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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1026-1027	Press ~~Mrs.~~
Dated	14. 5.	1887.

Not to be folded or roughly handled

14TH MAY 1887, Nos. 1026, 1027, JUDICIAL.

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

READ—again the following paper:—

G.O., dated 23rd July 1885, No. 1918, Judicial.

READ—also the following papers:—

G.O., dated 1st December 1886, No. 3207, Judicial.

„ dated 4th January 1887 „ 1, Financial.

From H. T. ROSS, Esq., Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, dated Madras, 22nd January 1887, No. 128.

As requested in G.O., dated 1st December 1886, No. 3207, Judicial, I am directed to submit the remarks of the Honorable the Judges on certain points raised in the Secretary of State's despatch, No. 38, dated 16th September 1886, to the Government of India.

2. In paragraph 4, the Secretary of State takes exception to a statement made by the Government of Madras that the numbers of civil and criminal appeals instituted in the High Court in 1884 exceed the corresponding numbers for 1875 by 87.46 per cent. and 90.73 per cent., respectively. These percentages are arrived at on the basis of the figures shown below which are correct:—

<i>Institutions.</i>					1875.	1884.
Civil—						
First appeals from decrees	..	..	..	..	149	145
Letters Patent appeals	..	..	..	..	..	39
Second appeals from decrees	..	..	..	..	727	1,041
First and second appeals from orders	..	..	..	..	127	181
Civil revision petitions	..	..	..	..	1	523
References	..	..	..	..	41	30
Total					1,045	1,959
Criminal—						
Appeals	..	..	..	..	499	516
Referred trials	..	..	..	..	70	63
Revision cases	..	..	..	..	154	800
Total					723	1,379

The Secretary of State, however, by excluding civil revision petitions, references, and criminal revision cases, as, in his opinion, not falling properly within the category of appeals, concludes that the figures indicate no very substantial increase in the appellate business of the court.

3. This conclusion appears to be based on a misapprehension as to the nature of the cases falling under the heads to which exception is taken. The Honorable the Judges cannot admit that civil revision petitions, references, and criminal revision cases should be excluded from the returns of appellate work.

4. Civil revision petitions are cases under Section 622 of the Civil Procedure Code. References are made under Section 617 of the same code, under Section 17 of Act IV of 1869, under Sections 46 and 49 of Act I of 1879, under Section 39 of Act V of 1882, under Section 193 of Act I of 1884, under Clause 3, Section 7, of Regulation V of 1804, under Clause 2, Section 6, of Regulation XV of 1816; and they include special cases under Section 69 of Act XV of 1882. All these are proceedings regularly heard in court. They frequently involve difficult questions, and are argued at length. Considering the time and trouble they require, they are practically on the same footing as second appeals.

5. Criminal revision cases include those referred by Presidency Magistrates under Section 432, those taken up by the High Court under Section 435 (on perusal of calendars), those reported under Section 438, and those instituted by petition of parties under Section 439 of the Criminal Procedure Code. These, as in the case of civil revision petitions and references, are proceedings heard in court, and frequently involve questions of law calling for decision by benches of two Judges, and sometimes by a full bench.

6. It cannot be made too clear that the figures to which the Secretary of State takes exception refer to cases *bonâ fide* heard in the Appellate Court, and not to miscellaneous work performed by the Honorable the Judges in their rooms. The figures do not even include miscellaneous petitions, such as applications to suspend sentences, to admit accused persons to bail, to transfer trials, and the like, though these are also heard in court. The effect of the figures given is therefore rather to understate, than otherwise, the appellate business of the High Court.

7. From paragraph 7 of the Secretary of State's despatch, it appears that in the matter of criminal revision cases especially, a serious misconception has arisen. The correspondence quoted in the margin of that paragraph had reference to the unusual amount of time devoted by the Madras High Court to the perusal of calendars and judgments of Sessions Courts and First-class Magistrates; and owing, probably, to the use of the word "revision" in both cases, it appears to be the impression of the Secretary of State that the returns of criminal revision cases represent the numbers of calendars perused, which, it will now be understood, find no place in the figures to which Lord Cross takes exception.

8. In my letter, No. 1748, dated 9th May 1883, quoted in paragraph 3 of letter No. 1334 (Judicial), dated 18th May 1883, from the Government of Madras to the Government of India, the Honorable the Judges stated that they would bear in mind the suggestions of the Government of India for the reduction of criminal revisional work in perusing calendars and judgments of subordinate courts. At that time it was the practice of the High Court to supervise, in this manner, the proceedings of all First-class Magistrates as well as Sessions Judges. But in December 1884, new rules were issued, with effect from 1st January 1885, whereby revision was restricted to certain classes of cases tried by Sessions Judges and District Magistrates only. I am directed to enclose a copy of the rules of 17th December 1884, and to state that, in the opinion of the Honorable the Judges, this branch of the revisional work of the High Court has now been reduced to the lowest point compatible with the efficient discharge of their duties of supervision.

9. Notwithstanding the relief derived from this reduction of revisional work, the appellate business proper of the High Court has continued to increase to such an extent as to render the appointment of a sixth Judge a matter of pressing necessity. In paragraph 8 of the Secretary of State's despatch it is stated that the question of transferring a portion of the original jurisdiction to the Presidency Court of Small Causes is not yet ripe for decision. The proposal was communicated in my letter, No. 585, dated 27th February 1885; but I am to state that the Honorable the Judges have always felt grave doubts if the contemplated transfer of jurisdiction would afford material

relief, and I am to remind His Excellency in Council that this alternative, offered in the desire to obviate the necessity of appointing a sixth Judge, was looked upon merely as an experiment, the success of which would depend to a very great extent on its prompt introduction at a time when, owing to the exceptional circumstances then explained, arrears had been reduced to a point when a fair start was practicable. Nearly two years have now elapsed, and while no relief has been afforded to the Honorable the Judges, appellate work has increased beyond the powers of the existing strength of the court to prevent accumulating arrears. This increase of business, coupled with the delay in sanctioning the experiment of transferring original jurisdiction, has changed the condition of affairs so completely as to satisfy the Honorable the Judges that the only sufficient remedy is the permanent appointment of a sixth Judge.

10. The figures noted below show how appellate business, civil in particular, has continued to increase:—

Institutions.				1875.	1884.	1886.
Civil—						
First appeals from decrees	..	..	..	149	145	181
Letters Patent appeals	..	..	..	..	39	10
Second appeals from decrees	..	..	..	727	1,041	1,352
First and second appeals from orders	..	..	..	127	181	235
Civil revision petitions	..	..	..	1	523	358
References	..	..	..	41	30	27
Total				1,045	1,959	2,163
Criminal—						
Appeals	..	..	..	499	516	519
Referred trials	..	..	..	70	63	45
Revision cases	..	..	..	154	800	787
Total				723	1,379	1,351

It will be observed that, even excluding revision petitions and references, the civil appellate work of 1886 exceeded that of 1875 by 77·26 per cent.; while, if they are included, as they ought certainly to be, the increase in eleven years amounts to no less than 106·9 per cent. This in itself might fairly be accepted as sufficient justification for increasing the strength of the court; but the Honorable the Judges desire to take this opportunity of stating the whole case more fully.

11. In 1881, the then Puisne Judges, fortified by Mr. Justice Innes' "Comparative view of the work done in the Madras High Court and in other High Courts," urged the Chief Justice to apply for a sixth Judge. Mr. Innes' "Comparative view" showed, by statistics from 1877 to 1880 inclusive, that, Judge for Judge, the Madras High Court was doing 50 per cent. in excess of the Calcutta High Court, 100 per cent. in excess of the Bombay High Court, and 30 per cent. in excess of the Allahabad High Court; that, nevertheless, owing to increasing business in 1880 and 1881, the court had fallen into heavy arrears; and that, therefore, it was quite obvious that the existing numerical strength of the Judges was insufficient to cope with the work. Sir Charles Turner, having satisfied himself that the continued increase of work was normal and established, applied in letter, No. 929, dated 13th May 1882, for a sixth Judge, stating his conviction that during the previous two years more work had been demanded of the Judges than they could fairly be expected to perform; and on 7th June 1882 (despatch No. 7-B.), the Madras Government, in forwarding the application to the Secretary of State, expressed themselves as "quite in accord with the Chief Justice in regarding the present state of the court as injurious to the interests of justice." The Government, however, only asked for a sixth Judge temporarily. On the 12th August 1882 (despatch No. 29), the Government of India, in forwarding the application to the Secretary of State, admitted that "the business of the Madras High Court was, when compared with that devolving upon the Judges of other

High Courts, unduly heavy," and offered no objection to the appointment of a sixth Judge temporarily for six months. On the 26th October 1883 (despatch No. 31), the Secretary of State sanctioned the appointment accordingly; and in their despatch of 19th January 1883, the Government of India, in communicating this sanction to the Madras Government, desired that the appointment should be made so as to take effect for six clear working months.

12. While the appointment of a sixth Judge was thus deferred, a question was raised by Sir Charles Turner as to the legality of a temporary appointment without the issue of Letters Patent; and finally, in his despatch, No. 33, dated 13th December 1883, the Secretary of State decided against making an appointment, the legality of which was at all open to doubt. In that despatch, however, the Secretary of State intimated his opinion that "should the arrears of pending suits continue excessive, no doubt measures must be adopted to give suitable relief;" and he was apparently prepared to recommend the issue of Letters Patent for a permanent sixth Judge on sufficient cause shown.

13. The proposal to appoint a permanent sixth Judge was then made by the 1883 Committee on Judicial Reorganization; and as one means of providing funds for the purpose, it was proposed to abolish the District and Sessions Court of North Tanjore, the effect of which was to set free a sum of Rs. 3,233-5-4 per mensem. In disposing of the Committee's recommendations, the Government of India, in their letter, No. 783, dated 10th June 1884, abolished the North Tanjore Court, but declined "at present" to sanction the permanent appointment of a sixth Judge, remarking that "it was not desirable to address the Secretary of State on such a matter, unless a really strong case is made out, based on the impossibility of overtaking otherwise the work of the court."

14. The Honorable the Judges consider that such a strong case now exists. The difficulties in the way of overtaking increasing work have been enhanced by the Secretary of State's ruling, which prohibits officiating appointments in the High Court for Judges absent on privilege leave; and the table appended to this letter demonstrates the case at once. The first three columns show the rate of disposal from 1877 to 1881, which the Government of India acknowledged to be "unduly heavy" on the Judges of this court, as also the arrears at the end of 1881, which the Madras Government characterised as "injurious to the interests of justice." The remaining columns show that notwithstanding extraordinary exertions in 1882, 1883, and 1884, and notwithstanding that the rate of disposal in 1885 and 1886 has been quicker than the "unduly heavy" rate of 1877-81, the arrears, owing to the increasing business of the court, are in excess of the arrears at the end of 1881, which the Madras Government characterised in the words above quoted. Taking all kinds of work together, it will be seen that although in 1886, 4,184 cases were disposed of as against 3,484 cases in the average of 1877-81, yet, in consequence of the increase of institutions from an average of 3,643 to 4,838, arrears have accumulated from 1,545 cases on 1st January 1882 to 2,314 cases on 1st January 1887. With such facts before them, the Honorable the Judges see no possibility of overtaking the business of the court otherwise than with the assistance of a sixth Judge.

15. As has been already stated, the proposed transfer of jurisdiction over certain classes of suits valued up to Rs. 2,500 from the Original Side to the Presidency Small Cause Court is not expected to afford much relief; and the Honorable the Judges are not prepared to support any proposal for transfer beyond the limit stated. Their reasons were fully given in letter, No. 2354, dated 17th August 1886, to the Finance Committee, and I am to suggest that a copy of that letter may be communicated to the Secretary of State.

ENCLOSURE.
COMPARATIVE Statement of Institutions, Disposals, and Arrears from 1877-81 to 1886.

COMPARATIVE STATEMENT OF INSTITUTIONS, DISPOSALS, AND ARREARS FROM 1877 TO 1886.																		
	Average of five years, 1877-81.		Arrears at the end of 1881.	1882.			1883.			1884.			1885.			1886.		Arrears at the end of 1886.
	Instituted.	Disposed of.		Instituted.	Disposed of.	Pending.	Instituted.	Disposed of.	Pending.	Instituted.	Disposed of.	Pending.	Instituted.	Disposed of.				
<i>Original—Civil.</i>																		
Suits	473	627	221	407	370	266	398	327	346	301	438	278	348	370	266	292	278	301
References to chambers	25	17	37	12	12	37	2	22	17	21	15	23	10	11	25	15	8	60
Insolvency petitions	145	143	63	166	169	63	180	144	107	199	209	97	187	186	98	152	169	81
<i>Appellate.</i>																		
First appeals from decrees	167	148	168	187	167	187	173	185	175	145	228	98	187	141	145	181	119	208
Letters Patent appeals	26	24	4	11	12	3	18	17	4	39	38	6	23	6	10	16	16	979
Second appeals from decrees	814	713	608	1,084	973	722	1,178	1,233	681	1,041	1,293	443	1,115	1,054	617	1,352	907	979
First and second appeals from orders	146	131	90	201	191	96	239	227	109	181	229	63	245	201	108	235	246	93
Civil revision petitions	99	86	70	312	292	180	400	427	153	523	509	167	347	441	72	338	203	169
References	26	25	7	32	17	22	19	34	7	30	29	8	30	25	13	27	24	131
Miscellaneous petitions	491	356	138	559	512	185	738	765	158	687	708	137	684	665	171	809	776	191
<i>Criminal.</i>																		
Sessions cases	67	67	1	69	69	1	74	75	..	74	73	1	67	67	..	56	53	6
Criminal appeals	642	643	60	434	381	101	508	533	..	516	522	68	562	546	80	519	507	92
Referred trials	85	83	4	65	66	3	51	52	4	63	67	..	62	55	12	45	61	6
Revision cases	437	421	79	666	685	60	975	967	97	800	812	85	732	696	120	787	764	143
Total	3,643	3,484	1,545	4,205	3,830	1,928	4,954	5,007	1,932	4,680	5,170	1,473	4,599	4,480	1,633	4,838	4,176	2,347

From H. T. ROSS, Esq., Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, dated Madras, 3rd March 1887, No. 512.

As requested in G.O., dated 4th January 1887, No. 1, Financial, I am directed to communicate the remarks of the Honorable the Judges on the proposals of the Finance Committee for the reduction of expenditure in the High Court.

2. In paragraph 9 of their note, the committee calculate the annual net expenditure at about Rs. 3,20,000. This figure is arrived at by deducting the estimated charges in 1886-87 from the actual receipts in 1884, as shown in the Civil Justice Administration Report for that year. I am to observe, however, that while charges amounting to Rs. 28,000 on account of the printing and translation funds have been included in the calculation, no credit has been taken for the receipts of printing and translation fees, which in 1884 amounted to Rs. 44,084, and in 1886-87 were estimated to realise Rs. 30,000. The net expenditure of the High Court should not, therefore, be set down at more than Rs. 2,90,000 per annum.

3. I am to premise the remarks which follow *seriatim* on the various paragraphs of the committee's note, with the general observation that, for the reasons fully stated in my letter, No. 128, of the 22nd January, the Honorable the Judges are satisfied that the permanent appointment of a 6th Judge should no longer be deferred. The suggestions of the committee, which proceed on the basis of the alternative remedy of a transfer of certain original jurisdiction to the Presidency Small Cause Court, are here noticed chiefly because they disclose considerable misapprehension as to matters of fact, which it is desirable should be removed. The Honorable the Judges are not to be understood as assenting in any way to the sufficiency of the proposed alternative as a means of meeting the increasing difficulty of coping with the business coming before the court.

4. Para. 12.—Assuming a transfer of original jurisdiction in suits up to the value of Rs. 2,500, the Honorable the Judges adhere to their proposals made in 1885, which were to place both sides of the court under one Registrar on a salary rising from Rs. 1,500 to Rs. 1,800, with a Deputy on each side on salaries of Rs. 1,000 each per mensem. Having regard to the increased quasi-judicial functions which it is proposed to delegate to the Registrar, and to extra administrative responsibility which the working of both sides of the court must entail, it is very necessary that his salary should be fixed at a rate which will induce a civilian of some standing and judicial experience to accept the appointment and continue in it for a reasonable time. The Deputy on the Original Side ought to be an experienced professional man, and it is improbable that such an officer could be obtained for less than Rs. 1,000 per mensem. In the cases of both Deputies, this salary seems only a fair remuneration for the work to be done. The two Assistant Registrars on the Original Side are fully occupied each day.

5. Para. 13.—The Finance Committee's opinion that the existing staff of 18 clerks on the Original Side is unnecessarily large appears to rest on the fact that in September 1886, the High Court sat for only eleven days for the final disposal of Original suits. The Honorable the Judges fail to see that the sitting of a final disposal court for 11 days in one particular month affords any foundation for concluding that the office establishment has not enough to do; and they dispute the proposition that the existing staff of clerks is needlessly large. The Finance Committee were supplied with a statement describing in detail the precise duties of each clerk on the Original Side; and in their present note, it is not alleged that the duties so described do not impose sufficient work upon each subordinate. Each clerk has a separate sub-department to work at, and the Honorable the Judges consider that each has quite enough work to do. If a portion of the Original jurisdiction is transferred to the Court of Small Causes, a corresponding portion of the clerical establishment will have to be similarly transferred. It only remains to add that, for reasons explained later on in this letter, the month of September 1886 cannot fairly be taken as a criterion of court work on the original side.

6. Para. 14.—The Chief Justice will take the necessary steps to utilize the services of the Judges' clerk in a manner suited to the salary he receives.

7. Paras. 15 to 18.—The proposal to combine the offices of Clerk of the Crown and Crown Prosecutor in a single appointment on the reduced pay of Rs. 500 per mensem is one to which the Honorable the Judges entertain very strong objections. The committee mention that these offices were formerly combined; but they omit to mention that, when such was the case, the work of the Clerk of the Crown was always performed by a Deputy under the Crown Prosecutor. Practically, therefore, they were never amalgamated, and the committee do not appear to understand that the various duties are such as could not well be performed by one and the same person. It does not appear that any inquiry was made of the officers concerned as to the nature of their duties, or that the facts were ascertained as to the circumstances under which the separate offices came to be placed on their present footing. Prior to December 1872, both offices were held by Mr. J. D. Mayne on a salary of Rs. 1,000 per mensem, with a deputy on Rs. 175, a manager on Rs. 105, a deputy manager, three writers and four peons—total Rs. 1,434 per mensem. When Mr. Mayne vacated in December 1872, Mr. Tarrant was appointed Clerk of the Crown by Sir W. Morgan, and it was ordered that his pay and establishment should not exceed Rs. 5,000 per annum. Instead of a salaried Crown Prosecutor, the experiment was tried of briefing counsel, as occasion required, through the Government Solicitor. By 1874, however, this experiment proved the reverse of economical, and by an order of the 31st March in that year, the Government recorded the conclusion that, as a question of policy and of expense, it was expedient to permanently retain a Crown Prosecutor. That order detailed his duties and fixed his salary at Rs. 500, and that of the Clerk of the Crown at Rs. 300, with an establishment of Rs. 84 per mensem. The saving thereby effected on the charges of these offices prior to December 1872 was Rs. 550 a month, or Rs. 6,600 a year. The further reduction now proposed by the Finance Committee proceeds on a calculation that the salaries of these offices are practically earned by attendance in court for 21 days in the year. This is by no means a correct representation of the facts. As regards the Crown Prosecutor, the committee were apparently unaware of the fact that that officer has to attend to Crown business at the Police Courts when required, as well as at sessions; and as regards the Clerk of the Crown, the committee's information—where-ever it was obtained—appears to have been even more deficient. With committals to the High Court, the Clerk of the Crown receives the records of preliminary inquiries, which frequently include documents, movable property and valuable exhibits for the safe custody of which he is responsible. Applications for subpoenas to witnesses are made to him, and he has to keep the accounts of expenditure of batta and all contingent charges connected with the preparation of the cases for trial. After the sessions, the making up of the records which remain in his custody and for which he is responsible, the drawing of warrants and the disposal of exhibits and property as directed by the Judge, devolve upon him; and all correspondence connected with sessions has to be conducted by him. The annual revision of the jury lists—there are about 140 special, and 1,100 common jurors—and their arrangement so as not to burden the same jurors with unnecessarily frequent attendance, takes up a considerable time. When the various duties here mentioned as well as those noticed by the committee are considered, it will be understood that instead of being practically confined to 21 days in the year, as the committee would suggest, the business of the office is continuous, though not onerous. In their proposal to amalgamate it with that of the Crown Prosecutor, the committee suggest that the latter officer should undertake the entire responsibility for the framing of charges and the preparation of the jury lists. There are obvious reasons, which it is hardly desirable to state, why the work of summoning jurors should not devolve on the Crown Prosecutor. As to the committee's observations on the simplicity of the task of framing charges, it is sufficient to note that in 1874 when the separate offices were placed on their present footing, the system of indictments had already been simplified by the Code of Criminal Procedure, and the offices in question were then constituted with the full knowledge that the old system had long ceased to exist. A separate office for the Clerk of the Crown has always been kept, and should always be open. Committals may be made at any time; and it is desirable, for the public convenience, that there should be a special office where all information connected with sessions can readily be obtained. For all the above

reasons, the Honorable the Judges are opposed to the abolition of the Clerk of the Crown as a separate office, as proposed by the committee.

8. *Para. 19.*—As to the recommendation that, for the future, the post of Sheriff should be entirely honorary, the Honorable the Judges have only to observe that if any gentleman can be found to do the duties gratuitously, nothing remains to be said. It has, however, been already pointed out that the work of summoning jurors should not be performed by the Crown Prosecutor, and in any case some officer, under whatever designation, in the position of the present Deputy Sheriff must be appointed to do the work; and his pay, with that of his establishment, must be provided by Government.

9. *Para. 20.*—As regards the revised establishment on the Appellate Side, I am to refer the Government to my letter, No. 3213, dated 2nd December 1886, wherein everything connected with the subject is fully explained. This renders unnecessary any remark on the last sentence of the committee's paragraph. The committee has apparently misunderstood the footing on which the Copyists' and Translation funds stand. I am only to add that the Charter empowers the Chief Justice to fix the establishments, and the Chief Justice is satisfied that the reorganised establishment (since sanctioned by Government) is not unnecessarily large or expensive.

10. *Para. 21.*—The Honorable the Judges, without actually recommending the appointment of an Official Receiver, offered no objection to the proposal when it was first put forward by the Finance Committee; but on reconsideration it does not appear to them to possess any advantage over the present plan of appointing Receivers selected by the parties. The cases in which a Receiver is appointed are few. An Official Receiver would have to be guaranteed a fixed salary to induce any one of the desired standing to accept the post; and the commission fees likely to be realised might not suffice to cover the salary fixed. As it is not clear that there would be a financial saving, and no other advantages appear, the Honorable the Judges are not in favor of the proposal.

11. *Para. 22.*—The establishment of peons has been proved by experience to be by no means too large, having regard to the great distances in Madras and the daily interchange of official papers which takes place among the five Judges. The present number is not more than sufficient for purely official duties, and the Honorable the Judges derive very little personal convenience from their employment.

12. *Paras. 25 and 26.*—The theory that there should be one Original Court and two Appellate Benches sitting every court-day is a theory of the committee's which appears to be founded on imperfect appreciation of the working of such a Court as the Madras High Court; and the description given of the practice as to sittings does not correctly represent the facts. It is not the fact that two Judges do not attend court on Tuesdays and Thursdays, or that four out of the five Judges only sit four days in the week. It is the fact that the work of the Judges engages their time fully, not only in court but at home, and not only on court days but on Sundays and holidays. It has been fully explained in my letter, No. 128, of 22nd January 1887, that, notwithstanding this constant strain upon the Judges, the increase of business has been such as to render a further accumulation of arrears inevitable unless assistance is given. It has been explained more than once that if the relief had been given in 1885 when arrears had been reduced by the altogether exceptional efforts of 1884, such an accumulation might possibly have been avoided. The efforts made in 1884 resulted chiefly from Sir Charles Turner's desire to leave the court with as few arrears as possible, and imposed a very excessive and undesirable strain upon the Judges. In my letter, No. 128, of the 22nd January, it has been shown that even the more normal rate of disposal in 1885, and the slightly lesser rate in 1886 (when, it must be remembered, one Puisne Judge was absent on privilege leave for six weeks) still exceeded the rate of disposal which the Government of India characterised as unduly heavy on the Madras Judges as compared with the work devolving on the Judges of other High Courts in India. September 1886, which has been taken by the Finance Committee as a foundation for more than one incorrect conclusion, was an exceptional month in which the Original Side sittings were curtailed to enable the court to meet with exceptional pressure on the Appellate Side; and on this portion of the committee's note, I am to refer His Excellency in Council to my letter, No. 128, of the 22nd

January, in which the state of business has been fully dealt with, and the opinion expressed that the "imperative change" required is the permanent appointment of a 6th Judge.

13. *Para. 27.*—In proceeding to suggest—with a view to obviating the necessity of creating an additional Judge—the curtailment of Judges' work on the Original Side, the committee quote an opinion of the Government Solicitor that fully half the Judges' time is occupied with work which might be performed by a subordinate officer of the court. This is not the opinion of the Honorable the Judges. In 1885, the Judges went carefully into the matter, going through all classes of applications and proceedings which might be delegated to the Registrar, and consulted various members of the profession interested in having matters expedited in the most convenient way. The result was the rules of 11th September 1885, copy of which I am directed to enclose. At present the Honorable the Judges are not prepared to go beyond the scope of these rules.

14. *Paras. 28 to 30.*—It does not appear to have been understood by the committee that it is only disputed items involving legal objections or difficult questions of fact, not proved by entries in books or documents, which are brought, and necessarily brought, before the Judge. The practice is, in cases where a decree for an account is made, to refer the accounts to an accountant agreed on by the parties and he settles all disputed matters of mere account. In other disputed matters, evidence has, as a rule, to be taken, and a judicial determination given thereon; and such matters cannot properly be disposed of except by a Judge. If there is any waste of time, it is due to the frequent application of parties for adjournments, and this can, in the opinion of the court, be best remedied by the imposition of a substantial fee for adjournment.

15. *Para. 31.*—If, by their remarks—that the authorization of an officer of the court to dispose of non-contentious proceedings would affect nearly half the litigation of the court—the committee mean to imply that the original work would probably be reduced by one-half, the Honorable the Judges can only express their surprise at such a conclusion. It is not known, in most cases, until a suit is called on at the first hearing, whether it will be defended or not; and in undefended cases, the passing of judgment takes very little time. Such suits are disposed of by a single Judge sitting in the Issue Court, and the time usually taken in passing judgment is not longer than would be required to draw an order for transfer of the suit to an officer of the court for disposal. Time is no doubt occupied in determining whether defendants have been served, but this is an important matter which, as the Civil Procedure Code stands, can only be determined by the court. On these considerations, the Honorable the Judges are not prepared to support the recommendations of the committee as to non-contentious suits.

16. *Para. 32.*—The High Court is not prepared to go further than their original proposal for the transfer of Insolvency jurisdiction in cases up to Rs. 2,500 in value. The matter was very fully considered before the recommendation was made.

17. *Para. 33.*—The Honorable the Judges would have no objection to the Registrar or Deputy Registrar being empowered to hold inquiries and give certificates of pauperism; but in that event, an appeal from the officer's order would have to be allowed, and practically there would be little saving of time. If Original jurisdiction up to Rs. 2,500 be transferred, the bulk of the pauper cases would go to the Small Cause Court.

18. *Paras. 34 to 37.*—The Honorable the Chief Justice intimated that he was willing to place any proposal with reference to fixing the pecuniary limit of jurisdiction at Rs. 5,000 before the Honorable the Judges, but the court is of opinion that such a limit would be too high, and on this point, as well as on the whole question of transfer, I am to refer His Excellency in Council to my letter, No. 128, of the 22nd January. The Honorable the Judges are not prepared to recommend any transfer beyond the limit of Rs. 2,500, and they are quite satisfied that the Judges of the Small Cause Court will not be able to dispose of this extra work without addition to their number.

Apart from other land suits, which would go to the Small Cause Court, those for partition of family property, which are of frequent occurrence in Madras, are generally found by experience to take up considerable time owing to the nature of the defences usually set up; and it is believed that it is as much as the present number of Judges can do, to cope with the present amount of business. It was not the proposal of the High Court that the additional Judge should receive a salary of Rs. 800 per mensem. The salary ought not, in the opinion of the Honorable the Judges, to be less than Rs. 1,200; and extra establishment would also have to be provided. It does not appear that the financial effect of the various proposals made would amount to any appreciable saving on the pay of an additional Judge for the High Court; and as already pointed out in previous correspondence, this is the only form of relief which, in the altered circumstances of the case as compared with the state of arrears when the alternative remedy of transfer was suggested, is at all likely to be efficacious.

19. Para. 42.—On the question of restricting the right of second appeal, or relegating appeals for small amounts to cheaper tribunals, I am to refer Government to my letter, No. 2354, dated 17th August 1886, to the Finance Committee, wherein the reasons of the Honorable the Judges for dissenting from the committee's proposals are stated.

From H. T. ROSS, Esq., Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, dated Madras, 2nd April 1887, No. 940.

Certain errors having been discovered in the figures of the comparative statement appended to my letter, No. 128, dated 22nd January 1887, I have the honor to request that that statement may be corrected in accordance with the accompanying revised statement; and that in the second-last sentence of paragraph 14 of that letter, the figures "4,216 cases" and "2,317 cases" may be altered to "4,184" and "2,314," respectively.

2. In the comparative statement, institutions do not include readmissions and restorations to the file.

ENCLOSURE.
COMPARATIVE statement of institutions, disposals, and arrears from 1877—1881 to 1886.

	Average of 6 years, 1877—1881.		1882.		1883.		1884.		1885.		1886.		Arrears at the end of 1886.
	Instituted.	Disposed of.	Instituted.	Disposed of.	Pending.	Instituted.	Disposed of.	Pending.	Instituted.	Disposed of.	Instituted.	Disposed of.	
CIVIL.													
Original.	473	627	407	370	266	398	327	346	278	348	292	273	301
Suits ..	25	17	12	12	37	2	22	17	23	10	20	14	31
References to Chambers ..	146	143	166	169	65	186	144	107	97	187	152	169	81
Insolvency petitions ..													
Appellate.													
First appeals from decrees ..	167	148	186	167	187	173	185	175	98	187	181	119	208
Letters Patent appeals ..	26	24	11	12	3	18	17	4	5	23	10	16	16
Second appeals from decrees ..	814	713	1,084	973	722	1,178	1,233	681	443	1,115	1,352	907	979
First and second appeals from orders.	146	131	201	195	86	239	227	109	63	245	201	246	98
Civil revision petitions ..	99	86	312	202	180	400	427	153	167	347	358	263	169
References ..	26	25	32	17	22	19	34	7	8	30	27	27	13
Miscellaneous petitions ..	491	356	559	512	185	738	765	158	135	658	809	776	191
CRIMINAL.													
Sessions cases ..	67	67	69	69	1	74	75	..	1	67	51	51	* 2
Criminal appeals ..	642	643	434	383	101	508	535	74	68	562	519	507	92
Referred trials ..	85	83	4	66	3	62	51	4	..	67	45	51	6
Revision cases ..	437	421	695	685	89	975	967	97	..	732	787	765	143
Total ..	3,643	3,484	4,233	3,832	1,957	4,960	5,009	1,932	1,471	4,578	4,838	4,184	2,314

* In two of the Sessions cases disposed of, there were in each two prisoners. The cases were decided as regards one prisoner in each, and adjourned as regards the other. Hence the two cases are treated both as decided and as pending.

Minute by the Hon. Mr. Hutchins, dated 25th April 1887. (Copy attached).

From J. P. HEWETT, Esq., C.S., Officiating Under Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, 20th April 1887, No. 658.

I am directed to invite attention to the communication * from this department marginally noted, and to request that, with the permission of His Excellency the Governor in Council, the Government of India may be favored, at as early a date as possible, with an expression of the views of His Excellency in Council in regard to the proposals contained in the Finance Committee's Note on the expenditure of the Madras High Court.

* No. 1790, dated 9th December 1886.

ORDER—dated 14th May 1887, No. 1026, Judicial.

Ordered that the following letter be addressed to the Government of India.
(True Extract.)

H. E. STOKES,
Ag. Chief Secretary.

LETTER—to the Secretary to the Government of India, Home Department, dated Ootacamund, 26th March 1887, No. 1027, Judicial.

With reference to your letter, No. 1618, dated the 12th November 1886, forwarding for the remarks of this Government extract from a despatch, No. 38, dated 16th September 1886, from the Right Honorable the Secretary of State, on the subject of the necessity for affording relief to the Madras High Court, I am directed to submit, with the following remarks, the marginally-noted Proceedings* of this Government, and at the same time to reply to your letters, Nos. 1790 and 658, dated 9th December 1886 and 20th April 1887, regarding the Note prepared by the Finance Committee on the High Court's expenditure, which Note bears directly on the subject of the relief required by the court.

* No. 1026, dated 14th May 1887.

2. In Mr. Webster's letter, No. 1918, dated the 23rd July 1885, a scheme was submitted for the favorable consideration of the Government of India, which proposed to give the High Court the relief it required by removing from its original jurisdiction suits arising in the Presidency Town not exceeding Rs. 2,500 in value. In submitting this scheme, His Excellency in Council stated that the only alternative appeared to be the appointment of a fifth Puisne Judge. Since that letter was written, the experience of two more years' working of the High Court has been obtained, and the opinion of the Honorable the Judges thereon is set forth at length in the letters† of their Registrar recorded in the Proceedings herewith forwarded. This opinion is to the effect that, in consequence of the continued growth of the appellate work of the court, the remedy which was suggested in 1885, namely, the removal of a part of the court's original jurisdiction, will be insufficient to meet the increasing difficulty of coping with the business coming before the court, and that the appointment of a fifth Puisne Judge has become a matter of pressing necessity. Referring first to the criticism of the Secretary of State in his despatch above quoted on the statement that the number of civil and criminal appeals instituted had increased by 87.46 and 90.73 per cent., respectively, in the ten years 1875—1884, the High Court point out

† Dated 22nd January 1887, No. 128, and 3rd March 1887, No. 512.

that His Lordship would appear to misapprehend the nature of the cases classed as civil revision petitions, references, and criminal revision cases, to the inclusion of which objection is taken in the despatch. These cases often involve the expenditure of as much time and trouble as any other class of work, and the Honorable the Judges consider that they must be included in any statement professing to show the work of the Appellate Side of the court. The experience of the last year, however, furnishes even stronger evidence of the growth of the court's appellate work than appears from the figures available in 1885. In paragraph 10 of the first letter* of their Registrar, the Honorable the

* No. 128, dated 22nd January 1887.

Judges compare the figures of institutions on the Appellate Side in 1875, 1884, and 1886, and show that, even excluding revision petitions and references, the civil appellate work of 1886 exceeded that of 1875 by 77.26 per cent., while if those classes of cases are included, the increase amounted to 106.9 per cent. A similar conclusion is suggested by the statistics of arrears. The number of suits pending at the close of 1886, as compared with those pending at the end of 1881, was as follows:—

	1881.	1886.
Original suits	221	301
1st appeals	168	208
2nd appeals	608	979
Appeals for orders and all other appellate cases	548	826
Total ..	1,545	2,314

And a comparison of the year 1881 with those which preceded it will show that in that year the arrears reached a point which was then unprecedented on the Appellate Side of the court, and which at that time was considered sufficient ground for sanction being accorded to the appointment of an additional Judge. To these figures, the Honorable the Judges add an expression of their opinion that there is no prospect of the work being overtaken by the existing staff of Judges, and they consider the necessity for an increase to the strength of the court to be now established.

3. His Excellency the Governor in Council, after considering with care the letters of the High Court, and after perusing a minute which has been recorded by the Hon. Mr. Hutchins, whose personal experience in the court gives additional value to his remarks, has come to the conclusion that the contention of the Honorable the Judges that the appointment of a fifth Puisne Judge, temporarily or permanently, is necessary, must be regarded as established beyond the possibility of doubt. The Finance Committee, in paragraphs 24 and 25 of their Note, have made some remarks on the lessened amount of work turned out by the High Court in 1885 and 1886 as compared with 1884. On this subject, Mr. Hutchins has touched in his minute, where he has given an account of the effort which was made by the Judges in 1883-84 to overtake their work. He has stated that this effort could not be sustained, and His Excellency in Council accepts this opinion. As soon as the effort was relaxed, arrears began at once to accumulate, and by the end of 1886, as pointed out by the Finance Committee, the increase of arrears was serious and a further increase appeared inevitable. To remedy this state of things, the Finance Committee proposed to relieve the High Court of all original suits not exceeding Rs. 5,000 in value, and to limit the right of second appeal; but the Honorable the Judges have expressed themselves as opposed to both of these proposals, and His Excellency in Council is unable to support them. The relief which will be afforded to the court by the transfer of original jurisdiction over suits not exceeding Rs. 2,500 in value may eventually enable the High Court, when abreast of its work, to get on without a permanent addition of strength; but to effect this transfer will take time, and meanwhile heavy arrears have accumulated and are increasing. I am, therefore, to state, as the opinion of this Government, that the public interests require that the appointment of a fifth Puisne Judge to the High Court should be no longer delayed. I am to express the hope that His Excellency the Governor-General in Council, after perusing this letter and the proceedings which accompany it, will see reason to concur in the opinion of the Government of Madras, and will make a recommendation at an early date to the Secretary of State with the

object of obtaining an additional judge. It appears probable that when the proposed transfer of the High Court's original jurisdiction in suits up to Rs. 2,500 is effected, and when, by the aid of a fifth Puisne Judge, the present arrears have been worked off, the additional judge may not be permanently needed. In order to facilitate any future re-appointment of such a judge, it would, however, be desirable to make a permanent creation by letters patent of a fifth Puisne Judgeship, while for the reasons pointed out by the Hon. Mr. Hutchins' minute, it seems essential to the early absorption of the additional judge, that a civilian be nominated.

4. His Excellency in Council, while thus advocating the appointment of a fifth Puisne Judge, continues to attach much importance to the relief to be afforded to the High Court by the transfer to the Presidency Court of Small Causes of original jurisdiction in suits up to the value of Rs. 2,500, and His Excellency in Council hopes that the legislation necessary to carry out the transfer may be carried forward with all possible despatch. I am to invite attention to the suggestions as to the form of the legislation required, contained in paragraph 18 of the Hon. Mr. Hutchins' minute.

5. Besides the main questions affecting the relief of the High Court, which have been dealt with in the preceding paragraphs, the Finance Committee in their Note refer to several other matters connected with the High Court's expenditure. As regards the proposed redistribution of establishment, both on the Original and Appellate Side, which will be a result of the curtailment of the High Court's Original Jurisdiction, His Excellency in Council is disposed to adhere to the scheme set forth in the letter of this Government, No. 1918, dated 23rd July 1885, already referred to; but he is of opinion that in the case of the Deputy Registrar of the Appellate Side, a post which affords an opportunity of useful judicial training to a junior civilian, the pay should be made progressive, beginning at Rs. 700, and rising to Rs. 1,000 a month. On the Original Side, a professional man will be required as Deputy Registrar, and the pay cannot be reduced with advantage below Rs. 1,000. His Excellency in Council concurs in Mr. Hutchins' proposal that the Registrar should begin on Rs. 1,400 and rise to Rs. 1,800 by annual or biennial increments. As regards the remarks of the Finance Committee, in the last sentence of paragraph 20, on the cost of the revised establishment on the Appellate Side, which has since been sanctioned by G.O., dated 7th February 1887, No. 181, Financial, and introduced, it is pointed out that the committee were under a misapprehen-

Copy enclosed.

sion in thinking that savings earned by the copyists and translators have been used to increase the regular establishment of the court. The reform introduced amounts to this, that a certain staff of section-writers and translators has been made permanent, instead of being retained as "temporary establishment," the object being to give inducements to better work and to get the work done more cheaply. The result is a saving of Rs. 77 per mensem.

6. Referring next to the Clerk of the Crown, the committee suggest that the appointment should be amalgamated with that of Crown Prosecutor. Experience has, however, shown this to be impracticable. The late holder of the office of Crown Prosecutor combined with it that of Clerk of the Crown, but he found it necessary, as stated by the High Court, to have the duties of clerk performed by a deputy, and they cannot indeed, from their nature, be performed by the same person who performs those of Crown Prosecutor. But though these two offices cannot be amalgamated, the duties of the Clerk of the Crown are so inconsiderable that they might be attached to some other post, and this Government considers there will be no difficulty in causing the Deputy Registrar to do the work of the Clerk of the Crown, abolishing the latter as a separate office.

7. The abolition of the office of Sheriff has been already recommended to the Government of India, and this Government awaits the completion of the necessary legislation.

8. As regards the proposed creation of the appointment of Official Receiver, the Honorable the Judges, on further consideration of the question, are not anxious that the appointment should be made. It would, in their opinion, involve increased outlay,

and in these circumstances, His Excellency in Council does not support the proposal. The other remarks of the Finance Committee, which are referred to in the letter from the Registrar of the High Court, do not appear to require comment; but I am to state that the suggestion, that the frequent application for adjournments in the Reference Court should be checked by the imposition of a substantial fee, has the approval of Government.

9. In conclusion, I am to point out that our present proposals as regards the sixth Judge amount practically to no more than this, that an additional Judge be granted from July or August next up to April, till when Mr. Justice Brandt is willing to stop if the additional Judge be granted or for about eight working months. But as it is essential to this scheme that the Judge shall be available not later than August, and as there are many points involved in this correspondence which will take time to dispose of, I am earnestly to request that the question of allowing a sixth Judge may be taken up in the first instance, and the consent of the Government of India—supposing that they do consent, which His Excellency in Council cannot doubt—communicated to the Secretary of State by telegraph at as early a date as possible. A copy of this letter and of the proceedings of this Government have been sent to the Secretary of State direct.

H. E. STOKES,
Ag. Chief Secretary.

LETTER—to the Right Honorable the Secretary of State for India, dated Octacumund,
25th May 1887, No. 13, Judicial.

We have the honor to forward, for your Lordship's information, copy of our proceedings * noted in the margin and of a letter,† which we have addressed to the Governor-General in Council, on the subject of the necessity for affording relief to the High Court, and other matters. We take this course in the hope that it will lead to early disposal of the subject when the Government of India addresses you Lordship, as the benefit which we anticipate from our proposals depends in great measure on their being speedily sanctioned.

4-5-01
14-5-00

Govt. of (1887) Madras.
JUDICIAL.

Issued

Recd.

Encl.

G.O., &c., 14th May 1887,
Nos. 1026, 1027.

MAY.

High Court of Madras.

Addressing the Government of India on the
subject of the relief to be afforded to the —, and
Finance Committee's Note on its expenditure.

25TH MAY 1887, No. 13, JUDICIAL.

JUDICIAL DEPARTMENT.

LETTER—to
THE RIGHT HONORABLE THE SECRETARY OF STATE FOR INDIA.

MY LORD,

We have the honor to forward, for your Lordship's information, copy of our
proceedings * noted in the margin and of
* G.O., dated 14th May 1887, No. 1026. a letter,† which we have addressed to the
† Letter, „ 14th „ „ „ 1027. Governor-General in Council, on the sub-
ject of the necessity for affording relief to the Madras High Court, and other matters.
We take this course in the hope that it will conduce to early disposal of the subject
when the Government of India addresses your Lordship, as the benefit which we
anticipate from our proposals depends in great measure on their being speedily
sanctioned.

We have the honor to be,

My Lord,

Your Lordship's most obedient, humble servants,

(Signed) CONNEMARA.
(„) C. G. ARBUTHNOT.
(„) C. G. MASTER.
(„) PHIL. P. HUTCHINS.

OOTACAMUND,
25th May 1887.

Exd. T. O'Connor.

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I concur with Hon.
W. Hutchinson's ex-
hausitive minute
B 7/5
I hope this
able minute will
go to the Government
of India and
the Secy. of State
B

Views of Finance Committee, G.O., 4th
January 1887, No. 1;

From Secretary of State for India, 1st
December 1886, No. 3207;

Current Nos. 287 and 1029, from High
Court.

The two main points involved in this
correspondence are:—

- (1) The appointment of an additional
Puisne Judge to the High
Court;
- (2) The proposal to transfer to the
Court of Small Causes part of its
Original Civil Jurisdiction.

2. According to the Letters Patent of
1862, the High Court opened with a Chief
Justice and five Puisne Judges, but Mr.
Morphead, the Judicial Member of Coun-
cil, merely took his seat *pro forma* and sent
in his resignation. The amended Letters
Patent issued in December 1865 made no
mention of the number of the judges, but
ordained that the existing Chief Justice
and (4) Judges should continue in office.
Any vacancy up to that number can—
subject of course to any orders from the
Secretary of State—be temporarily sup-
plied by the Local Government, but the
Statute gives this power only when a vacancy
exists, and accordingly a fifth Puisne Judge
can only be appointed, even temporarily,
by Letters Patent (to India, 7th May
1883; to Secretary of State, 7th June 1883).
The Secretary of State has naturally ob-
jected (31st July 1883) to make any merely
temporary appointment by Letters Patent,
but he has also distinctly admitted that
“should the arrears of pending suits
“continue excessive, no doubt measures
“must be adopted to give suitable relief”
(13th December 1883).

3. At different times there has been a
great deal of correspondence as to the
number of Judges necessary, and it seems
desirable to give a brief history of the
question, which is now to His Excellency

the Governor. I shall also compare the present business of the Court with the figure which satisfied the Government of India and the Secretary of State in 1882, that another Judge was necessary. The Government of India, however, has stated, truly enough, that it is "not possible to appraise the work of different courts merely from figured statements," and that "much" more "weight is due to the statements of the judges that they cannot properly transact the business of the court" (to Secretary of State, 3rd June 1878). In the present case we have the unanimous assurance of the whole Court to that effect, and I desire to add to it my own unhesitating testimony, having been Registrar of the Court from 1864 to 1869, and a Judge in 1881 and from 1883 till towards the end of 1885.

4. While I was Registrar, the judicial work of the Appellate side was undoubtedly light. Statement I at the end of this Minute compares the average file for 1863-67 with that for 1886, and shows that the rise has been 1,803 cases to 4,838, or more than 268 per cent. In the former years, were only 3 or 4 sittings a week and one of the Puisne Judges might probably have been dispensed with. As a natural consequence, the reported judgments of those days evince an amount of care and consideration, for which the Judges of the last twelve years have never been able to find time. Unfortunately the attempt to reduce the permanent number of Judges was postponed until the work had so increased that it was impossible for four Judges to cope with it. It was in January 1877 that the vacancy caused by Mr. Justice Holloway's retirement was left unsupplied. By March 1878 the Government had to report an urgent necessity for a fifth Judge: in April 1878 it was pointed out by the Puisne Judges that "many judgments though pronounced in Court could not be recorded, and consequently one of the most important functions of the Court, that of the instruction of Subordinate Courts, was in abeyance:" on 3rd June 1878, India reported that it was satisfied that another Judge was necessary, at least until a contemplated "change in the law should relieve the Court of a considerable proportion of the original suits of low values." Thus the situation then was nearly identical with that now existing, except that the appointment then sought

was that of a fifth Judge, while now a sixth is demanded.

5. In 1878, in consequence of these representations, Mr. Justice Muttusawmy was appointed a temporary Judge, but it was not till 1883 that the Supreme Government could be persuaded to confirm him. The reason given in reply to repeated applications was that it was necessary to ascertain first the effect of the change in the law. But the contemplated change had meanwhile been so cut down from what had been originally intended that it merely transferred, to the Small Cause Court, suits of the nature of small causes between Rs. 1,000 and 2,000 in value, and even as to these the High Court retained a co-ordinate jurisdiction.

6. In 1879, Sir Charles Turner became Chief Justice, and perhaps no one ever existed less willing to confess that the work of the Court could not be carried on satisfactorily without additional assistance. By a Rule of Court he delegated to a single Judge almost everything that could legally be done by a judge sitting alone, including almost the whole of the Criminal Appellate work; and yet by October 1880, he was compelled to report that the fifth Judge would be required permanently (to Secretary of State, 7th October 1880). Nevertheless, the Secretary of State, on the recommendation of India, resolved still to continue Mr. Justice Muttusawmy on a temporary footing until practical experience could be had of the new Act (24th March 1881). The Government of 1880 expressed a very decided objection to Criminal Appeals being decided by a single Judge, and I understand that the present practice is to bring nearly all such cases before two Judges. According to my experience the Rule of 1879 was a good rule provided it was worked with discretion. Doubtful cases always were, or ought to have been, referred to two Judges, but probably not more than 10 or 15 per cent. could properly be called doubtful.

7. At the close of the same year the Puisne Judges submitted to the Chief Justice a strong remonstrance, and with some reluctance, on 13th May 1882, Sir Charles Turner forwarded this to Government with the declaration that the work demanded of the (5) Judges during the two preceding

years had been more than they could fairly be expected to perform. He stated that he had from the first been convinced that the request for a 6th Judge was one which could not reasonably be refused, but he had kept it back as long as any hope remained of overtaking the work, or of its increase not proving permanent. The Government took the same view, declaring the present state of the Court injurious to the public interests. However, they only asked that the 5th Judge might be given temporarily (to Secretary of State, 7th June 1882). The reason was not stated, but no doubt they thought it useless to ask for a 6th permanent Judge, when their recommendations to confirm the 5th had been refused. Even then the Government of India declined to recommend Mr. Justice Muttusawmy's confirmation, but they admitted the business of the Madras High Court was unduly heavy, and intimated to the Secretary of State that they would not object to a 6th Judge being allowed temporarily for six months (12th August 1882). The Secretary of State sanctioned this and thought that the decision about the native Judge should be reconsidered (26th October 1882), but this despatch was not communicated by India to Madras till the following January, when it was intimated that the six months should be six working months. In this correspondence the further question was raised, whether the Madras High Court did not devote a great deal too much time to revising the proceedings of the Magistracy. The Government from the first strongly deprecated any change in this respect (9th February 1883). However, in the following year, I persuaded the Court to make over to Sessions Judges a portion of this work, and I can now safely confirm the Judges' emphatic declaration (para. 8 of their first letter) that this sort of revision work has been "reduced to the lowest point compatible with the efficient discharge of the Court's duties of supervision."

8. At the end of 1882, Sir Evelyn Baring was at Madras, and as Revenue Secretary I had the honor of an interview with him, at which he questioned me about the High Court: he told me that the difficulty was merely financial, and that we might have as many more Judges as we liked if we would find the money. In the spring of 1883, I was on special duty in connection

with the revision of Judicial Establishments, and I found the money required for the 6th Judge. The saving was somewhat reduced subsequently; but for more than 3 years there has been a saving of Rs. 3,233 per month (from India, 7th July 1884), and under the new contract this has gone to Imperial. Bearing in mind that short acting appointments need never be made when there are six Judges, and that some of the Judges can take privilege leave while a strong remonstrance has gone home on behalf of those not so entitled, this sum of Rs. 3,233-5-4 a month may be taken to be the full pay of a Judge. It is in fact the full pay for 10 months and 21 days, *annually*

9. The result of the condition notified in February that the temporary judge should only be employed for 6 working months, was to postpone his appointment till after the recess. As it happened Mr. Justice Innes retired just then and I took his place. The legal difficulty about this Government appointing an additional Judge had then been started, and while it was under reference at home the Court made a supreme effort to clear off some of the arrears. In this we succeeded to a great extent; so much so that, in stating our views on the scheme prepared by the Revision Committee, we were able to say that the 6th Judge was not just then absolutely necessary, and that if the then rate of disposals could be maintained for some months longer, we might succeed in getting the file into something like reasonable order. This, however, was not at all certain and we therefore begged that the saving might not be diverted to any other object but kept available for the 6th Judge, whose appointment might at any time become inevitable (23rd November 1883). As a matter of fact neither the sanction given in October 1882, nor the money found by the Committee in 1883, has yet been utilized. Mr. Justice Muttusawmy, however, was at length confirmed (August 1883), after officiating for more than six years.

10. It may, of course, be urged that what five judges did in 1883-84 can be done by the same number again, but it was never expected that the same rate of despatch could be kept up, and no human beings could long endure the extreme strain of those years. It would be most unfair, and

diverted

J/

entirely contrary to fact, to suppose that the present Court could possibly go on doing what was then done. It was after this 'spurt' had been kept up for a considerable time, and when the file was in the best condition that it has been for years, that we sent in our report of 27th February 1885. We showed conclusively, to the satisfaction of Government (23rd July 1885), that even then further assistance must be given, unless the work could be reduced. The scheme put forward for reducing the work was of the same general character as the old one, viz., that the petty work on the Original Side should be transferred to the Court of Small Causes. If this could have been brought into effect at once, it would probably, in the then state of the file, have been a sufficient remedy, but the High Court are perfectly right in saying (para. 12 of their second letter) that it would not now afford adequate relief. The work has gone on increasing, and arrears have now accumulated to such an extent that the scheme would not have a fair trial, for both Courts would start with heavy arrears, which they could hardly hope to overtake. The total arrears at the end of 1881, on which the additional Judge was before sanctioned, were 1,545, and included 221 Original Suits, 168 First Appeals and 608 Second Appeals. The corresponding numbers for 1886 were 2,314, 301, 208 and 979. The number of Original Suits in particular would have been far higher but for the fortunate circumstance—perhaps due to the hopelessness of obtaining judgment in a reasonable time—that the institutions fell off by 21 per cent., as compared with the average of the preceding three years. It should be mentioned here that a number of stale suits were struck off about the years 1880-81, a circumstance which makes the disposals of that time seem larger than they really were.

11. The figures which I have given above will be found in the statement appended to the High Court's earlier letter. We have seen that the work of 1880-81 was declared to be "more than ~~several~~ judges could fairly be expected to do," and admitted by the Government of India to be "unduly heavy." The following table compares the business of those two years with that of 1885 and 1886:—

	1880.		1881.		1885.		1886.	
	Instituted.	Disposed of.	Instituted.	Disposed of.	Instituted.	Disposed of.	Instituted.	Disposed of.
<i>Civil.</i>								
Original Suits ...	518	650	507	537	348	370	292	273
References ...	20	18	15	17	10	11	20	14
Insolvency Petitions ...	153	143	138	163	187	186	152	139
<i>Appellate.</i>								
First Appeals ...	190	180	192	158	187	141	181	119
Letters Patent Appeals ...	28	25	25	20	23	22	40	16
Second Appeals ...	898	793	1,002	770	1,115	1,051	1,352	907
Appeals from Orders ...	109	173	204	192	245	201	235	246
Civil Revision Petitions ...	191	174	178	151	347	441	338	263
References ...	24	18	23	30	30	25	27	27
Miscellaneous Petitions ...	491*	356*	491*	356*	658	636	809	776
<i>Criminal.</i>								
Sessions Cases ...	28	27	69	60	67	67	51	51
Criminal Appeals ...	760	718	488	537	562	550	519	507
Referred Trials ...	89	83	77	82	67	55	45	51
Revision Cases ...	470	606	479	897	732	696	787	765
Total ...	4,068	3,973	3,888	3,979	4,578	4,455	4,839	4,184

* The average of 77 to 81.

12. This shows that, although there has been a falling off in Original Suits—probably, as already stated, because speedy disposals could not be hoped for—there has been a large increase in Appellate work and the business of the last two years has been in excess of that which satisfied the Government of India that a sixth Judge was necessary, and which led the Secretary of State to declare that, if the arrears continued excessive, he would be prepared to adopt measures to give suitable relief, even by issuing Letters Patent (13th December 1883).

13. But the Secretary of State has taken objection to the inclusion of Revision work and to our assertion (23rd July 1885) that the files of 1884 were heavier than those of 1875 by 87½ per cent. on the Civil Side, and 90¾ on the Criminal. It was evident that his Lordship had in mind the correspondence of 1882, already mentioned, and was confusing the Revision Cases, heard and disposed of in court, with the work of revising the calendars and proceedings of the Magistracy, which, as already stated, has been reduced to a minimum and had been taken no account of. Paragraphs 4-8 of the High Court's earlier letter make this very clear.

14. I have had the principal tables in Mr. Justice Innes' memorandum brought up to 1885, the latest year for which the figures are available, and they are appended to this minute (Statements II to V). I admit, with the Government of India, that it is not possible accurately to gauge or compare the work done by mere figures, but the results, so far as they go and they must count for something, are singularly in favour of the Madras High Court. Take table III for example: this shows that $3\frac{1}{2}$ judges in Madras despatched in 1883 and 1884 nearly 90 per cent. of the work done by over nine judges in Calcutta; and in 1885, during half of which two of the Madras judges were new to the work, $45\frac{1}{2}$ per cent. of what was done by $11\frac{1}{2}$ judges in Calcutta. According to table IV the three chief heads of work per judge in Madras came to 859 in 1884 and 734 in 1885, against 450 and 577 in Calcutta; while the next and last table brings out the average disposals by a Madras Judge for 1883-85 as 1,072 against 516 for Calcutta. At all events these figures show that the work at Madras, which was admittedly "unduly heavy" before 1882, has not ceased to be so, and that the Madras Judges have continued to evince that devotion to their work to which the Government of India once referred (3rd June 1878) as "entitling their representations to the more weight." The Finance Committee itself admits (para. 24) that, unless some effective change is made, there will soon be an *urgent* demand for an additional Judge. The only change which can possibly give effective relief is the transfer of jurisdiction to the Small Cause Court, and that must necessarily take considerable time.

15. It seems to me, therefore, that, in every way, the absolute necessity for a sixth Judge being appointed without delay has been fully made out. The High Court say he should be appointed permanently, and I agree to this, though I am not yet satisfied that he will be required permanently. When the petty original litigation is transferred elsewhere, I have little doubt that one Judge should be able to do the entire work of the Original Side, including Sessions and Insolvency. Four Judges should suffice for the Appellate Side if only they get a fair start. What is wanted, therefore, is an extra judge for a sufficient time to clear off the arrears, and the power

to retain him longer if need be. He should, in my opinion, sit on the Original Side for the first 2 or 3 months, till the file is so far cleared that it will not overweight the Small Cause Court at starting. After that, whether or not the transfer of jurisdiction has been effected, he should sit on the Appellate Side. But he should be appointed by Letters Patent as a permanent judge so as to remove the difficulty of appointing an additional temporary Judge at any future time. If I am right in my suggestion as to the cause of the falling off of original work, it may jump up again to the old dimensions as soon as it is divided between two Courts and decrees come to be given within a reasonable time. And in that event it is obvious that the relief given, even by a transfer of work to the Small Cause Court, will not be effective; the business before the High Court will remain as it is now and the state of the Court, without a permanent 6th Judge, will continue to be a scandal and "injurious to the public interests."

16. The present is a very convenient time for appointing by Letters Patent a permanent Judge, to be absorbed at the next vacancy unless sufficient cause can then be shown for his retention, either permanently or for a limited time. Neither of the present Civilian Judges intends to stay long. Mr. Justice Brandt tells me that he will retire before the end of this year, but he may perhaps be induced to wait till next spring, if by so doing the sixth Judge can be retained for nearly a full working year. Mr. Justice Parker will almost certainly retire in May 1889. If the additional Judge to be appointed (as I strongly recommend) next July, immediately after the recess, is a Civilian, his permanent appointment could be absorbed when either of these Judges goes; another Judge can, if necessary, be kept on for such term as may then be fixed, and the legal difficulty will be removed for good. Of course a non-civilian Judge could not be absorbed on either of these expected vacancies, as one-third of the Judges must be civilians. I recommend that this be pointed out to the Government of India and the Secretary of State, that a nomination of a civilian Judge be submitted to the latter at once, and that the former authority be earnestly requested to send home its views without delay, so that the 6th Judge may

begin work as soon as possible after the Court reopens. Otherwise no appreciable impression will be made on the arrears; before Mr. Justice Brandt retires.

If my proposal is realized we shall have a 6th Judge from July or August next till the following April - not a great thing to ask. And even if any unforeseen contingency should prevent his being absorbed for another year it is certain that he will have ample work, with a least of in the manner indicated in paragraph 20 supra.

17. I now pass to the second main question, that of transferring a portion of the Original Civil Jurisdiction to the Court of Small Causes. This was strongly recommended in letter from the High Court, No. 2216, 29th September 1877; by Sir Walter Morgan also, and by Sir Charles Turner (G. O. 8th October 1880); and a Bill to give effect to it was actually prepared and introduced by Mr. Whitley Stokes in 1880. The High Court brought up the matter again in 1885 (G. O. 23rd July 1885, No. 1918), pointing out that the change in the law actually made had given no effective relief, and that the reasons why the more extensive reform contemplated had been abandoned were never communicated to this Presidency. I have discussed the question with many people of all classes, and I have found that no one objects to the scheme when it is properly understood. The arguments in its favour are set out in the Court's letter of 1885. The chief seem to be, that there is no longer any reason why the Original Jurisdiction of the High Court should be regarded as a separate territory from the rest of India; that a picked judge on Rs. 1,000 is surely competent to try cases, which, if they arose outside the toll-gate, would go before a Munsiff on 200; that it is a sheer waste of power and money and an anachronism, to require all such suits to be heard by a High Court Judge on Rs. 3,750 or 5,000 with all his expensive paraphernalia. To these arguments, I may now add the doubt whether the present state of things does not amount to a denial of justice, the Government of India being unwilling to allow enough Judges to dispose of the work with reasonable despatch.

18. Properly understood, the present scheme is simply this—that notwithstanding Section 19 of Act XV of 1882, ousting the summary jurisdiction of the Small Cause Court in certain cases, that court shall have power to try all such cases, up to a certain amount, in accordance with the provisions of the Code of Civil Procedure; that in all such cases there shall be an appeal to the High Court—and I would also give an appeal in Small Causes between Rs. 1,000 and 2,000 in value, which have only been tried summarily

since the extension of jurisdiction in 1882, and subject to the right of re-trial by the High Court; that the limit of jurisdiction by value of suits be Rs. 2,500, power being given to Government to extend it from time to time—the Finance Committee would say Rs. 5,000 at once, and that was also my own recommendation; it matters little how high the limit goes, so long as the High Court will freely exercise, on good cause shown, its power to call up cases. Under section 10, the Chief Judge of the Small Cause Court will have power to depute any one of the judges to the regular side of the Court as he may think fit from time to time—it is not the Chief Judge himself, as supposed by the Finance Committee (para. 37), nor any selected judge, who is to have the new jurisdiction.

Insolvency jurisdiction up to the same (or any other) limit will also be conferred on the Court as a whole and subject to the same power of the Chief Judge to make arrangements. The idea was that the present Registrar on the Original Side should be made 2nd Judge: he has long been Chief Clerk of the Insolvent Court and his appointment would get rid of the difficulty suggested by the Chief Judge (para. 5 of his letter in G. O. 30th August 1886, No. 2337) that his judges have no experience in Insolvency.

The High Court will still have power under the Code to call up any cases for trial by itself, but it is an essential part of the scheme for which I am responsible, that its co-ordinate jurisdiction, giving the plaintiff the option of suing in either court, should absolutely cease. Section 22 of Act XV of 1882 must therefore be repealed, and if Sec. 15 of the Code is insufficient to effect the object, it must be clearly enacted that every suit which the Small Cause Court is competent to try shall be instituted there, either party being of course at liberty to move the High Court, under Section 25 of the Code, to call it up.

An appeal being provided in Small Causes exceeding Rs. 1,000 in value, Sections 38-40 of Act XV may also be repealed. I have never met with any justification for this most unsatisfactory substitute for an appeal, and in practice it is even ridiculous: the idea was that the Small Cause Judge would not have recorded the evidence and that therefore a suitor, who wished to

appeal, must have an entirely new, but equally summary, trial before a Judge of the High Court! Fortunately this singular remedy has been too expensive to be often adopted.

19. It has been urged that there will be many more appeals from the Court of Small Causes than from the Original Side of the High Court. I do not myself think so. Appeals from the Original Side are now very frequent, and though the stringent rules, and the defective practice of some of the Judges as to recording evidence and writing judgments, interpose difficulties, I believe an appeal is made whenever there is a chance of success—and very often when there is no chance, for the sake of delay. The following table shows that in 1877 to 1881 the average number of appeals was 29, or 8·3 per cent. on the appealable decrees (349). In 1882-84 the numbers were 20 to 264, or 7·6 per cent. In 1885 there were 31 appeals out of 263 cases, or 11·8 per cent.; and in 1886, 23 out of 204, or 11·2 per cent.

Statement showing the number of decrees passed on the Original Side, High Court, and the number of appeals therefrom:—

Year.	No. of appealable decrees passed.	No. of appeals preferred.	No. of appeals disposed of.	No. of appeals pending.	percentage of (3) to (2)
1877 ...	324	24	21	9	
1878 ...	291	27	25	11	
1879 ...	308	18	17	12	
1880 ...	446	42	29	25	
1881 ...	378	36	42	19	
Average ...	349	29	27	15	8·3
1882 ...	253	24	22	21	
1883 ...	219	16	27	10	
1884 ...	321	21	20	11	
	264	20			7·6
1885 ...	263	31	22	20	11·8
1886 ...	204	23	32	11	11·2
Average ...	252	23	25	15	

20. As to the financial effect, in the first place it is obvious that a trial by a Judge paid Rs. 1,000 to 1,200, with corresponding ministerial officers, must cost less than the same trial in the High Court, but, as a matter of fact, I believe the transfer will cost nothing, unless, indeed, the number of

suits so jumps up that the addition of one judge to the Small Cause Court proves insufficient. The Finance Committee seem to have thought that even one additional Judge will not be required, but the present three Judges and their Registrar can only just cope with their existing work: there is no doubt that another Judge must be given. The Registrar of the Original Side may be made 2nd Judge on Rs. 1,200 with Rs. 300 personal allowance, or offered the option of Rs. 1,200 or such gratuity as he may be entitled to: this would provide the Judge without additional cost. There will be other savings in the Original Side establishment, for which I prepared a revised scheme while I was a member of the Court. These and savings in the Small Cause Court, which I propose to effect by the transfer to Process Fees of the cost of the process establishment, will not only provide all the officers necessary for a regular side of the Court, but will put the whole establishment of the Small Cause Court on a satisfactory footing. On the other hand the pay of the 6th Judge of the High Court will be saved after his absorption.

20. I do not propose to follow the details of the High Court's reply to the Financial Committee as to the necessity for the 18 clerks on the Original Side, because I am certain the transfer should be effected as soon as the necessary legislation can be carried through. The other details of the defence can be passed over for similar reasons. I have already stated that the Court cannot possibly get through its present work. There is however the question of the number of days a Judge should sit. In 1883-85, when the out-turn of work was beyond precedent in any of the High Courts, a Judge hardly ever sat more than four days a week, except on the Original Side. Sir Charles Turner had wished us to try five days, but he gave up the idea at my earnest remonstrance, and I am certain we got through more work in consequence. The judges are now sitting five days, but the out-turn is by no means what it was. Of course we were not idle on the fifth day, any more than the present Judges are on Saturdays. On the contrary our hardest work was on the days spent at home, including all casual holidays and, I am sorry to say, Sundays generally. It may seem curious that a

is paid 1500 Rs. and will not be required. He

J/ Judge can do more by sitting in Court four days than he can in five, but it is a fact *so far as the work is concerned.* Everything depends on the way work is done—whether the judgments appealed from, records &c. are perused out of Court, or in Court, and so forth. It is easy to waste time (even one's own and certainly that of others) in Court and the most economical principle for all parties is to do in Court only such work as requires the presence of counsel, all other business being much better done when the Judge is calm and quiet, and free from anxiety about keeping counsel &c. waiting. I may refer to Mr. Justice Kernan's minute of 17th May 1877, as to what he calls the 'excellent system' of running through the printed papers before coming to Court.

2. There are a few minor points which have to be disposed of, but this can be done much more briefly.

Clerk of the Crown.—I agree with the High Court that this office cannot be amalgamated with that of Crown Prosecutor, but it does not at all follow that it must be continued as a separate office. The duty of revising indictments, and everything connected with the prosecution of the cases committed, can very well be cast on the Crown Prosecutor. The rest of the work consists of preparing jury lists, summoning juries, and attending court to read the charges, record pleas and verdicts, swear juries and witnesses, and so forth. These duties are analogous to those of a Registrar on the Civil Side and may well be performed by the Deputy or Assistant Registrar on the salaries already assigned to them in my revised scheme. With its reduced file the Civil Court will never sit during Sessions and possibly not more than 15 or 20 days each month. It is possible one more clerk may have to be allowed to the Deputy Registrar to attend to criminal work. With this exception both the Clerk of the Crown and his establishment may be abolished as a separate office.

3. *Sheriff.*—It has already been determined (7th August 1886, No. 776) to abolish this as a paid appointment. Of course a proper process establishment must be organized under a Nazir or other head, who will perform the same duties as the present Deputy Sheriff. Sir Walter Morgan submitted a scale years ago, but it will have to be revised with reference to the work left to

be done by the Original Side. Its cost should be paid out of process fees as elsewhere.

4. *Establishment of the Appellate Side.*—The Finance Committee recommend that one of the Puisne Judges should revise the establishments, but this had all been done by me in 1885. The Appellate establishment has since been sanctioned and I hear from the Registrar that it is working admirably. As for the necessity for an increase not having been demonstrated, the only way in which it could be demonstrated to outsiders would be by showing that there had been a great increase of work, and this has certainly been done. I can answer for the revision being necessary and the result has been a small saving (G. O. 7th February 1887, No. 181) after including all leave and pensionary allowances for new appointments. There has been no real increase in numbers, because the High Court has always had a grant for temporary clerks or section-writers—not 'copyists.' This grant has been given up and credit taken for the average expenditure, such of the clerks as were really required being added to the permanent establishment. This is what the Finance Committee appears to mean by the Copyists' Department, the Copyists proper being quite distinct and debited against copying stamps as in all other Courts.

The translators were treated similarly to the section-writers, except that this class of work so fluctuates that the whole fund could not be dispensed with. The old staff of translators was supposed to be sufficient for translations actually required by the Court itself, but parties have now to provide translations of all documents &c., on which they intend to rely, and such work has been steadily increasing. The regular translators could do but little of it and a staff of suitors' translators had to be organized. It was generally cheaper to pay them by fixed salary than by piece-work, and hence savings accumulated. All fees were paid into a public fund standing in the Registrar's name, and the salaries, or where the translator had been engaged by piece-work his fees, were drawn by the Registrar as necessary. It would be impossible for the Court to come up for sanction each time a temporary hand became necessary, and, as the fee charged is always slightly in excess of that disbursed, it would

also have been superfluous. The only alternative is to maintain the fund, which is under the supervision and audit of the Accountant-General, but, subject thereto, at the disposal of the Chief Justice. The ultimate savings must, no doubt, come to Government, and I suppose Government could at any time appropriate a balance which might seem to be in excess of probable requirements, but the present question does not concern savings, but current receipts. It was calculated that a certain number of translators would always be required for suitors' work, and it was considered that it would tend to economy, as well as to efficiency, to add that minimum number to the permanent establishment, paying over from current receipts the equivalent of their pay, plus the usual percentage for leave and pensions. This obviously is quite independent of Government's right to control the fund or appropriate a surplus.

24. *Receiver or Commissioner.*—A permanent Receiver is not necessary. Even if Original Jurisdiction were to be continued as at present, the fees would not cover the salary. The Finance Committee (paragraphs 28-30) calculated that this work occupied a Judge 40 days in the year, or a day in every week, and they proposed a salary of Rs. 500. It would be absurd to give such a salary for a day's work per week or four days in the month. The Judges have power to refer such matters to the Official Assignee, or any one else, on a proper fee according to work done. The only suggestion I can make is that they should be invited to use this power more largely than they do at present. I suppose it was partly in view to this work that the Acting Government Solicitor made the extremely loose and exaggerated statement, that half what was done by the Judges themselves might be delegated to a subordinate or Commissioner. The Court has sufficiently answered this unfounded suggestion. Every other kind of work that can fairly be delegated has been provided for by Rules passed in 1885, and it often comes hard on suitors that, after they have paid an institution fee, they should be required to pay also for a Commissioner. But I strongly support the proposal (para. 14 of the Court's second letter) that a substantial fee should be levied for all adjournments in the Reference Court.

The Attorneys are seldom ready, and it is mainly due to their defaults that references last such an unconscionable time.

25. The number of *peons and chobdars* is a very small point. I do not think the staff is excessive. The dignity of the Judges must be upheld, and in the eyes of the natives 'silver sticks' have much to do with this.

26. *Registrars.*—I agree with the Court that the two Deputy Registrars should each get Rs. 1,000 a month, and that an Assistant Registrar for the Original Side, including the work of the Clerk of the Crown, is absolutely necessary. The Deputy Registrar on the Appellate Side might, however, begin on lower pay—say Rs. 600 or 700. I also strongly support the proposal to give the Registrar himself increments, so as to retain him even when he is entitled by his position in the service to an Acting Judgeship. He might begin on Rs. 1,400 and rise to 1,800, his present pay being the mean between those figures. Whenever he chooses to quit the Court for another office, he should do so finally and leave the full pay available for his successor.

27. *Inspection of Courts up-country by a Judge of the High Court.*—Such periodical inspections are most desirable. Their importance has been frequently insisted on both by the Court and by Government—see especially the letter in G. O. 8th October 1880, paragraphs 18-20, and the despatch of the same date. This, however, is only another reason for giving a sixth Judge without any more delay. It is as obviously impossible to spare a Judge for this work now, as it has been for the last ten or twelve years.

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[illegible]

NOTE.—The figures under the head "disposed of" against "suits" include cases of the late Supreme Court, disposed of after annulment. (a) Letters Patent Appeals; (b) Civil Revision Petitions.

II.—Table showing the work disposed of by the High Courts of Calcutta and Madras on the Original Side.

Nature of cases.	1877.		1878.		1879.		1880.		1881.		1882.		1883.		1884.		1885.	
	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.
Insolvency	61	144	88	140	110	125	115	143	123	163	127	169	101	144	138	209	141	186
Suits	601	681	534	537	855	766	809	659	896	533	586	370	464	327	505	438	878	370
Appeals from Original Side (Calcutta)	23	...	36	...	42	...	42	...	46	...	37	...	22	...	38	...	32	...
Sessions	94	71	63	101	77	68	72	28	57	69	65	69	62	75	52	73	41	68
Total	779	806	781	778	1,084	959	1,038	830	1,122	765	815	608	649	546	733	720	1,092	624

III.—Table showing the Appellate work of the same two High Courts.

Nature of cases.	1877.		1878.		1879.		1880.		1881.		1882.		1883.		1884.		1885.		REMARKS.
	Calcutta. Judges. 3 1/2	Madras. Judges. 2 1/2	Calcutta. Judges. 3 1/2	Madras. Judges. 2 1/2	Calcutta. Judges. 3 1/2	Madras. Judges. 2 1/2	Calcutta. Judges. 3 1/2	Madras. Judges. 2 1/2	Calcutta. Judges. 3 1/2	Madras. Judges. 2 1/2	Calcutta. Judges. 3 1/2	Madras. Judges. 2 1/2	Calcutta. Judges. 3 1/2	Madras. Judges. 2 1/2	Calcutta. Judges. 3 1/2	Madras. Judges. 2 1/2	Calcutta. Judges. 3 1/2	Madras. Judges. 2 1/2	
First Appeals from Decrees	294	189	431	90	280	197	356	151	327	118	417	145	283	158	341	207	406	119	
Appeals from the Original Side	21	21	25	25	...	17	...	29	42	...	...	...	...	...	...	...	22	...	
Second Appeals from Decrees	3,731	709	2,951	633	1,941	632	2,245	793	2,617	769	3,285	973	1,856	1,233	2,260	1,293	4,557	1,054	
First Appeals from Orders	254	...	220	76	206	79	252	128	223	113	204	147	263	174	272	165	268	164	
Second Appeals from Orders	135	118	132	...	100	16	142	45	134	81	155	48	134	53	150	64	170	37	
Appeals under the Letters Patent.	153	...	152	...	31	...	53	25	103	24	109	18	21	17	20	38	47	22	
References to full Bench	11	...	11	...	4	...	16	...	8	...	7	...	15	17	2	11	11	20	
Applications for review	7	...	10	81	45	...	33	54	75	49	46	60	57	86	24	136	35	90	
Sp. cases referred by Presidency	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	
All Cause Courts	...	2	...	1	...	...	...	...	...	...	...	...	...	2	...	...	...	...	
Ref. cases under Section 617 from	...	...	21	23	22	22	21	16	25	24	34	20	15	22	11	19	10	16	
Sp. Cause Courts	...	...	...	...	...	916	1,494	1,407	1,493	1,206	1,405	1,432	1,377	1,553	1,492	1,401	1,709	1,301	
Grain. cases	1,130	1,173	1,267	1,043	1,289	1,958	1,494	1,407	1,493	1,206	1,405	1,432	1,377	1,553	1,492	1,401	1,709	1,301	
Total	5,725	2,179	5,195	2,002	3,927	1,958	4,614	2,822	5,005	2,588	5,662	3,088	4,021	3,769	4,572	3,885	7,213	3,289	

IV.—Table showing the annual amount of work per Judge in the three chief items, (first appeals from decrees, second appeals from decrees, and criminal cases,) calculated upon the number of Judges available in each year in each High Court on the Appellate Side, and the average annual amount per judge :—

Year.	FIRST APPEALS FROM DECREES.		SECOND APPEALS FROM DECREES.		CRIMINAL CASES.	
	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.
1877 ...	31	65	396	289	120	479
1878 ...	45	43	308	215	132	386
1879 ...	31	40	210	204	139	295
1880 ...	37	53	232	233	155	414
1881 ...	35	47	280	226	160	355
1882 ...	41	49	323½	286	138	421
Total ...	220	297	1,749½	1,483	844	2,350
Rate per Judge, annually ...	36½	49½	291½	247	140½	391½
1883 ...	32	54	210	363	156	457
1884 ...	37	67	249	300	164	412
1885 ...	36	41	393	310	148	383

V.—Table showing the whole amount of work and the average annual amount per Judge calculated upon the number of Judges available in each year in each High Court on the Appellate Side :—

Year.	CALCUTTA.			MADRAS.		
	No. of Judges.	Cases.	Rate per Judge.	No. of Judges.	Cases.	Rate per Judge.
1877 ...	9½	5,725	608	2½	2,179	889
1878 ...	9½	5,195	542	2½	2,002	741
1879 ...	9½	3,927	424	3½	1,858	599
1880 ...	9½	4,614	477	3½	2,822	830
1881 ...	9½	5,005	536	3½	2,588	762
1882 ...	10½	5,662	537	3½	3,088	908
Total ...	...	30,128	3,144	...	14,537	4,729
Average ...	9½	5,021	524	3½	2,423	788
1883 ...	8½	4,021	455	3½	3,769	1,108
1884 ...	9½	4,572	503	3½	3,885	1,142
1885 ...	11½	7,213	623	3½	3,286	966
Total ...	...	...	1,581	...	...	13,216
Average per annum	...	...	516	...	...	1,072

25th April 1887.

P. P. HUTCHINS.

In a letter published in the *Pioneer* from Sir Richard Garth, Chief Justice of the High Court of Bengal, to the Government of India, the Chief Justice, in endeavouring to enforce upon the Government of India the inexpediency of reducing the salaries of the Judges of the High Court of Calcutta, has thought it necessary to institute a comparison between the work of the Judges of the High Court of Calcutta and of those of other High Courts, and has stated the result of the calculations, on which he bases his comparison, unfavourably to the Madras and Bombay High Courts in respect of the average amount of work performed per Judge.

2. The Judges of the Madras High Court have for a considerable period been overburdened with work, and the necessity for extra assistance has long been apparent. Sir Richard Garth's assertions, if left uncontradicted, are calculated to prejudice the claims of the Madras High Court to the extra assistance required. It therefore becomes necessary to give an authoritative refutation, based upon recognised statistics, of the statement of Sir Richard Garth.

3. The two Courts are almost similarly situated as regards the work to be performed on the Original Side. The work in the number of contested cases seems to fluctuate considerably. The positions of Madras and Calcutta, in this respect in 1879 were—Calcutta 248*, and Madras 164†, whereas, in 1880, the figures were—Calcutta 167‡, and Madras 252§. The Madras Court has for several years been found to require 1½ths of the judicial strength of the Court to work it, while in Calcutta two Judges out of the entire number are occupied in this branch of the work. [See Sir Richard Garth's letter.]

4. The chief burden of the work of a High Court is that which is dealt with on the Appellate Side, which in Madras, as in Calcutta, is performed by the balance of Judges remaining available after satisfying the demands of the Original Side.

5. The accompanying table shows the amount of work disposed of by the two High Courts on the Original Side in the principal items of work in 1877, 1878, 1879 and 1880. Appeals from Original Side Decrees are disposed of in Calcutta by

* See Bengal Presidency Administration Report, 1879-80, page XXXV.
† „ Madras High Court „ 1879, page 41.
‡ „ Bengal High Court Administration Report, 1880, page 76.
§ „ Madras „ „ 1880, page 71.

Judges sitting on the Original Side, and are therefore regarded as part of the Original Side work of the Court, on which two Judges are permanently occupied.

Nature of cases.	1877.		1878.		1879.		1880.		1881	1882		1883		1884		1885	
	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.	Ce. Madras	Cale.	Mad.	Cale.	Mad.	Cale.	Mad.	Cale.	Mad.
Insolvency.	a 61	144	f 88	140	k 110	125	p 115	t 143	5	163	127	14	144	138	209	141	186
Suits.	b 601	681	g 594	537	l 855	766	q 809	u 659	6	533	586	444	327	505	438	878	370
Appeals from	c 23	...	h 36	...	m 42	...	r 42	...	6	...	37	22	...	38	...	32	...
Original Side	d 94	71	i 63	101	n 77	68	s 72	v 28	7	69	65	62	75	52	73	41	68
(Calcutta.)																	
Sessions.																	
Total	779	896	781	778	1,084	959	1,138	830	2	765	815	608	64	546	733	720	1092

6. References to take an account are all disposed of in Madras by the Judges of the Court. A Registrar is employed in Calcutta to undertake the bulk of the work in this branch. In 1880, 17 References were disposed of by the Judges in Calcutta, and 19 in Madras. The Establishment in Madras is limited, and there is no Officer available to assist the Judges in this duty.

7. The total of work as given in the table for the four years was — Calcutta 3682, to Madras 3463, or as about 2 Judges, Calcutta, to 1½ Judges, Madras.

8. It will thus be seen that the proportion of Judges engaged on the Original Side, Madras, is not excessive, as 1½ is less than 1½.

9. Taking the amount of work performed per Judge per annum, Madras shows 81 cases more than Calcutta.

10. The accompanying table A shows the amount of work done in each Court on the Appellate Side in 1877, 1878, 1879 and 1880. It must be premised that the Madras High Court had attached to it in 1877, on an average throughout the year, 4½ Judges, in 1878, 4½, in 1879, 4½, and in 1880, 5 Judges. The verification of this for 1877, 1878 and 1879 is given in three tables at the end. From each of these numbers, 1½ has to be deducted for the Original Side. There were then available for the Appellate Side in Madras

in 1877 2½ Judges.

1878 2½ "

1879 3½ "

1880 3½ " , and

in Calcutta

in 1877 9½ (See Bengal Civil Report, 1877, p. 21.)

1878 9½ (Do. do. 1878, p. 17.)

1879 9½ (Do. do. 1880, p. 20.)

1880 9½ (Do. do. do., p. 20.)

- a. See page 3, High Court Administration Report (Civil) for 1877. But 45 of these cases appear to have been omitted by oversight from Judicial statement 8, p. 85, do.
- b. 593+3=601. See Judicial statement—8, p. 85, do.
- c. See Judicial statement—3, p. 86, do.
- d. (94-1) + (1) See Judicial statement—11, Bengal do (Criminal), p. 37, and Assam do. (Criminal), p. 25.
- e. See Madras High Court Administration Report for 1877, p. 21.
- f. See Bengal do. (Civil) for 1878, p. 2.
- g. See Annual statement—4, do, p. 64.
- h. do—5, do., p. 65.
- i. 63) See Annual statement—7, do. (Criminal), p. 45, and Assam do. (Criminal), p. 34.
- j. See Madras High Court Administration Report for 1878, p. 23.
- k. See Bengal High Court Administration Report (Civil) for 1879.
- l. See Bengal Presidency Administration Report, page XXXV.
- m. See table at page 18 Bengal Administration Report (Civil) for 1880.
- n. (75+1) + (1) See Bengal High Court Administration Report (Criminal) for 1879, p. 2, and See Annual statement 7, Assam Administration Report (Criminal) for 1879, p. 21.
- o. See Madras High Court Administration Report for 1879, p. 37. 8 Sessions Cases in Col. 19, do. should read 63. See Judicial statement H. 11, p. 45.
- p. See Bengal High Court Administration report (Civil) for 1880, p. 2.
- q. (797 + 1 + 4 + 7). See Annual statement—1, do., p. 76.
- r. See do. do. 3, do., p. 78.
- s. (72). See do. do. 7, (Criminal) for do., p. 67, and Assam Administration Report (Criminal) for do., p. 6.
- t. See Madras High Court Administration Report for do., para. 12, p. 4.
- u. See do. do. do. 7, p. 8.
- v. See do. do. do. 32, p. 9.

11. In the table, the Original Side Appeals are included in the Appellate work of Madras, as they are disposed of on the Appellate Side. Similarly, in the Original Side table, I have included Appeals from the Original Side as disposed of in Calcutta on that Side of the Court.

Nature of cases.	1877.		1878.		1879.		1880.	
	Calcutta, * 9½ Judges.	Madras, ** 2½ Judges.	Calcutta, † 9½ Judges.	Madras, ‡ 2½ Judges.	Calcutta, § 9½ Judges.	Madras, 3½ Judges.	Calcutta, ¶ 9½ Judges.	Madras, ‖ 3½ Judges.
First Appeals from Decrees	294	139	431	90	289	107	356	151
Appeals from the Original Side	...	21	...	25	...	17	...	29
Second Appeals from Decrees	3,731	709	2,951	663	1,941	632	2,245	793
First Appeals from Orders	254	118	220	76	206	79	252	128
Second Appeals from Orders	135	132	100	16	138	142	174	45
References under Act XI of 1863	10	17	...	...	...	...	...	...
Appeals under the Letters Patent	153	...	152	...	31	...	55	25
References to Full Bench	11	...	11	...	4	...	16	...
Applications for review	7	...	10	81	45	31	33	54
Special cases referred by Presidency Small Cause Court	...	2	...	1	...	...	...	...
References under Section 617 from Small Cause Courts	...	...	21	23	22	22	21	16
Criminal cases	1,130	1,173	1,267	1,043	1,289	916	1,494	1,407
Total	5,725	2,179	5,195	2,002	3,927	1,858	4,614	2,822

- * See Bengal High Court Administration Report for 1877, p. 77.
- ** See Madras do do do. 1878, p. 57.
- † See Bengal do do do. pp. 7 and 8.
- ‡ See Madras do do do.
- § See table at foot, p. 19, Bengal High Court Administration Report for 1880.
- || See Madras High Court Administration Report for 1879, p. 5.
- ¶ See Bengal (Civil) for 1880, p. 63.
- ‖ See Madras do do do. pp. 5 and 6.
- a. This figure is wrongly printed as 3371 at the foot of page 19 of the Bengal High Court Administration Report for 1880.
- b. This is wrongly omitted in do.
- c. This figure appears as 1139; but the details given in the first table at page 51 cover 1067 only. Add to this 63 references under Section 237, Criminal Procedure Code, which are given at page 12 of the Criminal Report for the same year, but which are somehow omitted from the said table; and the total is 1130.
- d. See details in the next table.
- e. This figure is wrongly printed as 437 at page 19 of the report for 1880.
- f. Do. do. as 2963 do. do.
- g. Do. do. as 61 do. do.
- h. The figure 1272 given at p. 19 of the report for 1880 includes 5 cases not under any of the Sections given in the next table.
- i. The figure 1318 given at do. includes 29 cases not under any of the Sections given in the next table.
- j. The figure 37 given at do. includes 16 references other than under Section 617, Civil Procedure Code.
- k. The figure 1532 at do. includes 34 cases not under any of the Sections given in the next table.
- l. These are under Section 622, Civil Procedure Code.

1881		1882		1883		1884		1885	
Calc.	Mad.	Calc.	Mad.	Calc.	Mad.	Calc.	Mad.	Calc.	Mad.
9½	3½	10½	3½	8½	3½	9½	3½	11½	3½
327	118	417	145	283	158	341	207	406	119
42	22	27	21	22	21	22	21	22	22
2617	769	3285	973	1856	1283	2260	1293	4557	1054
223	113	204	147	263	174	272	165	268	164
134	81	155	48	134	53	150	64	170	37
162	223	427	530	441	441	441	441	441	441
103	24	109	18	21	17	20	38	47	22
8	7	15	17	2	11	11	20	20	20
75	49	46	60	57	86	24	136	35	90
25	24	34	20	15	22	11	19	10	16
1493	1206	1405	1432	1377	1558	1492	1408	1709	1301
5005	2588	5662	3088	4021	3769	4572	3885	7213	3286

12. The Criminal Appellate work shown in the foregoing table is detailed below according to its nature.

B.

Nature of cases.	1877.		1878.		1879.		1880.	
	Calcutta. *	Madras	Calcutta. †	Madras.	Calcutta. §	Madras.	Calcutta. ‡	Madras.
Under Sec. 271, Cr. P. C.	678	a 821	697	d 668	738	f 482	853	h 703
272...	2	b 3	2	e 3	5	f 3	1	h 8
263...	22	b 2	27	e 2	15	f 4	23	h 7
287...	63	c 96	61	e 85	60	g 73	70	i 83
294 & 297...	365	c 52	253	e 45	282	c 80	320	i 82
296 & 297...		c 199	227	e 240	189	c 106 g 163	222	i 175 i 349
	1,130	1,173	1,267	1,043	1,289	916	1,494	1,407

13. The following table C shows the annual amount of work per Judge in the four years, 1877, 1878, 1879 and 1880, in the three items, First appeals from Decrees, Second appeals from Decrees, and Criminal cases, calculated upon the number of Judges available in each year in each High Court on the Appellate Side, and the average annual amount per Judge.

14. The total amount of work performed in these three items per Judge per annum was—Calcutta 459, to Madras 687½.

C.

YEAR.	First Appeals from Decrees.		Second Appeals from Decrees.		Criminal Cases.	
	Calcutta.	Madras.	Calcutta.	Madras.	Calcutta.	Madras.
1877	31	65	396	289	120	479
1878	45	43	308	245	132	386
1879	31	40	210	204	139	295
1880	37	53	232	233	155	414
Total...	144	201	1,146	971	546	1,574
Rate per Judge, annually...	36	50½	286½	242½	136½	393½
1881	35	47	280	226	160	355
1882	41	49	323½	286	138	421
1883	32	54	210	363	156	457
1884	37	67	249	380	164	412
1885	36	41	393	310	148	383
	36½	49½	291½	247	140½	391½

3.6 37
393 144
148 164
577 155
41 67
310 382
383 112
734 857

table A in the four years, 1877, 1878, 1879 and 1880, the average annual amount

- a. See 1st table at p. 81, Bengal High Court Administration Report (Civil) for 1877, and page 12, do. (Criminal) for do.
- b. See table at p. 57, do. (Civil) for 1878.
- c. See table at p. 41, do. (Criminal) for 1879, and p. 33, Assam do.
- d. See table at p. 51, do. (Criminal) for 1880, and p. 31, Assam do. for do.
- e. See Madras High Court Administration Report, 1877, p. 21.
- f. Do do do do p. 8.
- g. Compiled from the Registrar's Office, Madras High Court, not being given in the Administration Report.
- h. See Madras High Court Administration Report 1878, p. 23.
- i. Do do do do 10.
- j. Do do do do pp. 6 & 23.
- k. Do do do do 23.
- l. Do do do do 10.
- m. Do do do do 11.
- n. Do do do do 12.

per Judge in these four years, calculated upon the number of Judges available in each year in each High Court on the Appellate Side.

YEAR.	CALCUTTA.			MADRAS.		
	No. of Judges.	Cases.	Rate per Judge.	No. of Judges.	Cases.	Rate per Judge.
1877...	9 $\frac{1}{2}$	5,725	608	2 $\frac{3}{4}$	2,179	889
1878...	9 $\frac{1}{2}$	5,195	542	2 $\frac{1}{4}$	2,002	741
1879...	9 $\frac{1}{2}$	3,927	424	3 $\frac{1}{4}$	1,858	599
1880...	9 $\frac{1}{2}$	4,614	477	3 $\frac{1}{2}$	2,822	830
Total...	...	19,461	2,051	...	8,861	3,059
Average per annum. ...	9 $\frac{2}{3}$	4,865 $\frac{1}{2}$	512 $\frac{1}{2}$	2 $\frac{3}{4}$	2,215 $\frac{1}{2}$	764 $\frac{1}{2}$
1881	9 $\frac{1}{3}$	5005	536	3 $\frac{2}{5}$	2588	762
	10 $\frac{1}{8}$	5662	537	3 $\frac{2}{5}$	3088	908
1882		30128	3144	-	14537	4729
Total	9 $\frac{1}{2}$	5021	524	3 $\frac{2}{5}$	2423	788
1883	8 $\frac{5}{6}$	4021	455	3 $\frac{2}{5}$	3769	1108
1884	9 $\frac{1}{2}$	4572	503	3 $\frac{2}{5}$	3885	1142
1885	11 $\frac{7}{12}$	7213	623	3 $\frac{2}{5}$	3286	966
Total		15806	1581			13218
average per annum			516			1072

Judgments of all the District and Magistrate throughout the country come

before the High Court for revision. In 1879 and 1880, the following work of this description was disposed of by the Madras High Court.

Judgments revised by the High Court.	1879. a	1880. b
Relating to Sessions trials	1,764	1,637
Do. trials by Magistrates of 1st Class	13,593	1,571
Do. Appeal Statements in cases on Appeal to Sessions Judges and 1st Class Magistrates	3,209	1,932

21. The High Court endeavoured in 1875 to revise the work of the 2nd and 3rd Class Magistrates as well as of those of the 1st Class; but the amount of work thus thrown upon the Court it was found impossible to overtake. Revision by the High Court was therefore from 1876 limited to the work of the 1st Class Magistrates and Sessions Judges; and in 1880 further limited to the work of District and Joint Magistrates and Sessions Judges. The ordinary Appellate and Revision Criminal work disposed of by the High Court as detailed in Table B has been shown to be, on the average of the work devolving on each Judge, largely in excess of that disposed of in the High Court of Bengal.

22. This work is of a very laborious and responsible character, and occupies a large amount of the time at the disposal of the Judges. It has been shown that the proportion of Civil Appellate work disposed of by the Madras High Court more than equals that of the High Court of Bengal, and that the proportion of Criminal work disposed of by the Madras High Court is far greater than the proportion of work disposed of by that of Bengal. The Madras High Court, notwithstanding the exertions of its Judges, cannot overtake the ordinary income of work. Its Judges are over-taxed, and unfairly so, as will presently be shown. It may be suggested that the cases in Madras are of an insignificant character compared with those of Bengal. The average value of suits on the Original Side of the Madras High Court in 1879, excluding those to which no money value can be assigned, was 7,167 Rupees per suit to 6,144 in Bengal. But, in 1880, the average value in Madras was less than that in Calcutta, the figures being 5,409 per suit in Calcutta to 4,623 in Madras. The number of suits, however, in both Courts, that cannot be valued, is large, and it is impossible to determine the relative importance of the suits filed in each Court in this respect.

23. For some years, Madras has been practically without a Reporter, so that the importance of the litigation coming before the Madras High Court has been kept out of sight. The present Chief Justice testifies to the far greater difficulty and complexity of the suits on the Appellate Side in Madras, as compared with those of the North-western Provinces, and there is no doubt that a comparison, in point of value, of our land suits with those of Bengal, Bombay and the North-western Provinces is prejudiced by the artificial mode of valuation for jurisdiction prescribed by the old Madras Regulations and to a great extent continued in force by the Madras Civil Courts Act. This has the effect of much understating the real value. From the reports of the two Courts, however, it will be seen that the character of the litigation is much the same, and that the questions which give rise to difficulties are precisely the same in both the Bengal and Madras High Courts.

24. The question is, however, not so much what is the importance of the suits, as what judicial strength is required to dispose of them in reasonable time so as to avoid over-taxing the Judges. A suit of very slight importance in a pecuniary point of view very frequently involves highly-important questions of right, and suits in themselves unimportant are often very hotly contested. It is quite obvious that the High Court of Madras, in proportion to its strength of Judges, gets through far more work than that of Calcutta, but it is only at the expense of an amount of application on the part of the Judges that cannot fairly be exacted from them.

25. They have absolutely no leisure whatever, and are obliged to occupy much of the vacation and all holidays, including the whole of Sunday, in the prosecution of their work. They have no time for the proper consideration of difficult questions—no leisure for reading of any kind, not even the reports—none even for recreation or for social relaxation. No Judge can be at his best, if he has not the advantage of intermittent periods of relaxation, or is unable to read up the reports. It could never of course have been intended that Her Majesty's Judges should be deprived of the leisure accorded to all other Public Officers.

26. The work of the Court is, in many respects, of an emergent character, and must be done, and the Judges, i. e., the Puisne Judges, are allowed no voice in the determination of the number of Judges required to do it. The Puisne Judges remonstrated strongly in 1877 at the Court being reduced to four Judges, basing their remonstrance upon statistics similar to those now adduced, but the Government of India and the Madras Government were guided by the opinion of Sir Walter Morgan that four Judges were sufficient. Sir Walter only surrendered his opinion in the middle of 1878, when the opportunity offered of appointing a native Judge. No change of circumstances in the Court warranted that change of opinion. The work has since increased very largely and could scarcely be kept down with one additional Judge; but still swayed by Sir Walter Morgan's opinion, the Government of India have offered opposition to the confirmation of the native Judge, notwithstanding that his appointment has been recommended by the Chief Justice on the ground that a fifth Judge is absolutely necessary, and the recommendation was strongly backed by the Duke of Buckingham. The confirmation of the native Judge would, of course, not now add to the strength of the Court, and the refusal to confirm him is only referred to as showing the influence which Sir Walter Morgan's opinion has had and still has upon the Government of India—an opinion which is every day shown to be ill-founded by the extent to which the Court, notwithstanding the services of the fifth Judge, is overwhelmed with work which cannot be performed and much of which is important correspondence that is put aside and left untouched for months. Some of this consists of Proceedings of the Government of India and the Madras Government, in which the opinions of the Judges are called for. There is much of the administrative work of the Court (such as work connected with the framing of rules on the introduction of new legislation), which is practically abandoned, because the Judges, from the incessancy of their sittings in Court, have no time to meet for the discussion required to enable them to dispose of it: as in the case of the Destruction of Records Act, the Legal Practitioners Act, and several other like matters.

27. A comparison of the Madras High Court with the Bombay High Court seems scarcely necessary, because the work of the latter per Judge is, beyond all question, so very much less than that of Madras. As, however, this may not be at once apparent, a comparison for two years, 1879 and 1880, will now be entered upon.

28. The following table shows the amount of work disposed of on the Original Side of the Bombay and Madras High Courts in 1879 and 1880.

Nature of cases.	1879.		1880.	
	Bombay.	Madras.	Bombay.	Madras.
Insolvency	* 786	125	** 578	113
Suits	a * 757	b 766	c ** 693	d 659
Original Side Appeals (Bombay)...	+ 29	...	++ 22	...
Sessions	† 76	68	†† 27	23
Total...	1,618	959	1,320	830

29. The number of contested suits was, it will be seen from the foot-notes, considerably greater in Madras than in Bombay.

30. The total for the two years for Bombay will be 2,968, and the total for Madras for the same period will be 1,789.

31. I have included the Appeals from decisions on the Original Side in Bombay as Original Side work, because these Appeals are disposed of on that side of the Court.

32. It is ascertained that three Judges are appropriated to the work on the Original Side, Bombay.

2,968 : 3 :: 1,789 : 1½.

1½ Judges would therefore be the proportion in Madras. The proportion employed, however, on the Original Side in the Madras High Court, is only 1½.

33. The following table shows the amount of the principal work disposed of on the Appellate Side of the Madras and Bombay High Courts in 1879 and 1880.

Nature of cases.	1879.		1880.	
	Bombay.	Madras.	Bombay.	Madras.
First Appeals from Decrees	§ 47	107	§§ 50	151
Appeals from Original Side (Madras)	—	17	—	29
Second Appeals from Decrees	§ 474	632	§§ 414	793
First Appeals from Orders	§ { 44 }	79	§ { 61 }	128
Second Appeals from Orders	—	16	—	45
Criminal cases	1,025	1,349	1,156	1,774
Total ...	1,590	2,233	1,712	3,201

a. Of these, 119 were contested.
 c. Of these, 143 were contested. Of the 63 which appear from Note (j) at p. 27 to have been included, it is not known how many were contested.
 d. Of these, 252 were contested.

3. Of these, 164 were contested.
 * See Bombay High Court Administration Report (Civil) for 1879, Judicial Statement E (3), p. 26.
 † See Do.
 ‡ See Do. (Criminal) for do., Judicial Statement C (3), Col. 17, Note (d), p. 27.
 § See Do. (Civil) for 1880, Judicial Statement E (3), p. 27.
 †† See Do. do. E (4), p. 23.
 ‡† See Do. (Criminal) do., p. 10. "The number 75 appearing in Col. 20 at p. 19 is erroneous. It is evidently reproduced from the preceding year's report."

§ See Do. (Civil) for 1879, p. 16, and Note c., p. 27.
 ¶ Under Section 622, Civil Procedure Code.
 || See details in the next table.

34. The following gives the details of Criminal cases, Madras and Bombay, in 1879 and 1880. For want of information in the Bombay reports as to the number of cases disposed of under some of the heads, the number of persons concerned is here given under such heads.

Nature of cases.	1879.		1880.	
	Bombay.	Madras.	Bombay.	Madras.
Under Section 271, Cr. P. C.	a 654 (per-sons)	g 1017 (per-sons)	c 589 (per-sons)	i 966 (per-sons)
272			d 11 (per-sons)	31
263				15
287	b 48	g 73	e 50	j 83
291 & 297	a 97 (per-sons)	h 91 (per-sons)	e 165	k 175
	*	*	f 110 (per-sons)	l 262 (per-sons)
296 & 297	b 226	g 163	e 231	j 349
Total	1,025	1,349	1,156	1,881

35. For the 2 years, therefore, we have the result
 Bombay 2,181 } Items of Criminal work.
 Madras 3,230 }

In the whole, Bombay disposed of 3,302 items of work, and Madras 5,439.

Deducting the Criminal work, Bombay disposed of 1,121 Civil Appellate cases, and Madras 2,209, or per annum, Bombay 560½ and Madras 1,104½.

Bombay had, in each of these years, 4 Judges available for the Appellate Side. Madras had, on the average for the two years, 3½ Judges.

Bombay did per Judge per annum 140½ } Civil Appellate work.
 Madras " " 340 }

Bombay disposed of, on an average per annum, 1,090½ items of Criminal work, and Madras 1,615.

Bombay disposed of per Judge 272½.

Madras " 497.

In the whole, Bombay disposed of per annum 1,651 items of work, and Madras 2,719½, and Bombay therefore disposed of 412½ per Judge per annum, and

Madras " 837 do.

or more than 100 per cent in excess of Bombay.

36. Notwithstanding the exertions of the Madras Judges, there are now pending at the end of

		at the end of			
		1880	...	...	1879
on 21st November 1881	First Appeals	167	136	...	117
	Second Appeals	596	375	...	270
	Miscellaneous Appeals ...	67	80	...	54
	Cases under Section 622 ...	63	35	...	21
	Total ...	893	626	...	462
		53	84	...	42
		946	710	...	504

as against

a. See Bombay Administration Report (Criminal) for 1879, p. 38.
 b. Do. do. do. 1880, p. 24.
 c. Do. do. do. para 43, p. 10.
 d. Do. do. do. Col. 21, p. 18.
 e. Do. do. do. p. 30.
 f. Do. do. for 1879, p. 23.
 g. See Madras do. do. p. 24.
 h. Do. do. 1880, table at p. 10.
 i. Do. do. do. p. 11.
 j. Do. do. do. p. 12.
 k. Do. do. do. p. 12.
 l. Compiled from the Registrar's Office, Madras High Court, not being separately given in the report.
 m. Information does not appear in either report.

37. The work done is as follows.

up to 21st November 1881

First Appeals ...	155
Second Appeals ...	636
Miscellaneous Appeals ...	208
Cases under Section 622...	127

Total ... 1,126

Criminal Appeals ... 459

Total ... 1,585

as against

up to 21st November 1880.

154
755
162
166
1237
576
1813

38. The number of Appeals filed is

up to 21st November 1881.

First Appeals ...	177
Second Appeals ...	896
Miscellaneous Appeals ...	179
Cases under Section 622 ...	154

Total ... 1406

Criminal Appeals ... 431

Total... 1840

as against

up to 21st November 1880.

169
738
171
166
1214
674
1918

39. It seems quite obvious that the existing strength of the Judges cannot cope with the work.

APPENDIX I.

1877.

In Calcutta:—Number of Judges present throughout the year was 11½, or 9 on Appellate Side.

Madras, deducting the strength required for the Original Side, had only 2½ Judges on the Appellate Side.

January	1 to 15...	5
	16 to 31...	5
February	1 to 14...	4
	15 to 28...	4
March	1 to 15...	4
	16 to 31...	4
April	1 to 15...	5
	16 to 30...	4
July	1 to 15...	3
	16 to 31...	4
August	1 to 15...	3
	16 to 31...	4
September	1 to 15...	4
	16 to 30...	4
October	1 to 15...	4
	16 to 31...	4
November	1 to 15...	4
	16 to 30...	4
December	1 to 15...	4
	16 to 31...	4

Mr. Justice Kernan absent.

13th July, Busteed, J. appointed to act.

Sir Walter Morgan went on leave.
Tarrant, J. appointed.

Sir Walter returned.

in 20 half months, excluding the vacation of } 81 Judges } = 4½ Judges continuously present, and 1½ being deducted for the Original Side, there remained two months

2½ Judges available for the Appellate Side.

APPENDIX II.

1878.

The Judicial strength of the Madras High Court in this year was as follows:—

January	1 to 15...	3
	16 to 31...	3
February	1 to 14...	3
	15 to 28...	3
March	1 to 15...	4
	16 to 31...	4
April	1 to 15...	4
	16 to 30...	4
May	} Vacation.	
June	1 to 15...	4
July	16 to 31...	5

Muttusami Aiyar, J. took his seat on 17th July.

Kindersley, J. went on leave, 5th. Forbes J. acted from 10th.

August	1 to 15...	5
	16 to 31...	5
September	1 to 15...	5
	16 to 30...	5

12		
October	1 to 15...	4
Sir Walter Morgan absent from 5th October to 9th November.		
	16 to 31...	5
November	1 to 15...	5
	16 to 30...	5
December	1 to 15...	5
	16 to 31...	5

20 86

$4\frac{1}{2}$ Say $4\frac{1}{2}$ Judges.
 $1\frac{1}{2}$ Deduct for Original Side.

$2\frac{1}{2}$ Available for the Appellate Side.

The Calcutta High Court had $9\frac{1}{2}$ available for the Appellate Side.

APPENDIX III.

1879.

The numerical strength of the Madras High Court in this year was $4\frac{1}{2}$ Judges, or $3\frac{1}{2}$ available for the Appellate Side. The Calcutta High Court in the same period had $9\frac{1}{2}$ Judges available for the Appellate Side.

Although 5 Judges was the proper complement of the Madras High Court in 1879, the strength of the Court was seriously diminished by 2 causes: Sir Walter Morgan, who retired on the 31st January, did not attend Court or assist the Court in any way during that month. Sir Charles Turner did not take up his appointment as Chief Justice till the 8th February and was absent at Simla on the Law Commission during May, June, July and August. May and June were vacation months; but from the causes just mentioned, during 3 months of the year the Court had only 4 Judges.

January	...	...	4
February	...	...	5
March	...	...	5
April	...	...	5
July	...	...	4
August	...	...	4
September	...	...	5
October	...	...	5
November	...	...	5
December	...	...	5

47 during 10 months, or $4\frac{1}{2}$ continuously, on the average throughout the year.

Deducting $1\frac{1}{2}$ for the Original Side, there remained $3\frac{1}{2}$ available for the Appellate Side.

Work of the High Court, Original Side, for 1881, 1882 & 1883.

	Suits	Executions	Insolvency	Miscellaneous Cases	References	Sessions
Pending at the end of 1880	246	39	93	32	39	1
Received during the year 1881	508	272	138	1800	15	69
Total for disposal in 1881	754	311	231	1832	54	70
Disposed of in 1881	523	278	163	1787	17	69
Pending at the end of 1881	221	33	68	45	37	1
Received during the year 1882	415	213	166	1557	12	69
Total for disposal in 1882	636	246	234	1602	49	70
Disposed of in 1882	370	162	169	1541	12	69
Pending at the end of 1882	266	84	65	61	37	1
Received during the year 1883	407	176	186	1569	2	74
Total for disposal in 1883	673	260	251	1630	29	75
Disposed of in 1883	327	144	144	1547	22	75
Pending at the end of 1883	246	107	107	83	7	

During absence of Sir Walter Morgan for 1883 shown only 27 as pending.

No. 3,697.

In supersession of the Consolidated Rules framed under Section 292, Clause 3, of the Code of Criminal Procedure, 1872, dated the 8th November 1881 and the 27th March 1882, the High Court has, with the previous sanction of the Local Government, framed the following Rules, with effect from the 1st January 1885.

Sessions Courts.

Indian Penal Code.	
Chapter VI.	Offences against the State.
" VII.	Offences relating to the Army and Navy.
" X.	Contempts of the lawful authority of Public Servants.
" XI.	False evidence and offences against Public Justice.
" XII.	Offences relating to Coin and Government Stamps.
" XVI.	Offences affecting life; Causing Mischance, &c., Hurt, Sections 327 to 333; Kidnapping and Rape.
" XVII.	Offences against Property, Sections 382, 386 to 389, 395 to 402, 409, 412, 413, 450, 459 and 460.
" XVIII.	Offences relating to Documents and to Trade or Property-marks.
" XX.	Offences relating to Marriage.
Chapters V & XXIII.	Abetments and Attempts, as in the case of the offences abetted or attempted.

All offences on conviction of which the double punishment of imprisonment and whipping has been adjudged.

1. Courts of Session shall transmit to the High Court copies of all Judgments relating to the offences noted in the margin within 8 days following the date of pronouncing Judgment in each case.

2. The Judgment in original decisions shall be in the form prescribed by the Code of Criminal Procedure, Section 367 (*vide* High Court's Proceedings, dated 19th August 1878, No 1,275) with a foot-note or side-note in tabular form giving in addition the following particulars, viz.

For Judgments in Trials.

Serial Number.	DESCRIPTION OF ACCUSED.						DATE OF					
	Name.	Father's name.	Caste or Race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Commencement of trial.	Close of trial.	Explanation of delay.
1	2						3					

3. In regard to trials for offences other than those above enumerated as offences in which Judgments should be submitted, the particulars entered in the monthly Sessions Statement A will ordinarily suffice. If it is thought desirable in any case to give information in full, the Judgment itself should be submitted with the statement.

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" - 370

District Magistrates.

Indian Penal Code.

- Chapter VI. Offences against the State.
 " VII. Offences relating to the Army and Navy.
 " VIII. Offences against the Public Tranquillity, Section 152.
 " IX. Offences by or relating to public servants, Sections 161 to 171.
 " X. Contempts of the lawful authority of public servants, Sections 176, 177, 181.
 " XI. False evidence and offences against Public Justice.
 " XII. Offences relating to Coin and Government Stamps.
 " XV. Offences relating to Religion.
 " XVI. Offences affecting the Human Body, Sections 301 A, 318, 321, 325, 332, 335, 344 to 348, 363, 372, 373 and 374.
 " XVII. Offences against property, Sections 384, 385, 392 to 394, 413 to 420, 429 to 432.
 " XVIII. Offences relating to Documents and to Trade or Property-marks.
 " XX. Offences relating to Marriage, Section 498.
 " XXI. Defamation.
 " XXII. Criminal Intimidation, &c., Sections 506 and 507.
 Chapters V & XXIII. Abetments and Attempts to commit offences as in the case of the offences abetted or attempted.
 All offences on conviction of which the double punishment of imprisonment and whipping has been adjudged.

6. In regard to trials for offences other than those above enumerated as offences in which Judgments should be submitted by District Magistrates, they shall in each case forward to the High Court, within the same period as that prescribed for Judgments, a tabular statement in the following form, omitting any detailed narrative of circumstances and grounds of decision. If it is thought desirable in any case to give such information in full, the Judgment itself should be submitted.

Serial Number.	Description of accused.					Offence complained of.	Result of trial.	Date of offence.	Duration of proceedings.			Explanation of delay.	Remarks.
	Name.	Father's name.	Caste.	Calling.	Ago.				Date of report or complaint.	Date of commencing trial.	Date of sentence or order.		
1	2					3	4	5	6			7	8
Explanation.—													
Col. 2. These particulars are required to facilitate identification in case of further convictions.													
" 8. Here should be entered particulars of previous convictions, if any.													

Sessions Courts & District Magistrates.

7. Courts of Session and District Magistrates shall, within five days from the close of each month, transmit to the High Court copies of all Judgments delivered by them as a Court of Criminal Appeal during the course of that month.

The Judgment in Appeal shall set out in the form of head notes,—

From what Court the Appeal is preferred.

Number of the case in that Court.

Number of the Appeal.

Name and description of the Appellant.

The sentence and law under which it was imposed in the Lower Court.

Whether confirmed, modified or reversed.

If modified, the modification and, where the Judgment appealed against is reversed or modified, the reasons for the decision of the Appellate Court, should be stated.

In cases in which an Appeal is rejected under Section 421 of the Code of Criminal Procedure, the Judgment shall contain a statement (if the fact be so), that the Court has perused the petition of appeal and a copy of the Judgment or Order appealed against and has heard the Appellant, his counsel, vakil, or agent, as the case may be, if they appeared, or if the fact be so, that the Appellant was called on the date fixed and did not appear either in person or by counsel, vakil, or agent.

In a foot or side-note, the following particulars should be given in a tabular form :—

For Judgments in appeal.

DATE OF					
Presentation.	Filing.	Notice issued by Court to appear.	On which Appellant ordered to appear.	Hearing.	Order.

Sub-divisional and 1st Class Magistrates.

8. All Sub-divisional and 1st Class Magistrates shall send in to their District Magistrates copies of all Judgments (including extracts from Registers of Summary Trials) in the form prescribed by the Code of Criminal Procedure, Section 367, (vide High Court's Proceedings dated 19th August 1878, No. 1,275) and copies of all Proceedings held by them under Chapters VIII, X, XI, XII, and XXXVI, of the Code of Criminal Procedure, within two days from the passing of the Judgment or Order. Judgments submitted under this rule, excepting Judgments in summary trials, shall be accompanied by the information given in the tabular form prescribed above in Rule 2 (Sessions Courts).

9. All such Magistrates who are empowered under Section 497 of the Code of Criminal Procedure to hear Appeals from the sentences of 2nd and 3rd Class Magistrates shall, within the same period as that prescribed in Rule 8, transmit to the District Magistrate copies of the Appellate Judgments recorded by them. The rules prescribed above in Rule 7 as to the form and contents of Appellate Judgments shall apply also to these Appellate Judgments.

10. The District Magistrate will forward the Judgments and Orders he receives under Rules 8 and 9, with the least possible delay, to the Session Judge, excepting those which he himself refers to the High Court.

11. It will be the duty of the Session Judges carefully to peruse the Judgments and orders of the Sub-divisional and 1st Class Magistrates so submitted to them and to report to the High Court without delay any case which in their opinion calls for revision, or any doubtful case. They will not themselves issue proceedings criticizing those of the Magistracy, except on appeal.

12. District Magistrates should comply with all requisitions for records, returns and information made by Session Judges with regard to any case referable by them to the High Court. They should also render any explanation which Session Judges may require from them or from Subordinate Magistrates in such cases.

2nd and 3rd Class Magistrates.

13. All 2nd and 3rd Class Magistrates will submit to the District Magistrate, through the Sub-divisional Magistrate, a Calendar Statement of each case tried by them in the following form:—

Serial Number.	Name of Complainant.	Description of accused.					Offence complained of.	Result of trial.	Date of offence.	Duration of proceedings.			Explanation of delay.	Remarks.
		Name.	Father's name.	Caste.	Calling.	Age.				Residence.	Date of report or complaint.	Date of commencing trial.		
1	2	3					4	5	6	7			8	9

Col. 3. **Explanations.**—
 These particulars are required to facilitate identification in case of further convictions.
 5. Here should be entered as the case may be—
 Discharged under Section 253.
 Acquitted under Section 258.
 Convicted and sentenced to—months' rigorous imprisonment, &c.
 This column provides for no statement of grounds of conviction, &c., the reason being that a judgment is to accompany the Calendar Statement in the case of the petty offences noted in rule 15 below.
 9. Here should be entered particulars of previous convictions, if any.

14. Such Calendar Statement shall be submitted to the District Magistrates by the 2nd and 3rd Class Magistrates so as to reach the office of the Sub-divisional Magistrate within two

days from the close of the proceedings, and the Sub-divisional Magistrates must be responsible for their not being unduly delayed in their offices. It is not intended to relieve the Sub-divisional Magistrates of the supervision they exercise over the 2nd and 3rd Class Magistrates in their respective divisions. The Code of Criminal Procedure declares all Magistrates subordinate to the Magistrate of the District. He is responsible for the supervision of their magisterial work. But Sub-divisional Magistrates must as heretofore supervise the work of the Sub-Magistrates within their respective divisions and report to the Magistrate of the District any instances in which they consider there is error in the proceedings of the Sub-Magistrates.

*Offences coming within Sections 277, 278, 279, 285, 286, 289, 290, 323, 334, 336, 341, and 352 of the Indian Penal Code; any offence against Municipal Acts and the conservancy clauses of Police Acts, punishable with fine or with imprisonment not exceeding one month.

15. Except in the case of the offences noted in the margin,* a judgment in the form prescribed by the Code of Criminal Procedure, Section 367 (*vide* High Court's Proceedings dated 19th August 1878, No. 1,275) should accompany the Calendar Statement.

16. District Magistrates will refer direct to the High Court, without delay, any case which has been reported to them under rule 14 for revision or which, in their opinion, calls for revision.

17. Some of the points to which the attention of Session Judges and District Magistrates should be particularly directed in the exercise of their powers of supervision are noted below:—

- The rash issue of process.
- The dealing with disputed claims of right under colour of a charge of criminal trespass or mischief, and convictions held of the former offence without a finding as to the criminal intent.
- The indiscreet imposition of fines beyond the means of offenders.
- The light punishment by inferior Courts, of offences requiring severe sentences in cases which ought to have gone up to a superior Court for enhanced punishment.
- The imposition of heavy fines in addition to imprisonment with a view in default of payment to extend the term of imprisonment beyond the ordinary powers of the Magistrate to inflict.
- The exaction of excessive bail or excessive security for keeping the peace or for good behaviour.
- Unnecessary delay in the trial of cases.

(True Extract)

HIGH COURT OF JUDICATURE,
MADRAS, 17th December 1884.

J. A. DAVIES,
Ag. Registrar,
Appellate Side.

To

The Sessions Judge of
Magistrate of

with spare copies for all
Magistrates.

Enclosure to the
High Court's letter
of 22nd January 1887
N^o 128.

N^o 128.

High Court of Judicature,
Madras, 22 January 1887.

From H. J. Ross, Esquire,
Registrar of the High Court of
Judicature at Madras.

To The Honorable H. E. Stokes,
Acting Chief Secretary to
Government,
Fort Saint George.

Sir,

As requested in G.O., 1st
December 1886, N^o 3207, Judicial,
I am directed to submit the
remarks of the Honorable the
Judges on certain points raised
in the Secretary of State's
dispatch, N^o 38, dated 16 Sep-
tember 1886 to the Government
of India.

2. In para. 4, the Secretary
of State takes exception to
a statement made by the
Government of Madras that
the numbers of Civil and
Criminal appeals instituted
in

in the High Court in 1884 exceed the corresponding numbers for 1875 by 87.46 per cent, and 90.73 per cent, respectively. These percentages are arrived at on the basis of the figures

in the margin which are correct. The Secretary of State, however, by excluding Civil Revision petitions, references and Criminal Revision Cases, as in his opinion not falling properly within the category of appeals, concludes that the figures indicate no very substantial increase in the appellate business of the Court.

Civil Institutions		1875	1884
First Appeals from Decrees	—	149	145
Letters Patent Appeals	—		39
Second Appeals from Decrees	—	727	1041
First & Second Appeals from Orders	—	127	181
Civil Revision Petitions	—	1	523
References	—	41	30
Total	—	1045	1959
Criminal			
Appeals	—	499	516
Referred Trials	—	70	63
Revision Cases	—	154	800
Total	—	723	1379

3. This conclusion appears to be based on a misapprehension as to the nature of the cases falling under the heads to which exception is taken. The Honorable the Judges cannot admit that

that Civil revision petitions, references and Criminal Revision cases should be excluded from the returns of appellate work.

4. Civil revision petitions are cases under Section 622 of the Civil Procedure Code. References are made under Section 617 of the same Code, under Section 17 of Act IV of 1869, under Section 46 of Act I of 1879, under Section 39 of Act V of 1882, under Section 193 of Act I of 1884, under Clause 3, Section 7 of Regulation I of 1804, under Clause 2, Section 6 of Regulation XI of 1816, and they include special cases under Section 69 of Act VI of 1882. All these are proceedings regularly heard in Court. They frequently involve difficult questions, and are argued at length. Considering the time and trouble they require, they are practically on the same footing as second appeals.

5. Criminal Revision Cases include those referred by Presidency Magistrates, under Section 432, those taken up by the High Court, under Section 435 (on perusal of Calendars) those reported under Section 438, and those instituted by petition of parties under Section 439 of the Criminal Procedure Code. These, as in the case of Civil revision petitions and references, are proceedings heard in Court, and frequently involve questions of law calling for decision by Benches of two Judges, and sometimes by a Full Bench.

6. It cannot be made too clear that the figures to which the Secretary of State takes exception refer to cases bona fide heard in the appellate Court, and

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and not to miscellaneous work performed by the Honorable the Judges in their rooms. The figures do not even include miscellaneous petitions, such as applications to suspend sentences, to admit accused persons to bail, to transfer trials, and the like, though these are also heard in Court. The effect of the figures given is, therefore, rather to understate, than otherwise, the appellate business of the High Court.

7. From para. 7, of the Secretary of State's despatch it appears that in the matter of criminal revision cases especially, a serious misconception has arisen. The correspondence quoted in the margin of that paragraph had reference to the unusual amount of time devoted by the Madras High Court to the perusal of calendars and judgments.

of Sessions Courts and 1st Class Magistrates, and, owing probably to the use of the word 'revision' in both cases, it appears to be the impression of the Secretary of State that the returns of Criminal revision cases represent the number of calendars perused; which, it will now be understood, find no place in the figures to which Lord Cross takes exception.

8. In my letter, No. 1748, dated 9 May 1883, quoted in para. 3 of letter No. 1334 (Judicial) dated 18 May 1883 from ^{the Government of Madras} the Government of India, the Honorable the Judges stated that they would bear in mind the suggestions of the Government of India for the reduction of criminal revisional work in perusing calendars and judgments of subordinate Courts.

AT

13
4 P
At that time, it was the practice of the High Court to supervise, in this manner, the proceedings of all 1st Class Magistrates, as well as Sessions Judges. But in December 1884, new rules were issued, with effect from 1st January 1885, whereby revision was restricted to certain classes of cases tried by Sessions Judges and District Magistrates only. I am directed to enclose a copy of the rules of 17th December 1884, and to state that in the opinion of the Honorable the Judges this branch of the revisional work of the High Court has now been reduced to the lowest point compatible with the efficient discharge of their duties of supervision.

9. Notwithstanding the relief derived from this reduction of revisional work, the appellate business proper of the High Court has continued to increase to such an extent as.

as to render the appointment of a 6th Judge a matter of pressing necessity. In para. 8 of the Secretary of State's despatch, it is stated, that the question of transferring a portion of the original jurisdiction to the Presidency Court of Small Causes is not yet ripe for decision. The proposal was communicated in my letter No. 585 dated 27 February 1885, but I am to state that the Honorable the Judges have always felt grave doubts if the contemplated transfer of jurisdiction would afford material relief, and I am to record His Excellency in Council that this alternative, offered in the desire to obviate the necessity of appointing a 6th Judge, was looked upon merely as an experiment the success of which would depend to a very great extent on its prompt

57 11³
prompt introduction at a time when, owing to the exceptional circumstances then explained, arrears had been reduced to a point where a fair start was practicable. Nearly two years have now elapsed, and while no relief has been afforded to the Honorable the Judges, appellate work has increased beyond the powers of the existing strength of the Court to prevent accumulation. This increase of business, coupled with the delay in sanctioning the experiment of transferring original jurisdiction, has changed the condition of affairs so completely, as to satisfy the Honorable the Judges that the only sufficient remedy is the permanent appointment of a 6th Judge.

Institutions		1875.	1884.	1886.
<u>Civil</u>				
First Appeals from decrees—		149	5145	181
Letters Patent Appeals—		"	39	10
Second Appeals from decrees—		727	1041	1352
First & second appeals from orders—		127	181	235
Civil Revision Petitions—		1	523	358
References—		41	30	27
Total—		1045	1959	2163
<u>Criminal</u>				
Appeals—		499	516	519
Referred Trials—		70	63	45
Revision Cases—		154	800	787
Total—		723	1379	1351

10. The figures in the margin show how appellate business, Civil in particular, has continued to increase. It will be observed that since exceeding revision petitions and references, the civil appellate work of

a. of 1886 exceeded that of 1875
of by 77.26 per cent: while, if
p they are included, as they
8 ought certainly to be, the in-
crease in 11 years amounts
th to no less than 106.9 per cent.
a This in itself might fairly
be accepted as sufficient
justification for increasing
the strength of the Court; but
the Honorable the Judges
desire to take this oppor-
tunity of stating the whole
case more fully.

11. In 1881, the then Puisne
Judges, fortified by Mr Justice
Jinjer's "Comparative View of the
work done in the Madras
High Court and in other High
Courts," urged the Chief Justice
to apply for a 6th Judge.
Mr Jinjer's "Comparative View"
showed, by statistics from
1877 to 1880 inclusive, that
Judge for Judge, the Madras
High Court was doing 50 per cent
in excess of the Calcutta
High

6 p 73
High Court, 100 per cent in excess
of the Bombay High Court, and
30 per cent in excess of the
Allahabad High Court; that
nevertheless, owing to increasing
business in 1880 and 1881, the Court
had fallen into heavy arrears,
and that, therefore, it was
quite obvious that the existing
numerical strength of the Judges
was insufficient to cope with
the work. Sir Charles Turner,
having satisfied himself that
the continued increase of work
was normal and established,
applied in letter, N^o 929, dated
13 May 1882 for a 6th Judge, stating
his conviction that during
the previous two years more work
had been demanded of the
Judges than they could fairly
be expected to perform: and
on 7 June 1882 (Despatch N^o 7B)
the Madras Government, in
forwarding the application to
the Secretary of State, expressed
themselves as "quite in accord
with the Chief Justice in regarding
the present state of the Court
as

as injurious to the interests
of justice". The Government
however, only asked for a 6th Judge
temporarily. On the 12th August
1882 (Despatch No. 29) the Govern-
ment of India, in forwarding
the application to the Secretary
of State, admitted that "the
business of the Madras High
Court was, when compared
with that devolving upon the
Judges of other High Courts, unduly
heavy", and offered no objection
to the appointment of a 6th
Judge temporarily for six months.
On the 26th October 1883 (Des-
patch No. 31) the Secretary of
State sanctioned the ap-
pointment accordingly, and
in their despatch of 19 January
1883 the Government of India,
in communicating this sanc-
tion to the Madras Govern-
ment, desired that the ap-
pointment should be made
so as to take effect for six
clear working months.
12. While the appointment

78 75 @
of a 6th Judge was thus deferred,
a question was raised by Sir
C. Turner as to the legality of
a temporary appointment without
the issue of Letters Patent, and
finally in his Despatch No. 33,
dated 13 December 1883, the Secretary
of State decided against making
an appointment the legality of
which was at all open to doubt.
In that despatch, however, the
Secretary of State intimated his
opinion that "should the arrears
of pending suits continue excessive,
no doubt measures must be
adopted to give suitable re-
lief", and he was apparently
prepared to recommend the issue
of Letters Patent for a permanent
6th Judge on sufficient cause
shown.

13. The proposal to appoint a
permanent 6th Judge was then
made by the 1883 Committee on
Judicial Reorganization, and
as one means of providing funds
for the purpose, it was proposed
to abolish the District and
Sessions Court of North Tanjore,
the

the effect of which was to set
free a sum of Rs. 3233-5-4 per
annum. In disposing of the
Committee's recommendation,
the Government of India, in their
letter No. 783 dated 10 June 1884,
abolished the North Sanyal
Court but declined "at present"
to sanction the permanent
appointment of a 6th Judge,
remarking that "it was not
desirable to address the
Secretary of State on such a
matter unless a really strong
case is made out, based
on the impossibility of over-
taking otherwise the work of
the Court."

14. The Honorable the Judges
consider that such a strong
case now exists. The difficulties
in the way of overtaking in-
creasing work have been suc-
cessfully noticed by the Secretary
of State's ruling which pro-
hibits officiating appointments
in the High Court for Judges absent
on privilege leave; and the
table appended to this letter
demonstrates

82
demonstrates the case at once.
The first 3 columns show the
rate of disposal from 1877 to 1881
which the Government of India
acknowledged to be "unduly heavy"
on the Judges of this Court, as also
the arrears at the end of 1881 which
the Madras Government charac-
terized as "injurious to the in-
terests of justice". The remaining
columns show that notwithstanding
extraordinary exertions in 1882, 1883
and 1884, and notwithstanding
that the rate of disposal in
1885 and 1886 has been quicker
than the "unduly heavy" rate
of 1877-81, the arrears, owing to
the increasing business of the
Court, are in excess of the arrears
at the end of 1881 which the
Madras Government charac-
terized in the words above quoted.
Taking all kinds of work to-
gether, it will be seen that
although in 1886, 4216 cases
were disposed of, as against
3484 cases in the average of
1877-81, yet, in consequence
of the increase of institutions
from

from an average of 3643 ~~cases~~
to 4838, arrears have accumu-
lated from 1545 cases on 1st
January 1882 to 2347 cases on
1st January 1887. With such
facts before them, the Honorable
the Judges see no possibility
of overtaking the business
of the Court otherwise than
with the assistance of a
6th Judge.

15. As has been already
stated, the proposed transfer
of jurisdiction over certain
classes of suits valued up
to Rs. 2500 from the Original
Side to the Presidency Small
Cause Court is not expected
to afford much relief: and
the Honorable the Judges
are not prepared to
support any proposal for
transfer beyond the limit
stated. Their reasons were
fully given in letter No. 2354
dated 17 August 1886 to
the

79 9 P 6
the Finance Committee, and
I am to suggest that a copy
of that letter may be com-
municated to the Secretary
of State.

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

B. Moss.

Registrar
Appellate Side.

81

High Court of Judicature, }
Madras, 22^d January 1887. }

Encl^d

Registrar,
Appellate Side

End l.

3207-1-11-86 original ✓
 2337-38-30-8-86-ll
 Letter from High Court to Framingham Committee 7/78
 1840-14-7-86-huni
 1511-7-6-86-ll
 Extract Lodged-18-5-86-huni ✓
 968-12-4-86-ll ✓
 899-9-4-86-ll
 1977-31-7-86-ll
 1918-23-7-86-ll
 1334-18-5-86-ll
 334-9-2-83-ll
 1722-27-10-82-ll
 460-11-7-82-ll
 High Court Fifth Judge file ✓
 Reorganization file

CURRENT

Judicial { 1887 } Department.

No.

From

THE REGISTRAR OF THE HIGH COURT
OF JUDICATURE AT MADRAS,
APPELLATE SIDE.

Dated 22nd January 1887.
Received

No. 128.
Enc. One.

Forwarding a comparative
 statement of Institutions of
 Appeals for 1877-81 to 1886
 and submitting that as the
 Appellate business proper of
 the High Court has increased
 beyond the powers of the
 existing strength of the Court
 to prevent accumulating
 arrears, the Honorable the
 Judges consider that the
 appointment of a Sixth
 Judge is a matter of pressing
 necessity.

Thamb Sivan
 Secy. to the Registrar

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

IN ITS ORDINARY ORIGINAL CIVIL JURISDICTION.

Friday, the 11th day of September 1885.

IT IS HEREBY ORDERED under Sections 637 and 652 of the Code of
 Civil Procedure (Act XIV of 1882) and all other powers thereunto
 enabling that the following rule be read and passed as a Rule of the
 High Court to take effect from the first day of October 1885 :—

The following orders shall be deemed to be non-judicial
 or quasi-judicial orders and may be passed by the Registrar of
 the High Court on its Original Side, unless he shall see fit to
 direct the matter to be laid before a Judge :—

- (a.) An order allowing a suit to be filed in the High Court.
- (b.) An order authorising an agent of a plaintiff or defend-
ant or a co-plaintiff or co-defendant to sign and verify
the Plaint, Written Statement or other proceeding, on
behalf of his principal, or for himself and co-plaintiff or
co-defendant.
- (c.) An order for the change of Attorneys or Vakils on con-
sent.
- (d.) An order to adjourn a summons on consent.
- (e.) An order to adjourn a hearing on consent.
- (f.) An order to appoint a guardian *ad-litem* for an infant.
- (g.) An order to extend the time for the return of an award
on consent.
- (h.) An order for the issue of a commission to examine wit-
nesses on consent.
- (i.) An order permitting the withdrawal of a suit.
- (j.) An order for the issue of decree without inserting costs
under Section 631.

- (k.) An order for execution by either arrest or attachment applied for against a party to the decree within one year from the date of the decree or order sought to be executed or of the last order against the same party.
- (l.) An order directing the sale of property ordered by a decree to be sold, appointing a person to conduct the sale, fixing his commission, and permitting a party to bid and have credit subject to any order that may be passed as to the sale-proceeds.
- (m.) An order directing the Sheriff or other person conducting a sale to pay the sale-proceeds to the party or parties entitled.
- (n.) An order for the transmission of a decree with the prescribed certificates to another Court for execution.
- (o.) An order for the production of records before any Court or Officer.
- (p.) An order for the issue of a subpoena to any public officer to produce a public record or register.
- (q.) An order directing a Registrar of Assurances to transmit a Will under seal to the Registrar of the High Court, Original Side.
- (r.) An order for Probate or Administration in non-contentious cases, and for citation of scripts.
- (s.) An order to deliver documents to the party that lodged them.

Provided always that, should any party be dissatisfied with any such order as above mentioned passed by the Registrar, he shall be at liberty to apply to a Judge in chambers.

(Signed) JAMES KERNAN, *Offg. Chief Justice.*

(„) T. MUTTUSAMI AIYAR.

(„) P. P. HUTCHINS.

(„) G. A. PARKER.

(„) J. W. HANDLEY.

} *Judges.*

Enclosure to the High
Court letter No 572 of
the 3rd March 1887

11/11/11

5-11-11

10th
N^o 572 High Court of Judicature,
Madras 3rd March 1887
CURRENT NO. 1077

From H. J. Ross, Esquire, Esq.
Registrar of the High Court
of Judicature at Madras.

To The Honorable H. E. Stokes,
Acting Chief Secretary
to Government,
Fort Saint George.

Sir,

As requested in G.O. 4th
January 1887, N^o 1, Financial, I am
directed to communicate the re-
marks of the Honorable the Judges
on the proposals of the Finance
Committee for the reduction of
expenditure in the High Court.

2. In para. 9 of their note,
the Committee calculate the
annual net expenditure at
about Rs. 3,20,000. This figure
is arrived at by deducting
the estimated charges in 1886-87
from the actual receipts in 1884,
as shown in the Civil Justice
Administration Report for that
year. I am to observe, however,
that

that whole charges amounting
to Rs. 28,000 on account of the
Printing and Translation Fund
have been included in the
calculation, no credit has
been taken for the receipts of
printing and translation fees,
which in 1884 amounted to Rs.
44,084, and in 1886-87 were so-
lculated to realise Rs. 50,000.
The net expenditure of the High
Court should not therefore
be set down at more than
Rs. 2,90,000 per annum.

3. I am to premise the remarks
which follow Serialisation on the
various paragraphs of the
Committee's Note, with the general
observation that, for the reasons
fully stated in my letter No. 128
of the 22nd January, the Honorable
the Judges are satisfied that
the permanent appointment
of a 6th Judge should no longer
be deferred. The suggestions
of the Committee, which proceed
on the basis of the alternative
remedy of a transfer of
certain

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certain original jurisdiction to
the Presidency Small Cause Court
are here noticed chiefly because
they disclose considerable mis-
apprehension as to matters of
fact, which it is desirable should
be removed. The Honorable the
Judges are not to be understood
as assenting in any way to the
sufficiency of the proposed alter-
native as a means of meeting
the increasing difficulty of
coping with the business coming
before the Court.

4. Para 12. Assuming a transfer
of original jurisdiction in suits
up to the value of Rs. 2,500, the
Honorable the Judges adhere to
their proposals made in 1885,
which were to place both sides
of the Court under one Registrar
on a salary rising from Rs. 1,500
to Rs. 1,800, with a Deputy on each
side on salaries of Rs. 1,000 each
per annum. Having regard to
the increased quasi-judicial
functions which it is proposed
to delegate to the Registrars
and the extra administrative
responsibility

responsibility which the working of both sides of the Court must entail, it is very necessary that his salary should be fixed at a rate which will induce a Civilian of some standing and judicial experience to accept the appointment and continue in it for a reasonable time. The Deputy on the Original Side ought to be an experienced professional man; and it is very probable that such an officer could be obtained for less than Rs. 1000 per mensem. In the case of both Deputies, their salary seems only a fair remuneration for the work to be done. The two Assistant Registrars ~~and the Managers~~ on the Original Side are fully occupied each day.

5. Para. 13. The Finance Committee's opinion that the existing staff of 18 clerks on the Original Side is unnecessarily large appears to rest on the fact that in September 1886 the High Court sat for only 11 days for the final disposal of original suits.

933P (3)
suits. The Honorable the Judges fail to see that the sitting of a Final Disposal Court for 11 days in one particular month affords any foundation for concluding that the office establishment has not enough to do; and they dispute the proposition that the existing staff of clerks is needlessly large. The Finance Committee were supplied with a statement describing in detail the precise duties of each clerk on the Original Side; and in their present note it is not alleged that the duties so described do not impose sufficient work upon each subordinate. Each clerk has a separate sub-department to work at and the Honorable the Judges consider that each has quite enough work to do. If a portion of the original jurisdiction is transferred to the Court of Small Causes a corresponding portion of the clerical establishment will have to be similarly transferred. It only remains to

to add that, for reasons explained
later on, in this letter, the month
of September 1886 cannot fairly
be taken as a criterion of
Court work on the original side.
6. Para. 14. The Chief Justice will
take the necessary steps to uti-
lize the services of the Judges'
clerk in a manner suited
to the salary he receives.
7. Paras 15 to 18. The proposal
to combine the offices of Clerk
of the Crown and Crown Prose-
cutor in a single appointment
on the reduced pay of Rs. 500
per mensem is one to which
the Honorable the Judges inter-
tain very strong objections.
The Committee mention that
these offices were formerly com-
bined, but they omit to men-
tion that, when such was
the case, the work of the Clerk
of the Crown was always
performed by a Deputy under
the Crown Prosecutor. Practically,
therefore, they were never amal-
gamated and the Committee
do not appear to understand
that

469 (4)
that the various duties are such
as could not well be performed by
one and the same person. It does
not appear that any inquiry
was made of the officers con-
cerned as to the nature of their
duties or that the facts were
ascertained as to the circum-
stances under which the aspa-
rate officers came to be placed
on their present footing. Prior
to December 1872, both offices were
held by Mr. T. D. Mayne on a
salary of Rs. 1,000 per mensem,
with a Deputy on Rs. 175, a Manager
on Rs. 105, a Deputy Manager, 3
writers and 4 peons — total Rs. 1,434
per mensem. When Mr. Mayne
vacated, in December 1872, Mr.
Tarrant was appointed Clerk
of the Crown by Sir W. Morgan
and it was ordered that his
pay and establishment should
not exceed Rs. 500 per annum.
Instead of a salaried Crown
Prosecutor, the experiment was
tried of briefing Counsel, as oc-
casion required, through the
Government Solicitor. By
1874,

1874, however, this experience
proved the reverse of economical
and by an order of the 31st March
in that year, the Government
recorded the conclusion that
as a question of policy and
of expense, it was expedient
to permanently retain a
Crown Prosecutor. That order
detailed his duties and
fixed his salary at Rs. 500, and
that of the Clerk of the Crown
at Rs. 300, with an establish-
ment of Rs. 84, per mensem.
The saving thereby effected since
the charges of these offices prior
to December 1872 was Rs. 550 a
month or Rs. 6600 a year. The
further reduction now proposed
by the Finance Committee pro-
ceeds on a calculation that
the salaries of these offices are
practically earned by attor-
neys in Court for 21 days
in the year. This is by no
means a correct representa-
tion of the facts. As regards
the Crown Prosecutor, the Com-
mittee were apparently unaware
of the fact that that officer
has

5897 ⑤
has to attend to Crown business
at the Police Courts when required,
as well as at Sessions; and as
regards the Clerk of the Crown,
the Committee's information - where-
ever it was obtained - appears
to have been even more deficient.
With committals to the High Court,
the Clerk of the Crown receives the
records of preliminary inquiries
which frequently include docu-
ments, movable property and
valuable exhibits for the safe
custody of which he is re-
sponsible. Applications for
sub-pœnas to witnesses are made
to him, and he has to keep the
accounts of expenditure of bail
and all contingent charges con-
nected with the preparation of
the cases for trial. After the
Sessions, the making up of the
records which remain in
his custody and for which
he is responsible, the drawing
of warrants and the disposal
of exhibits and property as
directed by the Judge devolve
upon

upon him: and all correspondence connected with Sessions has to be conducted by him. The annual revision of the Jury lists - there are about 140 Special, and 1100 Common Jurors - and their arrangement so as not to burden the same jurors with unnecessarily frequent attendance, takes up a considerable time. When the various duties here mentioned as well as those noticed by the Committee are considered, it will be understood that instead of being practically confined to 21 days in the year, as the Committee would suggest, the business of the office is continuous, though not onerous. In their proposal to amalgamate it with that of the Crown Prosecutor, the Committee suggest that the latter officer should undertake the entire responsibility for the framing of charges and the preparation of the Jury lists. There are obvious reasons, which it is hardly desirable to state, why the

68 94 6
the work of summoning Jurors should not devolve on the Crown Prosecutor. As to the Committee's observations on the simplicity of the task of framing charges, it is sufficient to note that in 1874 when the separate offices were placed on their present footing, the system of indictments had already been simplified by the Code of Criminal Procedure and the officers in question were then constituted with the full knowledge that the old system had long ceased to exist. A separate office for the Clerk of the Crown has always been kept and should always be open. Commitments may be made at any time, and it is desirable, for the public convenience, that there should be a special office where all information connected with Sessions, can readily be obtained. For all the above reasons, the Honorable the Judges are opposed to the abolition of the Clerk of the Crown

Crown as a separate office, as proposed by the Committee.

8. Para. 19. As to the recommendation that, for the future, the post of Sheriff should be entirely honorary, the Honorable the Judges have only to observe that, if any gentleman can be found to do the duties gratuitously, nothing remains to be said. It has, however, been already pointed out that the work of summoning jurors should not be performed by the Crown Prosecutor, and in any case some officer, under whatever designation, in the position of the present Deputy Sheriff must be appointed to do the work, and his pay, with that of his establishment, must be provided by Government.

9. Para. 20. As regards the re-
vised establishment on the
Appellate Side, I am to refer
the

Final 1818/7/2

This matter was fully discussed in 1862, when the Govt. unsuccessfully, & with the sanction of the Sen. of State, distributed the propositions of H.C.F. But at the same

1472

the Government to my letter No. 3213 dated 2nd December 1886, wherein every thing connected with the subject is fully explained. This renders unnecessary any remark on the last sentence of the Committee's paragraph. The Committee have apparently misunderstood the footing on which the Copyists and Translation Fund stand. I am only to add that the Charter empowers the Chief Justice to fix the establishments, and the Chief Justice is satisfied that the re-organised establishment (since sanctioned by Government) is not unnecessarily large or expensive.

10. Para. 21. The Honorable the Judges, without actually recommending the appointment of an Official Receiver, offered no objection to the proposal when it was first put forward by the Finance Committee, but on reconsideration it does not appear to them to possess any advantage over the present plan of appointing receivers selected by the parties. The cases in which a receiver

is appointed are few. An official Receiver would have to be guaranteed a fixed salary to induce any one of the desired standing to accept the post, and the Commission fees likely to be realised might not suffice to cover the salary fixed. As it is not clear that there would be a financial saving, and no other advantages appear, the Honorable the Judges are not in favor of the proposal.

11. Para. 22. The establishment of peons has been proved by experience to be by no means too large, having regard to the great ~~great~~ distances in Madras, and the daily interchange of official papers, which takes place among the five Judges. The present number is not more than sufficient for purely official duties, and the Honorable the Judges derive very little personal convenience from their employment.

12. Para. 25 and 26. The theory that there should be one Original Court

8P 103 8
Court and two appellate benches sitting every Court-day is a theory of the Committee which appears to be founded on imperfect appreciation of the working of such a Court as the Madras High Court; and the description given of the practice as to sittings does not correctly represent the facts. It is not the fact that two Judges do not attend Court on Tuesdays and Thursdays, or that four out of the five Judges only sit four days in the week. It is the fact that the work of the Judges engages their time fully, not only in Court but at home, and not only on Court days but

but on Sundays and
holidays. It has been
fully explained in my
letter N^o 128 of 22nd January
1887 that, notwithstanding
this constant strain up-
on the Judges, the in-
crease of business has
been such as to render
a further accumulation
of arrears inevitable
unless assistance is
given. It has been
explained more than once

that

98 125
that if relief had been given in 1885
when arrears had been reduced
by the altogether exceptional efforts
of 1884, such an accumulation might
possibly have been avoided. The
efforts made in 1884 resulted chiefly
from Sir Charles Turner's desire to leave
the Court with as few arrears as
possible, and imposed a very excessive
and undesirable strain upon the
Judges. In my letter N^o 128 of the 22nd
January it has been shown that even
the more normal rate of disposal
in 1885, and the slightly lesser rate
in 1886 (when, it must be remembered,
one Puisne Judge was absent on
privilege leave for six weeks) still
exceeded the rate of disposal which
the Government of India characterised
as unduly heavy on the Madras Judges
as compared with the work devolving
on the Judges of other High Courts in
India. September 1886, which has
been taken by the Finance Committee
as a foundation for more than one
incorrect conclusion, was an exceptional
month in which the Original Side
sittings were curtailed to enable the
Court

Court to meet with exceptional pressure on the Appellate Side: and on this portion of the Committee's vote, I am to refer His Excellency in Council to my letter No. 128 of the 22nd January in which the state of business has been fully dealt with and the opinion expressed that the 'imperative change' required is the permanent ~~appointment~~ of a 6th Judge.

13. Para 27. In proceeding to suggest, with a view to abridging the necessity of creating an additional Judge, — the curtailment of Judges' work on the Original Side, the Committee quote an opinion of the Government Solicitor that fully half the Judges' time is occupied with work which might be performed by a subordinate officer of the Court. This is not the opinion of the Honorable the Judges. In 1885, the Judges went carefully into the matter, going through all classes of applications and proceedings which might be delegated to the Registrar, and consulted various members of the profession interested in having matters expedited

106 107
expedited in the most convenient way. The result was the Rules of 11th September 1885, copy of which I am directed to enclose. At present the Honorable the Judges are not prepared to go beyond the scope of these Rules.

14. Paras 28 to 30. It does not appear to have been understood by the Committee that it is only disputed items involving legal objections or difficult questions of fact, not proved by entries in books or documents, which are brought, and necessarily brought, before the Judge. The practice is, in cases where a decree for an account is made, to refer the accounts to an Accountant agreed on by the parties and he settles all disputed matters of mere account. In other disputed matters, evidence has, as a rule, to be taken and a judicial determination given thereon; and such matters cannot properly be disposed of except by a Judge. If there is any waste of time, it is due to the frequent application of parties for adjournments, and this can, in the opinion of the Court, be best remedied by the imposition of a substantial fee for adjournments.

15. Para 31. If, by their remarks, —
that the authorization of an officer of
the Court to dispose of non-contentious
proceedings would affect nearly half
the litigation of the Court, — the
Committee mean to imply that the
original work would probably be
reduced by one-half, the Honorable
the Judges can only express their
surprise at such a conclusion. It
is not known, in most cases, until
a suit is called on at the first
hearing, whether it will be defended
or not: and in undefended cases,
the passing of judgment takes very
little time. Such suits are disposed
of by a single Judge sitting in the
Issue Court, and the time usually
taken in passing judgment is not
longer than would be required
to draw an order for transfer of the
suit to an officer of the Court for
disposal. There is no doubt occupied
in determining whether defendants
have been served, but this is an
important matter which, as the Civil
Procedure Code stands, can only be
determined

determined by the Court. On these
considerations, the Honorable
the Judges are not prepared to
support the recommendations
of the Committee as to non-con-
tious suits. . . . 109

16. Para 32. The High Court is not
prepared to go further than their
original proposal for the transfer
of Insolvency jurisdiction in cases
up to Rs 2500 in value. The matter
was very fully considered before the
recommendation was made.

17. Para 33. The Honorable the
Judges would have no objection
to the Registrar or Deputy Registrar
being empowered to hold inquiries
and give certificates of pauperism;
but in that event, an appeal from
the officer's order would have to be
allowed, and practically, there —
would be little saving of time. If
original jurisdiction up to Rs 2500
be transferred, the bulk of the pauper
cases would go to the Small Cause
Court. 4.37

18. Para 34. The Honorable the Chief Justice
intimated

intimated that he was willing to place any proposal with reference to fixing the pecuniary limit of jurisdiction at Rs 5,000 before the Honorable the Judges, but the Court is of opinion that such a limit would be too high and on this point, as well as on the whole question of transfer, I am to refer His Excellency in Council to my letter no 128 of the 22^d January. The Honorable the Judges are not prepared to recommend any transfer beyond the limit of Rs 2,500; and they are quite satisfied that the Judges of the Small Cause Court will not be able to dispose of this extra work without addition to their number. Apart from other land suits which would go to the Small Cause Court, those for partition of family property, which are of frequent occurrence in Madras, are generally found by experience to take up considerable time owing to the nature of the defences usually set up, and it

125 III
it is believed that it is as much as the present number of Judges can do, to cope with the present amount of business. It was not the proposal of the High Court that the additional Judge should receive a salary of Rs 800 per mensem. The salary ought not, in the opinion of the Honorable the Judges, to be less than Rs 1,200; and extra establishment would also have to be provided. It does not appear that the financial effect of the various proposals made would amount to any appreciable saving on the pay of an additional Judge for the High Court; and as already pointed out in previous correspondence, this is the only form of relief which, in the altered circumstances of the case as compared with the state of arrears when the alternative remedy of transfer was suggested, is at all likely to be efficacious.

19. Para. 42. On the question of restricting the

the right of Second Appeal, or
relegating appeals for small amounts
to cheaper tribunals, I am to refer
Government to my letter No. 2354
dated 17th August 1886 to the Finance
Committee, wherein the reasons
of the Honorable the Judges for
dissenting from the Committee's
proposals are stated.

I have the honor to be,

Sir,

Your Most Obedient Servant,

J. H. S.

Registrar,

Appellate Side.

Vide letter of 17th Aug.
to Finance Committee
No. 2354 of 27/8/86.

4/1/87 No 1 Jnil
7/2/87 No 181--
27/8/80 No 861--

CURRENT NO.

Judicial { 1887 } Department.

No.

From

THE REGISTRAR OF THE HIGH COURT
OF JUDICATURE AT MADRAS,
APPELLATE SIDE.

Dated 3rd March
Received 4 { 1887 }

No. 572
Enc 1 One



Communicating the
remarks of the Honorable
the Judges on the proposals
of the Finance Committee
for the reduction of
expenditure in the
High Court.

115
The Finance Committee's
Note on the High Ct.

C. No. 287: } From the Registrar
C. No. 1029: } of the High Court.

For orders.

The first of the papers noted
above is the reply of the High
Ct. to the objections urged by
the Secretary of State to the state-
ment showing the increase of
work in the High Ct. This state-
ment was embodied in the letter
from this Govt. to the Govt. of
India of 23rd July 1885, No 1973.
In that letter the Govt. of Madras
recommended the transfer of
some of the original work of
the High Ct. to the Presidency
Ct. of Small Causes, the ap-
pointment of an additional
judge to the Bench of the latter
Ct. and the substitution of

By Registrar for the Registrar
on the Original Side.

The Registrar shows that the
increase of work was as stated
in this Govt's letter quoted
above, and the Govt. of India
should be informed accordingly.
ly.

The High Ct., however, as
now of opinion that the
transfer of a portion of its
Original jurisdiction would
not afford the required re-
lief, and the Judges are
satisfied that the only
sufficient remedy is the
permanent appointment of
a sixth Judge.

Orders are requested on
this proposal.

2. The other current now
submitted ~~is~~ contains
the views of the High Ct.

upon the various sugges-
tions of the Finance
Committee.

The nature of the orders
to be passed upon ^{some of} these pro-
posals ~~largely~~ depends upon
the decision that the Govt.
may arrive at upon the
question of the extra Judge.

The various points required
ing orders are briefly
noticed below:

(1) Reduction of Establishment
on the Original Side.

This depends on the transfer
of original work.

(2) Clerk of the Crown.

whether this office is to
be combined with any other
office or not. The High Ct.
is opposed to any change

(3) Abolition of the establish-
ment of the Clerk of the Crown.

(4). The Sheriff.

This Court. has already made a suggestion regarding this officer (Letter No. 776, of 7th Aug. 1886) They have recommended legislation for the abolition of the Office.

(5.) The establishment
Appellate Side.

This has recently been revised (G.O. 7th July/87, No 187 F.H.)

One feature of the ~~the~~ scheme for revision attracted the attention of the Finance Committee, viz. the contribution towards the cost of the establishment of Rs 210 per mensem from the Translation Fund. The Committee point out that if there are savings in the Translators' Dept. they shd. be credited to Court, and that they cannot be treated as a set off against increased expenditure.

With reference to this the Registrar says that the ¹¹⁹ Finance Committee has apparently misunderstood the position in wh. the Copyists & Translators' Funds stand.

It is submitted, however, that the Committee is right. The Translators' Fund was formerly kept separate from the public accounts.

In 1883 the Chief Justice recommended ~~it~~ that this fund should be treated as public money, Mr Justice Hutchins ^{taking} ~~adopting~~ the contrary view.

The Court. ^{accepted} ~~adopted~~ the latter (G.O., 24th July, 1883, No. 1951) but on the C.J. adducing fresh arguments, they directed that these Translation & Printing Funds shd. be entered in the public accounts, though under separate heads. ^x It

^x G.O. 18th Oct. 1883, No. 2766.

would seem from this
that the balances of these
fund are included in the
Provincial balance — or
ought to be. A reference
should be made to the Act
in the print.

(6) The Official Receiver

(7) The Judges fees.

Plus
2571

High Court

Sixth Judge

Finance Committee
Proposed

Hon. Mr. Justice
Hon. Mr. Master
H.E. U.S. Governor.

There is clearly some mistake
in the table under the head
'References'

Pending at end of '85	25
Enacted '88	15
	40
Supplied of	8
	32
not	60

ans about this
M
29 March

C.26/3.

R9/5.

(203 study)

W 940.

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1378

123

High Court of Judicature,
Madras, 2nd April 1887.

From
H. J. Ross Esquire,
Registrar of the High Court
of Judicature at Madras.

To
The Honourable H. E. Stokes,
Secy. Chief Secretary to Government

Sir,
Certain errors having been
discovered in the figures of the Comparative
statement appended to my letter
N. 128 dated 22nd Janu. 1887,
I have the honor to request that
that statement may be corrected
in accordance with the accompanying
revised statement; and that in the
second last sentence of para 14 of
that letter, the figures "4216 cases" and
"2347 cases" may be altered to 4184 and
2314 respectively.

2 In the Comparative Statement,
institutions

(915-1026 of 14/5/87)

5 125

Comparative Statement of Institutions,
Disposals & Arrears from 1877-81 to 1886.

institutions do not include readmissions
and restorations to the file.

I have the honor to be,
Sir,

Your most obedient Servants,

John
Registrar,
Appellate Side.

	Average of 5 years 1877-81		1882		1883		1884		1885		1886		Arrears at the end of 1886	Remarks
	Substituted	Disposed of	Substituted	Disposed of	Substituted	Disposed of	Substituted	Disposed of	Substituted	Disposed of	Substituted	Disposed of		
<u>Civil</u>														
Originals														
Suits	473	627	221	407	370	266	398	327	346	311	438	278	348	370
References to Chambers	25	17	37	12	12	37	2	22	17	21	15	23	10	11
Procedural Petitions	145	143	68	166	169	65	186	144	107	199	209	97	187	186
Appellate:-														
First Appeals from Districts	167	148	168	186	167	187	173	185	175	145	228	98	187	141
Letters Patent Appeals	26	24	4	11	12	3	18	17	4	39	38	5	23	22
Second Appeals from Districts	814	713	608	1082	973	722	1178	1233	681	1041	1293	443	1165	1052
First & Second Appeals from Districts	146	131	90	201	195	96	239	227	109	181	229	63	245	201
Civil Revision Petitions	99	86	70	312	202	180	400	427	158	523	530	167	347	441
References	26	25	7	32	17	22	19	34	7	30	29	8	30	25
Miscellaneous Petitions	491	356	138	539	572	185	738	765	158	687	710	135	658	636
Sessions Cases	67	67	1	69	69	1	74	75	1	74	73	1	67	67
Criminal Appeals	642	643	50	434	383	101	518	535	74	516	522	68	562	550
Referred Trials	85	83	4	65	66	3	52	57	4	63	67	1	67	55
Revision Cases	437	421	79	695	685	89	975	967	97	800	812	85	722	696
Total	3643	3644	1545	4233	3832	1957	4966	5009	1932	4680	6193	1471	4578	4455
													1621	4638
													4184	2314

* In 2 of the Sessions Cases disposed of, there were, in each, 2 prisoners. The cases were decided as regards 1 prisoner in each, and adjourned as regards the other. Hence the 2 cases are treated both as decided and as pending.

John
Registrar,
Appellate Side.

Enclosure I to the
High Court letter
No 940 dated 2nd April
1887

recd 15/8/87

CURRENT NO. 1518

Judicial { 1887 } Department.

No:

FROM.

THE REGISTRAR OF THE HIGH COURT
OF JUDICATURE AT MADRAS,
APPELLATE SIDE.

Dated

Received

2nd April

1887.

No. 940.

Encs One.

Requesting that certain
corrections may be made
in the comparative
Statement appended to
this Court's letter dated
22nd January 1887, No 128,
and stating that in the
said statement institutions
do not include readmis-
sions and restorations to the file.

Statement showing the files of the High Court from 1863-67

	1863	1864	1865	1866	1867	average
Original Side						
Suits	335 367	76 368 362	98 358 370	100 433 461	84 567 499	412 412 103
References to Chambers						
Resolutive Petitions 88		121	105	140	134	118
First appeals	76 89 63 83	98 48 87 87	48 94 111 31	115 79 67		91 93 51
Second appeals	526 826 252 487	583 156 661 544	273 566 660 179	611 576 274		570 626 227
1 st & 2 ^d appeals from officers						
Civil Revision Petitions 152	99 53 283 291	45 276 262 59	267 271 55	239 236 58		243 232 53
Miscellaneous Petitions						
References	26 23	32 30	25 21	51 45		83 30
Supreme Cases (O.S.)						
Referred Trials						
Criminal Appeals Petitions	143 159	194 185	197 196	229 207		82 81
Criminal Revision Cases.		68 68	53 53	67 67		191 187
						63 63

Note The figures under the head "disposed of" against suits include cases of the late Supreme Court,
disposed of after amalgamation.

Dear Sir,

Can you put
this into my minutes?

Yours

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Dear Mr. Hutchins,

Reply to the
other statement you asked
for. It is as complete
as it has been found
possible to make it, but
owing to the old returns
not having been embodied
in printed Admin. Reports,
it has been somewhat
difficult to prepare.

Yours truly,

20.4.87.

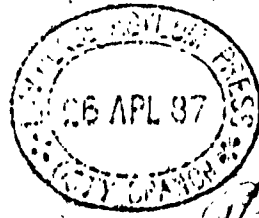
S. Ross.
Agr.

Memorandum of Finance Committee, C.O. 4 Jan 87, No 1
From Secy of Govt & India, - 1 Dec 86, No 3207
C. Nos 287 & 1029, from High Court.

The two main points involved in this
correspondence are, 135

- (1) The appt. of an additional Puisne Judge
to the High Court,
- (2) The proposal to transfer to the Ct. of
Small Causes part of its original civil jurisdiction.

According to the Letters Patent of 1862 the
High Court opened with a Chief Justice &
five Puisne Judges, but Mr. Morehead, the
Judicial Member of Council, merely took his
seat pro forma & sent in his resignation.
The amended Letters Patent issued in Dec-65
made no mention of the number of the Judges
but ordained that the existing Chief Justice
& (4) Judges should continue in office. Any
vacancy up to that number can - subject of
course to any orders from the Secy of State -
be temporarily supplied by the local Govt.,
but this Statute gives this power only when
a vacancy exists, and accordingly a fifth
Puisne Judge can only be appointed, even
temporarily, by Letters Patent. To India, 7 May 83,
to Secy of State 7 June 83. The Secy of State has
naturally objected (31 July 83) to make any
merely temporary appt by Letters Patent, but he
has also distinctly admitted that "should the
" arrears of pending suits continue excessive, no
" doubt measures must be adopted to give suitable relief"
(13 Dec 83).



at different times there has been a great deal of correspondence as to the number of Judges necessary, and it seems desirable to give a brief sketch of history of the ^{which is new to the Sec. of the Governor.} question. I shall also compare the present business of the Court with the figures with which the Govt. of India & the Sec. of State in 1882 that another judge was necessary. The Govt. of India however has stated, ^{truly enough,} ~~opposed~~ that it is "not possible to appraise the work of different Courts, merely from the ^{unhesitating} ~~unhesitating~~ statements," and that "much" more "insight is due to the statements of the Judges" "that they cannot properly transact the business of the Court" (to Sec. of State, 3 June 78). In the present case we have the unanimous assent of the whole Court to that effect, and I desire to add to it my own ^{unhesitating} ~~unhesitating~~ testimony, having been Registrar of the Court from 1864 to 1867, & a Judge in 1881 & from 1883 till I went home ^{towards the end of} ~~in November~~ 85.

While I was Registrar, the judicial work of the High Court was undoubted by light. There were only 3 or 4 sittings a week and one of the Judges might easily have been dispensed with. As a natural consequence the reported judgments of those days evince an amount of care & consideration for which the Judges of the last twelve years have never been able to find time. ^{permanent} ~~unhesitating~~ the attempt to reduce the number

* I have asked the Reg. for an average of the work between 1843 & 1869. This when received may conveniently be added to the table, previous to the High Court, to show the steady growth of the work.

Judge was postponed until the work
 had increased that it was impossible
 for four Judges to cope with it. It was
 in Jan '77 that the vacancy caused by Mr.
 Justice Gwynne's retirement was left
 unoccupied. By March 78 the Govt had
 to report an urgent necessity for a fifth
 Judge: in April 78 it was pointed out that
 in the same Judge that "many judgments
 of the House in Court could not be recorded,
 "and it was of the most important functions
 "of the Court, that the restriction of double
 "was in consequence: on 3rd June 78 India reported
 that it was anticipated that another Judge was
 necessary at least until a contemplated change
 "in the law" would be made of a considerable
 "proportion of the original suits of low value".
 Thus the situation then was nearly identical
 with that now existing, except that what the
 report ^{then} sought was that of a fifth Judge, ^{then}
 which ^{now} stands in its place is demanded.

In 1878 in consequence of these representations Mr.
 Justice Gwynne was appointed a temporary Judge
 & it was not till 1883 that the Supreme Govt. C.
 he persuaded to confirm him. The reason given
 in reply to repeated applications was that it was
 necessary to ascertain first the ^{real} contemplated effect of
 the change in the law. But the contemplated
 change had meanwhile been set down from
 what had been ^{originally} intended that its merely
 transferred to the Small Cause ^{Court} suits of the nature
 of Small Causes between 1000 & 2000 Rs in value,

and even as to them the C^t retained a coordinate jurisdiction.

In 87 Sir Charles James became Chief Justice & perhaps no one ever existed so willing to confess that the work of the C^t could not be carried on satisfactorily without additional assistance. By a Bill of Court he ~~delegated~~ ^{delegated} to a single Judge almost everything that ^{could} legally be done by a Judge sitting alone, including almost the whole of the Civil & Crim^l work; and yet by Act 80 he was compelled to report that the single Judge was not as required, namely (see Act 80). Since the time the Sec^y of State on the recom^d of India resolved to continue Mr Justice Muthusamy on a temporary footing until practical experience could be had of the new Act (24 March 81). The Gov^t of 1880

At the close of the same year the Puisne Judges ^{with} some submitted a strong remonstrance, and after some reluctance on 13 May 82 Sir Charles James gave this to Gov^t with the declaration that the work demanded of the Judges during the two preceding years had been more than they could fairly be expected to perform. He stated that he had from the first been convinced that the request for a 5th Judge was one which could not reasonably be refused but he had kept it back as long as any hope remained of overtaking the work or of its increase not proving imminent. The Gov^t took the same view, declaring the present state of the Court injurious to the public ^{interests} ~~interests~~. However they only asked that the 5th Judge not be given temporarily (the reason was not stated) but no doubt they thought it better to ask for a 6th permanent Judge, when their recom^d to confirm the 5th had been refused. Even then

expressed a very decided opinion in criminal matters. He decided as a single Judge, and understood that the present practice is to send nearly all such cases to the two Judges. Even to my experience the rule of 1877 was a good rule provided it was worked with discretion. Doubtful cases always were, or ought to have been, referred to two Judges, but not more than 10 or 15 per cent. I properly be called doubtful.

Sec^y of State 7 June 82.

I should like to mention here
that a number of state
schools were struck off
around the years 1980-11
in circumstances which make
the registration of children
normal after that time
quite rare.

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unless the work of the Court. The
scheme ^{for} ^{the same purpose} for reducing the work was, the
old one, ^{viz.} that the petty work on the origi-
nal side should be transferred to the Ct of Small Causes.
This it could have been brought into effect &
now it wd probably, in the then state of the
file, have been a sufficient remedy, but
the H. Ct are perfectly right in saying
(p. 2 of their second letter) that it wd not now
afford adequate relief. The work has gone
on increasing, & arrears have now accumu-
lated to such an extent that the same wd
not have a fair trial, ^{for} both Courts wd start
with heavy arrears. It wd hardly be
a mistake. The total arrears at the end
of 1881, on which the ad hoc Judge was deposed -
sanctioned were 1545 & included 221 origi-
nal suits, 168 first appeals & 608 second appeals.
The corresponding numbers for 1886 were
2314, 301, 208 & 979. The number of original
suits in particular would have been far
higher but for the fortunate circumstan-
ces due to the hopelessness of obtaining
judgment in a reasonable time - that the
institutions fell off by 21 per cent as compared
with the average of the 3 preceding years.
These figures, ^{as I have given above} will be found in the statement
appended to the High Court's earlier letter. The
same year that the work of 1880-1 was declared
to be "more than 5 Judges could fairly be expected
to do," & admitted the fact of India to be "unduly
heavy". The following table compares the business
of those two years with that of 1885 & 1886:-

f.

	1880	1881	1885	1886
	Jan	Feb	1	2
Civil -				
Suits	518	659	507	537
Refers	20	18	17	10
In. Pol.	153	143	138	163
F. & M. L.				
F. & M. L.	199	180	192	158
L. P. App.	28	25	25	20
Second App.	898	793	1002	770
Ap. fr. s. s. s.	199	173	204	192
C. R. P.	196	174	178	157
Ref. U.	24	18	23	30
In. P.	491	356	491	356
Criminal				
Sess. C.	28	27	69	69
Cr. App.	760	718	488	537
Ref. T.	89	83	77	82
Rev. Cues	470	606	479	897
Total	3808	3973	3888	4077

+ the average
of 77-81

It is shown that, as there has been a falling off in original suits - probably, as already stated, because speedy disposals could not be hoped for - there has been a large increase in appellate work & the business of the last two years has been considerably increased. It is satisfied the Govt of India that a 6th Judge was necessary & so the Govt of India to declare that if the arrears continued to accumulate he was prepared to adopt measures to give suitable relief even by issuing Letters Patent (13 Dec 83).

But the Govt of India has taken objection to the inclusion of Revision work & to our statement that the work of 1884 was heavier than that of 1875 by 87 1/2 percent on the civil side & 40 3/4 on the criminal. It was evident that his Lordship had the correspondence

of 1882, already mentioned, & was
confusing these revision cases, heard
& disposed of in Court, with the work of
revising the calendars & proceedings of the
Magistrate, as already stated, has been
reduced to a minimum & had been taken
no account of. Paragraphs 4-8 of the
High Court's earlier letter make this very
clear.

I have had the principal tables in Mr.
Justice James' Memoir brought up to 1885,
the latest year for which the figures are avail-
able & they are appended to this Memoir.
I admit, with the Govt. of India, that it is not
possible accurately to gauge or compare the work
done by men judges, but the results, as far as they go,
they must count for something, are singularly
in favour of the Madras High Court. Table
A for example: this shows that under
3 1/2 Judges in Madras ^{despatched} in 1883 & 1884 and
40 per cent of the work done by over 9 Judges
in Calcutta, & in 1885, during half of which
two of the Madras Judges were new to the work,
45 1/2 per cent of what was done by 11 1/2 Judges
in Calcutta. acc: to Table C ^{the chief heads of} the work
per Judge in Madras ^{came to} 857 in 1884 &
734 in 1885 against 450 & 577 in
Calcutta; while the ^{next best} following table
brings out the average ^{disposed by} per Madras Judge
for 1883-5 as 1072 against 516 for
Calcutta. At all events these figures show
that the work at Madras, ^{undoubtedly} was "unduly heavy"
before 1882, has not ceased to be so & that the Madras Judges

(The figures in the number, &c.
should be extracted from
pages 2-5 of the account
of the Madras High Court)

The Finance Committee itself admits (§ 24) that, unless some effective change is made, there will soon be an urgent demand for an additional judge. The only change which is possible, since the present is in the C.C. & that must necessarily take considerable time.

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have continued to convince that devotion to their work to wit: the Govt of India have referred (3 June 78) as "entirely their representations & the more weight". It seems to me therefore that, in every way, the absolute necessity for a sixth judge being appointed without delay has been fully made out. The H.C. say he is appointed permanently, and I agree, ^{to this} I am not yet satisfied that he will be required permanently. When the petty original litigation is transferred elsewhere I have little doubt that the one judge will be able to do the entire work of the original side, including business & insolvency. Four judges should suffice for the appellate side if only they get a fair start. What is wanted therefore is an extra judge for a brief time to clear off the arrears, & the power to retain him longer if needed. He is, in my opinion, for the first 2 or 3 months, ^{as far} as the original side, till the file is cleared up, that it will not overweight the S.C.C. at starting. After that, whether or not the transfer of jurisdiction has been effected, he is to be on the appellate side. But he is to be appointed by Letters Patent as a permanent judge so as to remove the difficulty of appointing an additional temporary judge at any future time. If I am right in my suggestion that the work of the original side of original work, it may pick up again to the old dimensions as soon as it is divided between two Courts & does come to be given within a reasonable time. And in that event

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it is obvious that the relief given by a transfer of work to the S.C. Ct. will not be effective; and the business before the Ct. will remain as it is now at the state of the Ct. without a permanent 6th Judge, will continue to be a scandal & injurious to the public interests.

X The present is a very convenient time for appointing by letters patent a permanent judge, ^{to be} absorbed at the next vacancy unless suff. cause can then be shown for his retention, either perma? or for a limited time. Neither of the present Civilian Judges intend to stay long. Mr Justice Brandt tells me that he will retire before the end of this year, but he may perhaps be induced to wait till next ^{spring} season, if by so doing the sixth judge can be retained for nearly a full working year. Mr Justice Parker will almost certainly retire in May 1889. If the 6th judge to be appointed (as I strongly recommend) next July, immediately after the recess, is a civilian, his ^{permanent} app't. could be absorbed ^{either of these judges} when ~~the present Brandt~~ goes, or kept on temp? and the legal difficulty will be removed for good. Of course a non-civilian judge ~~could~~ not be absorbed on either of these ^{expected} vacancies, as one third of the judges must be a civilian. I recommend that this be pointed out to the Gov. & that the Secy of State, that a nomination of a civilian judge be submitted to the latter at once. Altho the former authority be earnestly requested to send him its views without delay, so that the 6th judge may begin

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work as soon as possible after the C.E.
expenses. Otherwise no appreciable
improvement will be made on the arrears
before Mr Justice Brandt retires.

I now pass to the second main
question, that of transferring a portion
of the right civil jurisdiction to the C.E. of S. Carnar.
This was strongly recommended by Sir Walter
Morgan in letters from the H. Court
nos 226, 29 Sept. 77; by Sir Walter Morgan
also, and by Sir Charles James (G.O. 8 Oct. 80);
and a Bill to give effect to it was actually
^{introduced} prepared by Mr Whitley Stokes in 1880. The
High Court again brought up the matter again
in 1885 (G.O. 23 July 85, no 19187), pointing out
that the change in the law actually made had
given no effective relief, that the reasons why
the more extensive reform contemplated had
been abandoned were never communicated to
their Pres. Ct. Then I have discussed the question
with many people of all classes & I have found
that some objects to it ^{in whole} when it is properly
understood. The arguments in its favour are
set out in the ^{old} letter of 1885. The chief seems to
be that there is no longer any reason why the
~~original~~ ^{original} jurisdiction of the H. Ct. should be regarded as a
separate territory from the rest of India; that
a picked judge on 1000 R. is scarcely competent
to try cases, if they arise outside the toll-gate,
and go before a Munsif on 200; that it is a sheer
waste of power & money, & an anachronism, to
require all such suits to be heard by a Judge
in 3750 or 5000 with all his expensive paraphernalia.

To these arguments I may
now add the doubt
whether the present
arrangement does not
work too much to the
disadvantage of the
people, the fact of India
being unwilling to allow
any more to be done
with the same old
methods.

[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]

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Present
Properly understood the scheme is simply
this - that notwithstanding Sec. 197
Act XV/82, restricting the summary jurisdiction
of the S. C. Ct. in certain cases, that Ct. shall
have power to try all such cases, up to a
certain amount, in accordance with the
provisions of the Code of Civ. Procedure; that
in all such cases there shall be an appeal
to the H. Ct., and I wd also give an appeal in
S. C. Cases between 1000 & 2000 Rs. in value,
which have only been tried summarily since the
extension of jurisdiction in 1882, & subject to
the right of retrial by the H. Ct.; that the
limit of jurisdiction by value of suits be Rs. 2500,
power being given to govt. to extend it from
time to time - the Finance Committee wd say
5000 Rs. at once, & that was also my own
recommendation: it matters little how high
the limit goes, as long as the H. Ct. will freely
exercise, on good cause shown, its power to
call up cases. Under Sec. 10 the Chief Judge
of the S. C. Ct. will have power to depute anyone
of the Judges to the regular side of the Court &
he may think fit from time to time - it is not
the Chief Judge himself, as supposed by the
Finance Committee (p. 37), nor any selected Judge,
who is to have ^{the new} jurisdiction. Involuntary jurisdiction
to the same (or any other) limit will also be conferred
on the Ct. as a whole & subject to the same power of
the Chief Judge to make arrangements. The idea was
that the present Registrar on the orig. side should be
made 2nd Judge: he has long been Chief Clerk of the
Involuntary Court & his appointment wd get rid of the

difficulty suggested by the Chief Judge
 (85 of his letter in G.O. 30 Aug. 86, 202337)
 that his judges have no experience in
 procedure. The H. Ct. will still have
 power under the Code to call up any case
 for trial by itself, but it is an essential
 part of the scheme for which I am responsible
 that its coordinate jurisdiction, giving the Plff
 the option of suing in either Court, & absolutely
 class. Sec. 22 of Act XV/82 must therefore
 be repealed, and if Sec 15 of the Code is
 insufficient to effect the object, it must be
 clearly enacted that every suit in the S.C.
 it is competent to try shall be instituted
~~there~~ ⁱⁿ either party being of course at liberty
 to move the H. Ct. under Sec 25 of the Code
 to call it up. An appeal being provided
 in all S. Causes exceeding 1000 Rs in value,
 Sections 38-40 of Act XV may also be
 repealed - I have never met with any justifi-
 cation for this most unsatisfactory substitute
 for an appeal, and in practice it is most ridi-
 culous: the idea was that the S.C. Judge w^d
 not have recorded the evidence & that therefore
 a ~~summary~~ ^{interlocutory} order wished to appeal must have
 an ~~order~~ ^{order} ~~of the Judge~~ ^{of the Judge} before a Judge of the H. Ct.
 Unfortunately this singular remedy has been too expensive to be often adopted.
 It has been urged that there will be ~~many~~ ^{interpose} more
 appeals from the Ct of S. Causes than from
 the orig^l side of the H. Ct. I do not unjustly
 think so. Appeals from the orig^l side are now
 very frequent, & tho' the stringent rules, & the
 practice of some of the judges as to recording evidence
 during judgments, ~~interpose~~ ^{interpose} many difficulties, I believe

$$349 / 2900 (8.3)$$

$$\frac{2792}{1080}$$

$$244 / 2000 (7.6)$$

$$\frac{1848}{1534}$$

$$53 / 3100 (11.7)$$

$$\frac{470}{263}$$

$$200 / 2000 (10.0)$$

$$\frac{200}{200}$$

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Statement showing the number of decrees passed on the original side, High Court, & the number of appeals therefrom.

Year	No. of decrees passed	No. of appeals preferred	No. of appeals disposed of	No. of appeals pending	Percentage
1877	324	24	21	9	
1878	291	27	25	11	
1879	308	18	17	12	
1880	446	42	29	25	
1881	378	36	42	19	23.5
Average	349	29	27	15	8.3
1882	253	24	22	21	
1883	219	16	27	10	
1884	321	21	20	11	7.6
1885	263	31	22	20	11.8
1886	204	23	32	11	11.2
Average	252	23	25	15	

26-6-87

[Signature]

an appeal is made whenever there is a chance of success & very often when there is no chance, for the sake of delay. In 1877 to 1881 the average no. of appeals was 29, or 8.3 per cent on the appealable decrees. In 1882-4 the numbers were 20 to 26 or 7.6 per cent. In 1885 there were 31 appeals out of 263 cases or 11.8 per cent & in 1886 23 out of 204 or 11.2 per cent.

As to the financial effect, in the first place it is obvious that a trial by a Judge paid 1000 to 1200, with corresponding minor trial officers, must cost less than the same trial in the High Court, but as a matter of fact I believe the transfer will cost nothing unless indeed the set of suits jumps up & the addition of one Judge to the S.C. Court proves unaffordable. The Finance Committee seems to have thought that even one add'l Judge will not be required, but the present three Judges & their Registrars can only just cope with their present work: there is no doubt that another Judge must be given. The Regt of the orig side may be made 2nd Judge on 1200 Rs with 300 per cent all ex, or offered the option of 1200 Rs or such gratuity as he may be entitled to: this wd provide the Judge without add'l cost. There will be other savings in the orig side establishment for wd. I prepared a revised scheme while I was a member of the Comt. There d savings in the S.C. Ct. I propose to

Effect by the transfer to process fees
of the cost of the process establishment, will
not only provide all ^{the officers} ~~the~~ necessary
for a regular side of the Court, but will
put the whole establishment of the S. C. Ct. on
a satisfactory footing. On the other hand
the pay of the 5th Judge will be saved
after his absorption.

I do not propose to follow the details of
the H. Ct's reply to the Fin. Committee as
to the necessity for the 18 clerks on the brief
side, because I am certain the transfer
will be effected as soon as the necessary legis-
lation can be ^{carried through} ~~introduced~~ ^{another} ~~passed~~.
Details of the objection can be passed over for
similar reasons. I have already stated that
the Court cannot possibly get thro' its
present work. There is however the question
of the number of days a Judge should sit.
In 1883-5, when the outturn of work was
beyond precedent in any of the High Courts,
a Judge hardly ever sat more than four days
a week, except on the original side. Still
Turner ^{had over} ~~worked~~ us to try 5 days but he gave up
the idea at my earnest remonstrance & I am
certain we got through more work ^{in consequence}. The Judge
is now sitting 5 days, but the outturn is by no
means what it was. Of course we were not idle
on the 5th day, any more than the present Judges are
on Saturdays. On the contrary our hardest work was
on the days spent at home, including all ^{usual} holidays &
I am sorry to say, Sundays generally. It may seem
curious that a Judge can do more by sitting in Ct. 4
days than he can in 5, but it is a fact. Every thing

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v

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depends on the way work is done - whether
the judgments appealed from, records &c, are
removed out of Court, or in Court, & so forth.
It is easy to waste time (even one's own &
certainly that of others) in Court & the most
economical principle for all parties is to do in
Court only such work as requires the presence of
Counsel, all other business being much better
done when the Judge is calm & quiet, & free
from anxiety about keeping Counsel &c waiting.
I may refer to Mr Justice Romer's Minute
of 17 May 77 as to what he calls the 'excellent
system' of running thro' the printed papers &
before coming to Court.

There are a few minor points which have
been disposed of, but this can be done much more
briefly.

Re: 2 of the Crown :- Satisfactory with the High Court that this
Office cannot be amalgamated with that of
Crown Prosecutor, but it does not at all follow
that it must be continued as a separate Office.
The duty of revising indictments & everything connected
with the prosecution of the cases committed can
very well be cast on the Crown Prosecutor.
The rest of the work consists of preparing jury lists,
summoning juries, & attending Court to read the
charges, record pleas & verdicts, swear juries &
witnesses & so forth. These duties are analogous to
those of a Registrar on the civil side & may well
be performed by the Deputy & not Registrar on the
salaries already assigned to them in my revised
scheme. With its reduced file the Civil Court will
reassemble during sessions & ^{probably} ~~possibly~~ not more than
15 or 20 days each month. It is possible one more

~~properly~~ so-called. This part
credit taken for the average expenditures,
has been given up, & much of the
clerks as were really required being
added to the permanent establishment.
This is what the Finance Committee
appears to mean by the Copyists' Dept.
the Copyists proper being quite distinct
& debited against Copying stamps as in
all other Courts. The Translators were
treated similarly to the Section Writers,
except that ^{their} work so fluctuates that
the whole fund could not be dispensed
with. The old staff of translators was supposed
to be sufficient for translations actually required
by the Court itself, but parties have now ~~been~~
to provide translations of all deeds &c. on L.
they intend to rely, & such work has been steadily
increasing. The regular translators ^{could not} do ^{much} of it
at a ^{rate} of ^{less} than translators had been requiring. It
was ^{generally} cheaper to pay them a fixed salary than by piece work
a ^{series} savings accumulated. All fees were paid into a
public fund standing in the Regt's name, & the salaries,
or where the translator had been engaged by piece work
his fees, were drawn by the Regt. as necessary. It was
impossible for him to come up for sanction each time
a temporary hand became necessary, & as the charge for
clerked is always slightly in excess of that disbursed, it
was ^{reasonable} been superfluous. No real alternative is
to ^{maintain} a fund which is under the supervision & audit of the
Chief Justice, but, subject thereto, at the disposal of the
Chief Justice. The ultimate savings must no doubt
come to fort. a 2nd more fort. & at any time a
proportionate balance ^{must} ^{be} ⁱⁿ ^{excess} of
requirements, but the present question does not concern
savings but current receipts. It was calculated that

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 a certain number of translators would
 always be required for duties work &
 it was considered that it would be economy,
 as well as efficiency, to add that minimum
 number to the permanent staff, paying over
 from current receipts the equivalent of their
 pay, plus the usual percentage for leave &
 pension. This obviously is quite independent
 of Govt. right to control the fund or appropriate
 a surplus.

Receiver or Commissioner: - a permanent Receiver
 is not necessary even if the original jurisdiction
 were to be continued as at present. The
 Govt. would not cover the salary. The Finance
 Committee (88 28-30) calculated that this work
 occupied a Judge 40 days in the year or a day
 in every week. They proposed a salary of 5000 Rs.
 it would be about 1/20 fine such a salary for a day
 work per week or four days in the month. The
 Judges have power to refer such matters to the
 Dy. Magistrate or anyone else on a proper fee
 according to work done. The only suggestion I can
 make is that they be encouraged to use this
 power more largely than they do at present. I
 suppose it was partly in view of this work that
 the Govt. order made the extremely loose & exaggerated
 statement that half what was done by the Judges
 themselves will be delegated to a subordinate or Comm.
 The Ct. has amply answered this unfounded suggestion.
 Every kind of work that can fairly be delegated has been provided for
 by Rules framed in 1885, and it comes hard on duties that they should pay an institution
 fee and also pay for a Commissioner. But it strongly
 supports the proposal (84 of the 2nd letter)
 that a substantial fee should be levied for all adjts in
 the Reference Ct. The attorneys are seldom ready &
 it is mainly due to their defaults that References
 last such an unreasonable time.

The number of peons & Chowdars is a very small point. I do not think the staff is excessive. The dignity of the judges must be upheld & in the eyes of the natives 'silver sticks' have much to do with this.

Registrars :- I agree with the Court that the two Deputy Registrars should each get 1000 a month & that an Asst. Regt. for the original side, including the work of the Clerk of the Crown, is absolutely necessary. The Deputy Registrar on the opposite side might however begin on lower pay - say 600 or 700. I also strongly support the proposal to give the Regt. himself increments so as to retain him even when he is entitled by his position to an acting judgeship. He might begin on 1400 & rise to 1800, his present pay being the mean ^{for another 10 years} between those figures. Whenever he chooses to quit the Court, he should do so finally & leave the full pay available for his successor.

Inspection of Courts - by a Judge of the High Court. Such periodical inspections are most desirable. Their importance has been frequently insisted on both by the Court & by Govt. - see especially G.O. 8000 80, §§ 18-20 & the despatch of the same date. This however is only another reason for giving a 6th Judge without any more delay. It is obviously impossible to spare a Judge for this work now, as it has been for the last 10 or 12 years.

M. R. Williams

25 April 87

C^o 058.

From

J. P. Hewitt Esq C.S.

Offg: Under Secy to the Govt of India

To

The Chief Secretary to the Government
of Madras

Simla, the 10 April 1884.

Home Department

Judicial

Sir,

I am directed to invite attention to the
* C^o 1790, d^y 9th Dec 1886. Communication from this Department marginally
noted and to request that, with the permission
of His Excellency the Governor in Council, the Govern-
ment of India may be favored, at as early a date
as possible, with an expression of the views of
His Excellency in Council in regard to the proposals
contained in the Finance Committee's note on the
expenditure of the Madras High Court.

I have the honor to be,

Sir,

Your most Obed^t Servant,

J. P. Hewitt

Offg: Under Secy to the Govt of India

@ 1029/87

Financial
CURRENT NO. 643

From
G. J. Home Dept

By 20.4.87
Recd 20.4.87

Calling for early
expression of views re
Finance Committee's note
on Madras High Court expenditure

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My dear Hutchins.
Many thanks for letting
me see your minute
on the appointment of an additional
Judge to the
and the proposal to transfer to
the S.C. Court part of the original
Civil Jurisdiction.
I do not see how it could be
better or more strongly put,
and there is not likely even
be a more favourable
opportunity for the first proposal.

apropos of paras 3 and
20 the H.C. was asked a well
known question whether a
tabular statement drafted by
the S. of J. with ref^{er} to a
despatch from The Secy of State
had our approval.
a proposal to call on the C.J. and
judges to make a return of their
attendance - hours at Courts
(school?) struck us as somewhat
derogatory to dignity but we
did not suppose that ~~any~~ ^a
~~proposal~~ ^{proposal} to ask us how what

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the youngest assistant in the country
is not called on to do but struck
the authorities in that light
and we gave as our reason
for not approving the statement was
that it would give no adequate
idea at all of the work done.

What you say in paras 3 & 20
is a complete answer to
that reference, and you
might make use of what
you say in those paragraphs when
considering our reply.

Para 6. Mr. Kenna has always insisted
that any criminal Revision cases
or appeals be disposed of by
a single judge, and the C.J.
expressed his intention to have
all such laid before a Bench;
after a month's trial I showed
him that in many cases this
is a real waste of time,
the appeal sits is now left
to such judge's discretion to
put down such cases for
a Bench or not. The rule
being that they shall be
put down for 2 judges.

185
I think this is right. I have
known within the last
year one ~~case~~ ^{cases} in which
a single judge disposed of the case
for a criminal appeal for
serious matters in which the Bench
judge was agreed by appointing
the committee, & senior judge
naturally do not like that

Para 16. I should have preferred an
additional judge at the present
time another Barrister judge, but
in the reasons stated by you I
see that the whole scheme
^{turns} depends on the feasibility
of absorbing a civilian, if

desirable. I myself
think that ^{starting with a clean board} with five strong
and experienced judges all
maintained sound and
quick workers. The Court
is able to do the work
provided the petty original civil
& Indiv. jurisdiction be
transferred, but no one here
can afford the ill. or to be
away for a day. Now K. J.
has been twice in the last
year unable from illness

halted Court for 4 or 5 days
at a time, and Matthews
has perfectly done "187" at the
end of last term - but
for vacation he would
certainly have broken down.
The "Mutt" case was enough
to try any one to the utmost
and I know he had been working
10 or 12 hours a day for the
last month.

I quite agree with you in para
3 on page 11. I was in favor
of restricting the sm. c. jurisdiction
to 2500 because I thought

we should have a better chance
of acceptance of the scheme
if it would be very easy
to raise the limit after
trial of the scheme.

What you say at first para 18
is also quite true.

Para 19.

I do not suppose there will be many more appeals from the S. C. Court than from the O.S. but the total number of appeals will certainly be greater; the net result will ^{be} ~~be~~ ^{to diminish} our work.

The Finance Committee's proposal

2

3

1899

that the Sm. C. Court shd
do the additional
work without an additional
Judge was most ill-considered

Para 26. } Your suggestions entirely
27 } good.

8. 73.

8.th May 57

70
Judl. Department.
191

PROCEEDINGS OF THE MADRAS GOVERNMENT.

again
Read the following

G.O. 23rd July 85. u. 1918 Judl.
4th Jan. 87. no. 1. Fin.
1st Dec. 86. no. 3207
For the High Court - no. 128. dated 22nd Jan. 87.
The High Court. no. 512. 3rd March 87.
The High Court. no. 940. 2nd April 87.
Minute recorded by the Hon. Mr. Hutchins
dated 25th April 87.
For G.O. of India. 20 April 87. no. 658.

Remained for of
part of 87.

Order 14 May 1878. 1026.

ordered that the following
Letter be addressed to the Government
of India.

(H-2.)

slg.
11/5.

High Court.
Relief to be afforded &
Fin: Committee's Note

With draft letter to India

Print sharp
1/15.

Despatch into the govt
23/5

To

The Secretary to the Government
of India,

Home DEPARTMENT.

Sir,

With reference to your letter - no. 1618 - dated the 12th November 1886, forwarding for the remarks of this Govt. extract from a despatch no. 38 dated 16th Sept 1886 from the Rt. Hon: the Secy of State, on the subject of the necessity for affording relief to the Madras High Court, I am directed to submit with the following remarks, the marginally noted Proceedings of this Government, and at the same time to reply to your letters nos. 1791 & 658 - dated 9th Dec 86 and 20th April 87, regarding the Note prepared by the Finance Committee on the High Court's expenditure, which Note bears directly on the subject of the relief required by the Court.

2. In Mr. Webster's letter - no. 1918 - dated the 23rd July 1885, a scheme was submitted for the favourable consideration of the Govt. of India, which proposed to give the High Court the relief it required by removing from its jurisdiction suits arising in the Presidency Town not exceeding Rs. 2500 in value. In submitting this scheme, H.E. in Council stated that the only alternative appeared to be the appointment

* No 1626 dated
11/11/87

17/12

of a 5th Puisne Judge. Since that letter was written, the experience of ^{two more} another year's working of the High Court has been obtained, and the opinion of the Hon. the Judges thereon is set forth at length in the letters of their Registrar recording the Proceedings herewith forwarded. This opinion is to the effect that ~~in consequence~~ of the continued growth of the appellate work of the Court, the remedy which was suggested in 1885, namely the removal of a part of the Court's original jurisdiction, will be insufficient to meet the increasing difficulty of coping with the business coming before the Court, and that the appointment of a 5th Puisne Judge has become a matter of pressing necessity. Referring first to the criticism of the Secretary of State in his Despatch above ^{quoted} named on the statement that the number of civil & criminal appeals instituted had increased by 87.46 and 90.73 percent respectively in the ten years 1875-1884, the High Court point out that His Lordship would appear to misapprehend the nature of the cases classed as civil revision petitions, references, and criminal revision cases, to ^{which} whose inclusion ^{objection} is taken in the Despatch. ~~The despatch of~~ These cases often involves the expenditure of as much time & trouble as ~~that of~~ any other class, ^{and the} Hon. the Judges consider that they must be included in any statement ^{professing to} show the appellate work of the Court. The experience of the last year, however, furnishes even stronger evidence of the growth of the Court's appellate work.

* dated 22nd Jan. 87. No. 128
recd 3rd March 87. No. 512.

* No. 128. Dated
22 Jan 87

appears from the figures available in 1885. In para. 10 of the first letter of the Registrar, the Hon. the Judges compare the figures of institutions on the appellate side in 1875, 1884, & 1886, and show that, even excluding revision petitions references, the civil appellate work of 1886 exceeded that of 1875 by 77.26 percent, while if those classes of cases are included, the increase amounted to 106.9 percent. A similar conclusion is suggested by the statistics of arrears. The number of suits pending at the close of 1886, as compared with those pending at the end of 1881, was as follows:-

	1881	1886
original suits	221	301
1 st appeals	168	208
2 nd appeals	608	979
appeals for orders, & all other appellate cases	548	826
Total	1545	2314

And a comparison of the year 1881 with those which preceded it will show that ^{in the} that year the arrears reached a point which was then unprecedented on the appellate side of the Court, & which ^{at that time} was then considered sufficient ground for sanction being accorded to the appointment of an additional judge. To these figures, the Hon. the Judges add an expression of their opinion that there is no prospect of the work being overtaken by the existing staff of judges - and they consider the necessity for an increase to the strength of the Court to be now established.

3. H.C. the Governor in Council, after ^{with care} considering the letters of the High Court, and after perusing a Minute which has been recorded by the Hon. Mr. Hutchins, whose personal experience in the Court gives

additional value to his remarks, has
come to the conclusion that the continuation
of the Hon. the Judges that the appointment
of a 5th puisne Judge, temporarily or
permanently, is necessary, must be
regarded as established. The Finance
Committee, in paras 24 & 25 of their Note
have made some remarks on the lessened
amount of work turned out by the High
Court in 1885 & 1886 as compared with
1884. On this subject, Mr. Hutchins has
touched in his Minute, where he has given
an account of the effort which was made
by the Judges in 1883-84 to ^{overcome} their
work. He has stated his opinion that this
effort could not be sustained, & H.C. in
Council accepts this opinion. As soon as
the effort was relaxed, arrears began
at once to accumulate, and by the end of
1886, as pointed out by the Finance Com-
mittee - the increase ^{arrears} was serious & a
further increase appeared inevitable. To
remedy this state of things the Finance
Committee proposed to ~~limit the~~ ^{limit} of
relieve the High Court of all original suits
not exceeding Rs. 5000 in value; ~~but~~
~~and~~ to limit the right of second
appeal: but the Hon. the Judges have
expressed themselves as opposed to ~~both~~
of these proposals, and H.C. in Council
is not therefore ^{unable} prepared to support
them. The relief which will be afforded to
the Court by the transfer of ~~over~~ ^{over} suits
not exceeding Rs. 2500 in value, may eventually
enable the Court, when abreast of its work, to

To
The Secretary to the
Government of
Department.

No.

188

DEPARTMENT.

197 10
get on without a permanent addition of
strength: but to effect this ^{will take time} transfer,
and meanwhile ^{heavy} the arrears have accum-
ulated and are increasing. I am, therefore,
to state, as the opinion of this Government,
that the time has come when the public
interests require that the appointment
of a 5th puisne judge to the High Court
~~should~~ be no longer delayed. I am to
express the hope that H.C. the Gov. Gen. in
Council, after perusing this letter and the
Proceedings which accompany it will see
reason to concur in the opinion of the
Govt of Madras, and will make a recom-
mendation at an early date to the Secy.
of State with the object of obtaining an
additional judge. It appears ~~probable~~ ^{probable} that when
the proposed change of the
High Court's original jurisdiction in suits
up to Rs. 2500, is effected, ~~that~~ and when
by the aid of a 5th puisne judge, the present
arrears have been worked off, ~~that~~ the
additional Judge may not be permanently
needed. In order to ~~facilitate~~ ^{facilitate} any
future reappointment of such a judge, it would
however, be desirable to make a permanent
creation by Letters Patent of a 5th puisne
Judgeship, while for the reasons pointed
out by the Hon. Mr. Hutchins' minute, it
~~seems essential~~ ^{seems essential} to ~~facilitate~~ ^{facilitate} the absorption of the addi-
tional judge, when he is no longer required,
if a ~~Civilian~~ ^{Civilian} ~~is~~ ^{be} nominated.

4. H.C. in Council, while thus
advocating the appointment of a 5th puisne
Judge, continues to attach much importance

to the relief to be afforded to the High Court by the transfer to the Presidency Court of Small Causes of original jurisdiction in suits up to the value of Rs. 2500. and H.E. hopes that the legislation necessary to carry out the transfer may be carried forward with all possible despatch. I am to invite attention to the ~~difficulties~~ ^{as to}

5. Besides the main questions affecting the relief of the High Court which have been dealt with in the preceding paragraphs, the Finance Committee in their Note on which ~~reminders of this Government have been asked~~ refer to several other matters connected with the High Court's expenditure. As regards the proposed redistribution of establishment, both on the original and appellate side, which will be a result of the curtailment of the High Court's original jurisdiction, H.E. in Council is ~~disposed~~ ^{disposed} to adhere to the scheme set forth in the letter of this Govt. no. 1918, dated 23rd July 1885, already referred to, but he is of opinion that - in the case of the Deputy Registrar of the Appellate Side, ~~which~~ ^{an opportunity of} a post which may afford useful judicial training to a junior Civilian, that the pay ~~may~~ ^{should} be made progressive, beginning at Rs. 600 and rising to Rs. 1000 a month. On the original side, a professional man will be required as Deputy Registrar - and the pay can not be reduced with advantage below Rs. 1000. As regards the remarks of the Finance Committee in the last sentence of para 20. on the cost of the revised establishment on the appellate side, which has since been ~~introduced~~ sanctioned

the form of the legislation required, contained in para 18 of the Am. Mr. Spetchino's minute.

It is to be noted that the Department of the Registrar of the High Court is to be abolished and the duties of the Registrar of the High Court are to be transferred to the Registrar of the High Court.

(copy enclosed)

by G.O. 7th Feb 87. no. 101. It is pointed out that the Committee were under a misapprehension in thinking that savings earned by the copyists & translators have been used to increase the regular establishment of the Court. The reform introduced amounts to this - that a certain staff of section-writers & translators has been made permanent, instead of being retained as "temporary establishment", the object being to give inducements to better work and to get the work done more cheaply. The result is a saving of Rs. 77 per annum.

6. Referring next to the Clerk of the Crown, the Committee suggest that the appointment should be amalgamated with that of Crown Prosecutor. Experience has, however, shown this to be impracticable. The late holder of the office of Crown Prosecutor combined ^{with} that of Clerk of the Crown, but he found it necessary, as stated by the High Court, to have the duties of Clerk performed by a deputy, and they cannot, indeed, from their nature, be performed by the same person who performs those of Crown Prosecutor. But though these two offices cannot be amalgamated, the duties of the Clerk of the Crown are so inconsiderable that they might be attached to some other post, & this Govt. considers there will be no difficulty in causing the Deputy Registrar to perform the work of the Clerk of the Crown, abolishing the latter as a separate office.

7. The abolition of the ^{office} Sheriff as a separate office has been already decided by the Govt. and this Government ^{with the} ~~abolition~~ ^{completion} of the necessary

Letter of 7 Aug 86 no. 775

8. As regards the proposed creation of the appointment of Official Receiver, the Hon^r. the Judges, on further consideration of the question, are not anxious that the appointment should be made. It would probably involve ^{in their opinion} increased outlay and in these circumstances H.C. in Council does not support the proposal. The other remarks of the Finance Committee which are referred to in the letter from the Registrar of the High Court do not appear to call for ~~any comment~~^{its own consent} from this Government, but I am, ~~told~~, in conclusion, ~~that~~ ^{to state that} ~~the Minister has invited the attention of~~ ^{the Govt of India to the suggestion of the} Hon^r. the Judges in para^s. of their Registrar's second letter that the frequent application ^{in the Reference Court.} for adjournments should be checked by the imposition of a substantial fee, ~~has~~ the approval of Gov^t.

Relief to be afforded to the
High Court - and
Finance Committee's Note

✓ 3-14-82
no. 512

Dep
11/5.

H.H.

11/5.
In conclusion I am to point out that our present loss is
unrecovered the 6th Judge amount - approximately, some more than
this, that in addⁿ Judge has been from July & August & Oct
the amount of the amount is within 10 days of the addⁿ to be paid
about April or May for about 8 working months. But as
it is essential to have a decision that the Judge shall be
available not later than August it is other very many points
involved in this case for instance. I will take time to dispose of I
can ~~earnestly request~~ ^{earnestly request} that the question of allowing a 6th Judge may
be taken up in the first instance, and the consent of the Govt
of Indiana - in favour of that. I am, of course, in command
cannot forget a ~~telegram~~ ^{telegram} to the Secy of State by telegraph
at an early date as a matter of course. A copy of this letter & of the
the ~~telegram~~ ^{telegram} for the Secy of State.

dated 28/5
with No 1070. 27 1/2 minutes
with the following LOS.
Sub 1918. 3207. Sub 1. 18181.

Judl. DEPARTMENT.

No. *13* of 1887.

To

The Right Honorable
The Secretary of State for India.

MY LORD,

! .

We have the honor
to forward, for your Lordship's
information, copy of our Proceedings^x
noted in the margin. and of a
letter^x which we have addressed to
the Governor General in Council, on
the subject of the necessity for
affording relief to the Madras
High Court. and other matters, in
order that, when the Govt of India
addresses your Lordship on the
subject, it may be ready for the
very early disposal, wh we believe
to be most important.

We have the honor to be,
Etc.

* no. dated 14 May 1926
* no. dated - - - 1927

in this course
that it will
to early dispose
subject when the
India address V.
h; as the benefit
we anticipate from
horals depends on

We take this course in the hope that it will conduce to early disposal of the subject when the Govt. of India addresses V. Lordship; as the benefit which we anticipate from our proposals depends in great measure on their being speedily sanctioned.

log

At the annual
25 May 1887 }

129
13/5.

FORT ST. GEORGE,
(188) DEPARTMENT.

Letter to the Right Honorable
the Secretary of State for India,

Dated
No. of 188 .

Copy Despatch sent to Govt
of India - 4/6/37

7082
205

Current No.
234 (Rt)
10406 (d)
1878

Order complete. - 81
Letter only - 100
Order complete with Letter - 80
Collection - 80

N.B. -
A = Print in full.
B = Not to be printed.
C = Print abstract only.
Q = Print heading only.
R = Print, but not for use.

ORDINARY, PRINTED.

Judicial DEPARTMENT.
G.O., DATED 14/5/87.
No. 1026/7.

First copy sent to Press.

Returned for signature.

23/5

Despatched in print.

23/5

[Despatch Abstract.]

High Court of Madras

*Addressing the for-
warding on the subject of
to be afforded
relief for the ——— & Finance
Committee's Note on it &
expenditure.*

on the High Court of Madras

*Forwarding copies of
minutes on the subject of
necessity for affording relief
to the Madras High Court
in the matter.*

*Forwarding, with
remarks, copy of certain
proceedings of this for-
warding on the same. Applying to*

*in correspondence
regarding the Note prepared
Finance Committee*