information of this nature should be supplied. The proposed addition of six subordinate judgeships would, the Government of India understand, involve an increase of over 40 per cent. in the number of subordinate judges in the Madras Presidency. So large an addition to the staff as this is not, it appears to the Government of India, likely to be capable of justification by the work to be done; and, in so far as the object to be attained is *only* the training of junior Indian Civilians, it would seem that that could be secured without incurring heavy additional expenditure. Even if it is eventually determined that there is no possibility of amalgamating any district judgeships, this training could be secured (inasmuch as the court establishments already exist) by additional expenditure of about Rs. 48,000 per annum, as shown in the margin,—six civilians being substituted for six subordinate judges.

i.e., Rs. 1,165⅔ (pay of Sub-Collector) — Rs. 500 (pay of lowest grade Sub-Judge) × 6 × 12 = Rs. 48,000.

6. In paragraph 9 of your letter under reply the argument is advanced that, upon a comparison of the statistics of area, population and revenue to the number of cadre posts and the strength of the Indian Civil Service and military officers employed in the civil administration of the different provinces, it appears that the number of cadre posts in the Madras presidency which must be eventually held

by Indian Civilians compares unfavourably with the numbers in other provinces, and this circumstance is given as an additional ground for the recommendation made by the Governor in Council. The Governor-General in Council does not propose in replying to the present reference to enter upon this question, because His Excellency in Council is about to address the Madras Government on the subject of the recruitment of the Indian Civil Service, and any recommendations which the Governor in Council may wish to put before the Government of India regarding the strength of the cadre in the Madras Presidency will receive their attentive consideration.

Order—No. 1174, Judicial, dated 14th July 1896.

The foregoing letter from the Government of India will be communicated to the Hon'ble the Judges of the High Court together with a copy *of this Government's* letter No. 113, Judicial, dated 18th January 1896, to which it is a reply.

2. The view of the question taken by the Government of India leaves open two alternative methods by which the urgent necessity of training junior civilians in judicial work may be met: the first is to appoint them to the charge of existing sub-courts, and the second is to increase the existing number of sub-courts *by six* and to appoint civilians to these new charges.

3. The Hon'ble the Judges of the High Court will be requested to favour Government with their opinion as to whether the ends in view will be sufficiently served by the substitution of six junior civilians for six of the present uncovenanted sub-judges, or whether such a strong necessity for additional courts exists as to render the establishment of six new sub-courts imperative and unavoidable. With regard to the former alternative it is observed that, owing to vacancies in the list of sub-judges likely to be caused by retirement and other causes, it would be possible to substitute six civilians for six uncovenanted sub-judges in the course of some four or five years. Should the Hon'ble the Judges, however, consider that the necessity for additional sub-courts is so pressing that it must immediately be met, and that the substitution of civilian for uncovenanted sub-judges will only partially remedy existing defects, they will be requested to favour Government with a statement in detail of the grounds which appear to them to exist for the establishment, on the score of the increase of work which has occurred, of new sub-courts. The Government of India would then be addressed upon the matter.

4. With reference to paragraph 4 of the Government of India's letter, His Excellency the Governor in Council observes that the abstract statement* of receipts and expenditure on the administration of civil justice referred to therein, which appeared in the supplement to the *Gazette of India*, dated January 11th, 1890, appears to present a more complete view of the relation between the charges and receipts under this head than is exhibited in provincial statement No. K, which is attached to the annual reports on the administration of civil justice in this presidency. The latter statement omits mention of several items of expenditure which are fairly chargeable under this head and thus leaves the impression that the State derives a large profit from the departments of civil justice. This erroneous idea has coloured several representations from the public in favour of the cheapening of litigation, and is likely to cause considerable inconvenience. The Hon'ble the Judges will accordingly be requested to consider the question of the desirability of recasting the form of the statement No. K referred to.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

* Printed as an appendix to these proceedings.

To the Hon'ble the Chief Justice, with C.L. [*Appendix.*

Exd. S. J. Pereira.

APPENDIX.

RESOLUTION by the Government of India, in the Department of Finance and Commerce, dated Calcutta, the 9th January 1890, No. 101.

1. A question having been raised as to the extent to which the cost of the administration of civil justice in British India was met by the revenue derived from court-fees and other receipts of civil courts, the Government of India issued instructions for the preparation of as complete and accurate a statement of the receipts and charges of civil courts for one year as was practicable. The inquiry was first undertaken in the beginning of 1886, and the figures now published are therefore those for the calendar year 1885. It has taken longer than was anticipated to collect all the required information, but it is believed that the figures, though not up to date, sufficiently illustrate the question in dispute.

2. The undermentioned items were to be included in *receipts* :—

(*a*) Receipts in court-fee stamps:

This item was to represent the value of all court-fee stamps filed in civil courts with plaints or petitions, and in connection with the service of processes. The value of the court-fee stamps on probates, letters of administration, and certificates was not to be included.

(*b*) Receipts in cash:

This item was to include all cash receipts finally credited to Government. Amounts which are merely paid into court in order to be paid away again, such as diet money for witnesses or sums paid in proceedings for the execution of decrees, were not to be included.

3. The undermentioned items were to be included in *charges* :—

(*a*) The whole of the salaries of officers and establishments and the contingent and other expenditure of courts, which, like Small Causes Courts, are engaged solely in the administration of civil justice.

(*b*) A share of the salaries of officers and establishments and of the contingent and other expenditure of courts which are engaged only partly in the administration of civil justice. It was stated that the share might be determined in proportion to the time devoted by the courts to civil work, but that each Local Government should determine it on principles which seemed to it fair.

(*c*) A share of the cost of the stamp establishment.

(*d*) A share of the discount on the sale of court-fee stamps.

(*e*) The refunds of court-fee stamps used in civil courts.

(*f*) A share of the expenditure on "Law officers."

(*g*) A share of the cost of pensions and leave allowances of officers who have been engaged during any portion of their service in the administration of civil justice.

(*h*) The rent actually paid, or, in the case of buildings which are the property of Government, a fair rent (according to the Public Works Department valuation of the building) for the buildings or portions of buildings used by the courts.

(*i*) Cost of stationery and printing for the several courts.

4. Statements were prepared in accordance with these instructions, in the first instance, by the Local Governments, and these were afterwards subjected to a careful examination in the offices of Account. The figures thus obtained, with some further corrections made on account of the cost of pensions, and, omitting the expenditure on law officers, whose share as legal advisers of the Government in the administration of civil justice is too indirect to be taken into consideration, are set out in the appended statement. The result is shown to be that in Bengal only there is a surplus, which amounts to 14¾ lakhs; in Madras the receipts and charges are practically equal; and in all other provinces the charges are much in excess of the receipts, so that the deficit on the whole account exceeds 12½ lakhs.

5. The calculations are extremely intricate, and, notwithstanding the labour that has been bestowed on them, the results can only be considered to be approximately correct. If the full measure of the expenditure involved in the administration of civil justice could be shown, it is probable that the deficit would be somewhat greater than that now obtained: for instance, item (*h*), Rent for buildings used by the courts, should apparently be increased in some instances; the estimated annual rents for the Calcutta High Court and Small Cause Court buildings given by the Public Works Department, and included in the abstract, being Rs. 68,000 and Rs. 14,400 while the municipal assessment for those buildings, in accordance with which taxes are paid, is Rs. 34,000 and Rs. 24,000 respectively. There are, moreover, certain charges which have not been included, such as the cost of police guards, treasury charges, share of rent of stamp offices, and the cost of manufacturing and despatching from England the stamps by which the revenue is realized.

J. F. FINLAY,
Offg. Secy. to the Govt. of India.

Abstract Statement of Receipts and Charges connected with the Administration of Civil Justice for the year 1885.

	Assam.	Bengal.	Bombay.	Burma.	Central Provinces.	Madras.	North-Western Provinces and Oudh.	Panjab.	Ajmere and Coorg.	Total.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Receipts.										
(*a*) Court-fee stamps	4,30,050	13,69,000	20,32,000	5,14,000	7,15,000	31,75,000	36,78,000	17,37,000	1,05,000	1,97,45,000
(*b*) Cash receipts	2,000	2,17,000	30,000	21,000	6,000	50,000	1,00,000	4,000	2,000	4,31,000
Total	4,32,050	15,76,000	20,62,000	5,35,000	7,20,000	32,25,000	37,78,000	17,41,000	1,07,000	2,01,76,000
Charges.										
(*a*) The salaries of judicial officers employed exclusively in the administration of civil justice.	87,000	24,58,000	13,76,000	1,24,000	40,000	8,44,000	10,77,000	2,42,000	7,000	62,55,000
(*b*) A proportionate share of the salaries of judicial officers engaged partly in the administration of civil justice.	3,16,000	24,19,000	10,58,000	10,25,000	5,52,000	17,71,000	21,72,000	15,51,000	83,000	1,09,40,000
(*c*) A share of the establishment	13,000	81,000	46,000	8,000	6,000	21,000	36,000	15,000	1,000	2,27,000
(*d*) A share of the discount on sale of court-fee stamps	7,000	1,13,000	9,000	6,000	10,000	34,000	..	23,000	1,000	2,03,000
(*e*) Refunds of court-fee stamps	3,000	89,000	41,000	7,000	4,000	34,000	46,000	16,000	1,000	2,32,000
(*f*) Pension and leave allowances	56,000	7,95,000	8,71,000	1,64,000	96,000	3,42,000	5,03,000	2,64,000	12,000	25,28,000
(*g*) Pension and leave allowances	21,000	1,95,000	1,55,000	45,000	39,000	1,15,000	1,90,000	1,00,000	6,000	8,46,000
(*h*) Rent for buildings used by civil courts	4,000	23,000	13,000	14,000	5,000	27,000	64,000	35,000	2,000	1,96,000
(*i*) Stationery and printing	..	..	..	..	..	..	..	..	..	..
Total	5,08,000	61,01,000	55,61,000	13,83,000	7,52,000	31,88,000	40,46,000	22,55,000	1,13,000	2,14,27,000
Excess of receipts over charges	..	..	..	..	..	..	..	..	..	*Net*
Excess of charges over receipts	76,000	14,76,000	34,99,000	8,48,000	32,000	..	2,70,000	5,14,000	6,000	12,51,000

* The local figure estimated at 7½ per cent. on the capital cost of each building was Rs. 5,68,000, but this has been reduced with reference to the figures for other provinces.

bt. of {1896} Madras.

JUDICIAL.

FIDENTIAL.

Encl.

., No. 1174, 14th July 1896.

JULY.

ng of Junior Civilians in Civil Judicial Work.

...ing to the Hon'ble the Judges of ...C... for opinion on certain points letter ...e Go... ment of India regarding the —, ...esting ... the statement of receipts and ...appen... the annual reports on the ...ration ... justice may be recast.

C 0-1-99 C 17-1-99 C 24-1-99 C 31-1-99
R 14-1-99 R 21-1-99 R 27-1-99

2-08.

Judicial DEPARTMENT

Re training of Junior Civilians in Civil Judicial work.

(61)

18 P

(For Orders)

29 P

The Honourable Mr. Winterbotham — omin. H.E.

(2) G.O.No.1174,Judicial,dated 14th July 1896.

C. No 2997 From the Registrar, High Court, No.1207, dated 15" July 1897.
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... really not at all ... 'exhaustive' I would say "useful and suggestive"

ORDER no 290 d 15-2-99
P.S.

After a careful consideration of the question, H.E. the Governor in Council is of opinion that no effective measures for the training of junior civilians in Civil Judicial work can be introduced without a considerable increase of expenditure, and that, as the present condition of the finances does not admit of such an increase, the proposed reform must stand over until the prospects are brighter. The Government is at the same time indebted to the Hon'ble the Judges of the High Court for their ~~exhaustive~~ criticisms on the subject, and fully agrees in their views that the proposal to substitute six junior civilians for six of the existing uncovenanted subordinate judges is impracticable. The opinions of the Honourable the Judges differ

n the question of the form which the udicial training of Junior Civilians hould take It is unneces ary at resent to discuss this side of the uestion: the Government is however nclined to agree with the Hon'ble Mr. Justice Shephard that in any arrangement which may eventually be made for effecting the object in view it will be preferable to attach junior officers to the Courts of District Judges purely for training, rather than to attempt to combine with their training any independent judicial charge.

I don't much like this, but defer to His Excellency's opin...

I was greatly obliged to Mr. Winterbotham ... his considerate treatment of my ...

H.W. 13-1-99

6/1/99.

The Office might prepare a short ... on the feasibility of putting young ... Asst. Collectors for say six months ... for training under District Judges ... in addition to the Revenue training ... which they now receive ... Tanks, this suggestion ... Report of ... dis... Detail of the ...

To

The Hon'ble the Chief Justice with C.O.

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