

Public (1895) Department.

ORDINARY PRINTED.

G.O., No. 82

DATED 2^d Feb. 1895

INDEXED.

[Despatch Abstract.]

ASSISTANT SESSIONS JUDGES.

Communicating to the Judicial Department and the Accountant-
General papers relating to the rule issued by the Government of India
authorising this Government to appoint Subordinate Judges to be also---

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
80	875		14-5-95				
80 R	641	Just. D.	24-4-97				

2ND FEBRUARY 1895, No. 82, PUBLIC.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—again the following paper:—

G.O., dated 4th August 1894, No. 572, Public.

ABSTRACT.—Telegraphing to the Government of India the opinion of this Government that the appointment of Subordinate Judges as Assistant Sessions Judges is an important factor in the working of the Provincial Civil Service scheme.

READ—also the following paper:—

From J. P. HEWETT, Esq., C.I.E., Officiating Secretary to the Government of India, Home Department (Public), to the Chief Secretary to the Government of Madras, dated Calcutta, the 24th January 1895, No. 68.

With reference to the correspondence ending with your telegram, No. 379, dated the 4th August last, I am directed to forward a copy of the papers noted in the margin, from which it will be seen that, under Statute 33 Vict., Cap. 3, Section 6, a rule has been issued by the Government of India, with the sanction of the Secretary of State in Council, authorising the Government of Madras to appoint any Subordinate Judge, being a member of the Provincial Civil Service and a Native of India of proved merit and ability, to be also an Assistant Sessions Judge. In view of the fact that the number of District and Sessions Judgeships thrown open to the Madras Provincial Service is four, the Governor-General in Council considers that it should be sufficient to appoint not more than two Subordinate Judges to exercise the powers of Assistant Sessions Judges at any one time, and this view is expressed in paragraph 4 of the despatch to the Secretary of State of 3rd October last. I am accordingly to ask that not more than two Subordinate Judges may be appointed at any one time to be Assistant Sessions Judges under the rule now sanctioned.

The Governor-General in Council would be glad, when the rule has been in operation for two years, to learn the opinion of the Government of Madras as to how it has worked.

ENCLOSURES.

Despatch from the Government of India, Home Department (Public), to the Right Hon'ble Her Majesty's Secretary of State for India, dated Simla, 3rd October 1894, No. 51.

We have the honour to forward, for your information, a copy of the papers entered in the annexed list, relative to a proposal made by the Government of Madras to appoint Subordinate Judges in that Presidency to be Assistant Sessions Judges to try Sessions cases referred to them by the Sessions Judges.

2. In 1890 the Government of Lord Lansdowne, in communicating to Local Governments the orders contained in Lord Cross's despatch, No. 104, dated the 12th September 1889, regarding the proposals of the Public Service Commission so far as they related to the Judicial and Executive branches of the administration, requested them to consider whether officers of the Provincial Service exercising only civil judicial functions should not undergo some period of

probation in criminal business before they were appointed to a District and Sessions Judgeship. The Government of Madras expressed the opinion that this object could be secured either by the creation of two or three additional Subordinate Judgeships and the employment of about the same number of Subordinate Judges as Additional Sessions Judges, or by the appointment of all Subordinate Judges to be Additional Sessions Judges. There was, however, then no evidence to show that the agency for conducting Sessions trials in the Madras Presidency required to be strengthened; and Lord Lansdowne's Government considered that the desired result might be attained by transferring temporarily a Subordinate Judge, who gave promise of becoming an efficient District and Sessions Judge, to the executive line and employing him upon ordinary criminal work as a Deputy Magistrate and Collector. The Government of Madras have now represented that in order to permit of the efficient working of this system, it would be necessary to prescribe a Revenue test to be passed by Subordinate Judges prior to their first appointment, as some guarantee of fitness for revenue duties would be needed in their cases. But as only a few Subordinate Judges and District Munsifs would under this system be transferred temporarily to the executive line, the Madras Government consider that the knowledge of revenue matters would, as regards the majority of these officers, be of little use in the performance of their ordinary duties, and consequently the tests to be passed by them would be needlessly increased. They have come to the conclusion that the best method of securing the training of Subordinate Judges in criminal work will be to appoint these officers to be Assistant Sessions Judges, to try Sessions cases referred to them by the Sessions Judges. The latter (it is said), being thus relieved of Sessions work, will be able to an equal extent to relieve Subordinate Judges of civil appeals and suits.

3. We consider it undesirable that a Subordinate Judge, without having had any previous experience in criminal work, should be entrusted with the powers exercised by a Sessions Judge, still less with the oversight of Criminal Courts which would be involved in his appointment to be Additional Sessions Judge. But the present proposal (*vide* section 409 of the Code of Criminal Procedure, 1882) does not involve the investment of Subordinate Judges with any appellate power, and sections 31 and 108 of the Code of Criminal Procedure respectively limit the powers of sentence of an Assistant Sessions Judge and provide for an appeal from his decisions to the Court of Session. Moreover all cases reach an Assistant Sessions Judge after a careful preliminary inquiry by a magistrate; and Subordinate Judges, experienced only in the work of the Civil Courts, will, we think, be better qualified to try cases in which such a preliminary inquiry has been carried out than to undertake the investigations, involving familiarity with police procedure and practice, which have to be performed by magistrates in India. The Subordinate Judges, who would under the present proposal be invested with criminal judicial powers, are the picked men of their class; and having regard to their seniority and their standing in the service it might frequently be found unsuitable to employ them in subordinate magisterial posts. For these reasons we are prepared to support the proposal to invest Subordinate Judges in Madras with the powers of Assistant Sessions Judges, provided that the proposal is restricted to the conferment of these powers on selected Subordinate Judges to the extent necessary to provide an adequate supply for filling the appointments of District and Sessions Judge (four in number) which have been listed as open to the Madras Provincial Civil Service.

4. As, however, the offices of Assistant Judges in the Regulation Provinces are reserved to the Indian Civil Service by Statute 24 and 25 Vict., Cap. 54, it is necessary, before the proposal can be carried out, that a rule should be made by us with the sanction of the Secretary of State in Council in accordance with Statute 33 Vict., Cap. 3, Section 6. We accordingly submit for the necessary sanction the enclosed rule authorising the Government of Madras to appoint certain Subordinate Judges to be also Assistant Sessions Judges. The precise number of the officers to be so appointed will be subsequently determined by us. It will probably not be found necessary that more than two Subordinate Judges should exercise these powers at any one time.

5. Our Honourable Colleague Sir Charles Pritchard does not concur with the proposals made in this despatch, and considers that the training of Subordinate Judges for the position of District and Sessions Judge should be effected in the manner originally suggested by the Government of India, viz., by employing them for a time as Deputy Collectors and Magistrates, in order that they may have opportunity for acquiring the practical experience of the working of the Revenue and Police branches of the administration, which is recognised as a necessary preliminary to the appointment of members of the Indian Civil Service as District and Sessions Judges.

Despatch from the Right Honorable Mr. H. H. FOWLER, Her Majesty's Secretary of State for India, to His Excellency the Right Honorable the Governor-General of India in Council, dated India Office, London, 8th November 1894, No. 104, Public.

Having considered in Council the draft rule which accompanied your Government's letter, No. 51, dated the 3rd ultimo, I have accorded my sanction to it with the concurrence of a majority of the members present.

2. The reasons which have induced your Excellency's Government to propose this special rule for the Presidency of Madras are fully stated in the third paragraph of the letter under reply. They appear to me very cogent, but they would seem to apply to other provinces also, and not exclusively to Madras. I presume that your Government are desirous of trying the experiment in one province before proposing a rule of general application.

Notification of the Government of India, Home Department (Public), dated Calcutta, the 24th January 1895, No. 67.

In exercise of the power conferred by the Statute 33 Vict., Cap. 3, Section 6, and in continuation of the rules published in Notification, No. 2159, dated the 2nd November 1892, the Governor-General in Council has been pleased to make the following rule, which has been sanctioned by the Secretary of State in Council with the concurrence of a majority of the members present:—

"The Government of Madras may appoint any Subordinate Judge, being a member of the Provincial Civil Service and a Native of India of proved merit and ability, to be also an Assistant Sessions Judge."

(By order.)

(Signed) J. P. HEWETT,
Offg. Secy. to the Govt. of India.

ORDER—dated 2nd February 1895, No. 82, Public.

Communicated to the Judicial Department.

2. Attention is drawn to the request of the Government of India for a report on the working of the new rule after it has been in operation for two years.

(True Extract.)

Chief Secretary.

To the Judicial Department.
„ Accountant-General.

Exd. A. Raitt.

Govt. of {1895} Madras.

PUBLIC.

Issued

Recd.

Encl.

G.O., 2nd February 1895, No. 82.

FEBRUARY.

Assistant Sessions Judges.

Communicating to the Judicial Department and the Accountant-General papers relating to the rule issued by the Government of India authorising this Government to appoint Subordinate Judges to be also —.

4TH AUGUST 1894, No. 572, PUBLIC.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—again the following paper :—

G.O., dated 11th May 1894, Nos. 325, 326, Public.

ABSTRACT.—Notifying the rules for admission to the Provincial Civil Service as finally revised, and forwarding a copy of the same to the Government of India.

READ—also the following papers :—

G.O., dated 31st May 1894, No. 1309, Judicial.

ABSTRACT.—Passing orders on proposals of the High Court for the appointment of certain Subordinate Judges as Assistant Sessions Judges.

G.O., dated 25th June 1894, Mis. No. 1575, Judicial.

Read—again G.O., dated 31st May 1894, No. 1309, Judicial.

Read—also the following telegram from the Secretary to the Government of India, Home Department, Simla, to the Chief Secretary to the Government of Madras, Ootacamund, dated 22nd June 1894 :—

No. 1098, Public: Your letter 326, 11th May. Madras Provincial Civil Service Rules. Proposal in paragraph 3 regarding appointment of Subordinate Judges to be Assistant Sessions Judges cannot be carried out except in accordance with Statute 33 Victoria, Chapter 3, Section 6. Letter follows.

Order—dated 25th June 1894, Mis. No. 1575, Judicial.

The following telegrams will be despatched to the Sessions Judges of Coimbatore, Tinnevely and Madura :—

299. "Pending further orders no cases should be transferred for trial to recently-appointed Assistant Sessions Judges."

(True Extract.)

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

To the Honorable the Chief Justice, with C.L.

" Sessions Judges of Coimbatore, Tinnevely and Madura.
" District Magistrate, Nilgiris.

From C. J. LYALL, Esq., C.S.I., C.I.E., Secretary to the Government of India, Home Department (Public), to the Chief Secretary to the Government of Madras, dated Simla, 22nd June 1894, No. 1099.

I am directed to acknowledge the receipt of your letter, No. 326 (Public), dated the 11th ultimo, forwarding a copy of the rules for admission to the Madras Provincial Civil Service as finally revised and issued by the Government of Madras. In paragraph 3 of your letter it is stated that, with a view to secure the training of Subordinate Judges in criminal work, His Excellency the Governor in Council proposes to appoint these officers to be Assistant Sessions Judges to try sessions cases

referred to them by the Sessions Judges, and that he is causing steps to be taken to carry the proposal into effect.

2. With reference to this proposal, I am directed to say, in continuation of the telegram from this department, No. 1098, dated 22nd instant, that, as the offices of Assistant Judges are reserved to the Indian Civil Service by Statute 24 and 25 Victoria, Chapter 54, it is necessary, before the proposal can be carried out, that a rule should be made by the Governor-General in Council with the sanction of the Secretary of State in Council under Statute 33 Victoria, Chapter 3, Section 6, authorising the Local Government to appoint any Subordinate Judge to be also an Assistant Sessions Judge. Before considering, however, whether such a rule should be recommended for the sanction of the Secretary of State, the Government of India will be glad to learn the probable time when the appointments of District and Sessions Judges, or any of them, listed as open to the Madras Provincial Civil Service, are likely to become available for transfer to that service.

Telegram from the Chief Secretary to the Government of Madras, Ootacamund, to the Secretary to the Government of India, Home Department, Simla, dated 9th July 1894.

325. Your 1099, June 22nd. This Government would respectfully advance that scheduled appointment is Assistant Judge and not Assistant Sessions Judge. Latter is not appointment properly so called but merely investiture with certain powers under Criminal Procedure Code. Taking average rate of retirements and deaths for past four years, Manavedan Raja, senior Statutory, would get permanent Judgeship or Collectorate by about April 1899, first Provincial Service officer will get permanent Judgeship by about July 1902. Vacancy at present exists for appointment Provincial Service officer as Acting Judge. Please pass very early orders as recent investiture Sub-Judges with powers Assistant Sessions Judges to assist District Judges in clearing arrears been withheld.

Telegram from the Secretary to the Government of India, Home Department, Simla, to the Chief Secretary to the Government of Madras, Ootacamund, dated 31st July 1894.

No. 1300, Public. Your telegram 325, 9th instant. Proposed appointment of Subordinate Judges to be Assistant Sessions Judges. Governor-General in Council, having again considered the point, adheres to view stated in letter of 22nd ultimo that Subordinate Judges cannot be appointed Assistant Sessions Judges save in the way there indicated. Government of India will consider desirability of making rule under Statute 33 Victoria, Chapter 3, Section 6, but would be glad to know whether Madras Government desire to make any further remarks upon the subject.

ORDER—dated 4th August 1894, No. 572, Public.

The following telegram will be despatched to the Government of India, Home Department, Simla :—

379. Your telegram 1300, Public, 31st July. This Government considers appointment Subordinate Judges as Assistant Sessions Judges to be important factor in working of Provincial Service scheme, as after considerable discussion it was decided that this was best practicable method for securing training of these officers in criminal work in order to fit them for post District and Sessions Judge.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Judicial Department.

Exd. A. Raitt.

Govt. of {1894} Madras.

PUBLIC.

Issued

Recd.

Encl.

G.O., 4th Aug. 1894, No. 572.

AUGUST.

Provincial Civil Service.

Intimating to the Government of India, by telegram, the opinion of this Government that the appointment of Subordinate Judges as Assistant Sessions Judges is an important factor in the working of the — scheme.

Public

Pub

NO: 326

From

The Govt. of India

Home Dept

no 68

Dated. 24.1.95

Recd. 1.2.95

Encls. 2.

Subject.

Forward a copy of the papers filed within re. the appl^{to the Madras High Court} of any subordinate judge, being a member of P.C.S & a Native of India to be also an asst Sessions judge & limiting the no of such appls to two at a time.

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PUBLIC.

HOME DEPARTMENT PROCEEDINGS,

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LIST OF ENCLOSURES.

1. Draft rule referred to in paragraph 4 of the Despatch.
2. Extract, paragraph 3, from a letter from the Government of Madras, No. 326 (Public), dated the 11th May 1894.
3. Telegram to the Government of Madras, No. 1098, dated the 22nd June 1894.
4. Letter to the Government of Madras, No. 1099, dated the 22nd June 1894.
5. Telegram from the Government of Madras, No. 325, dated the 9th July 1894.
6. Telegram to the Government of Madras, No. 1300, dated the 31st July 1894.
7. Telegram from the Government of Madras, No. 379, dated the 4th August 1894.

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PUBLIC.

HOME DEPARTMENT PROCEEDINGS,

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Draft rule referred to in paragraph 4 of the Despatch.

IN exercise of the power conferred by the Statute 33 Vict., Cap. 3, Section 6, and in continuation of the rules published in Notification No. 2159, dated the 2nd November 1892, the Governor General in Council has been pleased to make the following rule, which has been sanctioned by the Secretary of State in Council with the concurrence of a majority of the members present :—

The Government of Madras may appoint any Subordinate Judge, being a member of the Provincial Civil Service and a Native of India of proved merit and ability, to be also an Assistant Sessions Judge.

Extract paragraph 3 from a letter from the Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department,—No. 326 (Public), dated the 11th May 1894.

3. In connection with this subject, I am directed to inform you of the action taken by this Government with reference to the training of District Munsifs and Subordinate Judges in criminal work:

In paragraph 15 of Mr. MacDonnell's letter of the 14th February 1890, No. 300, it was suggested that officers of the Provincial Service exercising only civil judicial functions should undergo some such training before being appointed to a District and Sessions Judgeship, four of which posts have in this Presidency been declared open to the members of that service. This Government was of opinion

that this object could be secured either by the creation of two or three additional Sub-Judgeships and the employment of about the same number of Sub-

Judges as additional Sessions Judges or by the appointment of all Sub-Judges to be additional Sessions Judges. In paragraph 8 of Home Department letter of the 27th May 1892, No. 1535, you intimated the opinion of the Government of India that the desired result might be attained by transferring temporarily a Subordinate Judge who gave promise of becoming an efficient District and Sessions Judge to the executive line and employing him upon ordinary criminal work as a Deputy Collector and Magistrate.

In order to permit of the efficient working of this system, it would be necessary to prescribe a Revenue test as one of those to be passed by these officers prior to first appointment, for some guarantee of fitness for revenue duties would be needed in their cases. But as only a few Sub-Judges and District Munsifs would under this system be transferred temporarily to the executive line, the knowledge of revenue matters would, as regards the majority of these officers, be of little use in the performance of their ordinary duties, and consequently the tests to be passed by them would be needlessly increased.

His Excellency the Governor in Council has, in consultation with the Honourable the Judges of the High Court, come to the conclusion that the best method of securing the training of Sub-Judges in criminal work will be to appoint these officers to be Assistant Sessions Judges to try Sessions cases referred to them by the Sessions Judges, who being thus relieved of Sessions work might to an equal extent take the civil appeals and suits now falling on Sub-Judges. In view of the ample judicial training and the high capacity of those officers as a class, there is no danger in entrusting them with such powers. The necessary steps to carry this into effect are being taken.

Telegram No. 1098, dated Simla, the 22nd June 1894.

From—The Secretary to the Government of India, Home Department,
To—The Chief Secretary to the Government of Madras.

YOUR letter 326, dated 11th May. Madras Provincial Civil Service Rules. Proposal in paragraph 3 regarding appointment of Subordinate Judges to be Assistant Sessions Judges cannot be carried out except in accordance with Statute 33 Vict., Cap. 3, Section 6. Letter follows.

No. 1099, dated Simla, the 22nd June 1894.

From—C. J. LYALL, Esq., C.S.I., C.I.E., Secretary to the Government of India, Home Department,
To—The Chief Secretary to the Government of Madras.

I AM directed to acknowledge the receipt of your letter No. 326 (Public), dated the 11th ultimo, forwarding a copy of the rules for admission to the Madras Provincial Civil Service as finally revised and issued by the Government of Madras. In paragraph 3 of your letter it is stated that, with a view to secure the training of Subordinate Judges in criminal work, His Excellency the Governor in Council proposes to appoint these officers to be Assistant Sessions Judges to try

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HOME DEPARTMENT PROCEEDINGS,

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Sessions cases referred to them by the Sessions Judges, and that he is causing steps to be taken to carry the proposal into effect.

2. With reference to this proposal, I am directed to say, in continuation of the telegram from this Department, No. 1098, dated 22nd instant, that as the offices of Assistant Judges are reserved to the Indian Civil Service by Statute 24 and 25 Vict., Cap. 54, it is necessary, before the proposal can be carried out, that a rule should be made by the Governor General in Council with the sanction of the Secretary of State in Council under Statute 33 Vict., Cap. 3, Section 6, authorising the Local Government to appoint any Subordinate Judge to be also an Assistant Sessions Judge. Before considering, however, whether such a rule should be recommended for the sanction of the Secretary of State, the Government of India will be glad to learn the probable time when the appointments of District and Sessions Judges or any of them listed as open to the Madras Provincial Civil Service are likely to become available for transfer to that service.

Telegram No. 325, dated Ootacamund, the 9th July 1894.

From—The Chief Secretary to the Government of Madras,

To—The Secretary to the Government of India, Home Department.

YOUR 1099, June 22nd. This Government would respectfully advance that scheduled appointment is Assistant Judge and not Assistant Sessions Judge. Latter is not appointment properly so called, but merely investiture with certain powers under Criminal Procedure Code. Taking average rate of retirements and deaths for past four years, Manavedan Raja, senior statutory, would get permanent Judgeship or Collectorate by about 1899. First Provincial Service officer will get permanent Judgeship by about July 1902. Vacancy at present exists for appointment Provincial Service officer as acting Judge. Please pass very early orders, as recent investiture Sub-Judges with powers Assistant Sessions Judges to assist District Judges in clearing arrears been withheld.

Telegram No. 1300 (Public), dated Simla, the 31st July 1894.

From—The Secretary to the Government of India, Home Department,

To—The Chief Secretary to the Government of Madras.

YOUR telegram 325, 9th instant. Proposed appointment of Subordinate Judges to be Assistant Sessions Judges. Governor General in Council having again considered the point adheres to view stated in letter of 22nd ultimo, that Subordinate Judges cannot be appointed Assistant Sessions Judges save in the way there indicated. Government of India will consider desirability of making rule under Statute 33 Vict., Cap. 3, Section 6, but would be glad to know whether Madras Government desire to make any further remarks upon the subject.

Telegram No. 379, dated Ootacamund, the 4th August 1894.

From—The Chief Secretary to the Government of Madras,

To—The Secretary to the Government of India, Home Department.

YOUR telegram 1300 (Public), 31st July. This Government considers appointment Subordinate Judges as Assistant Sessions Judges to be important factor in working of Provincial Service scheme, as after considerable discussion it was decided that this was best practicable method for securing training of these officers in criminal work in order to fit them for post District and Sessions Judge.

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HOME DEPARTMENT PROCEEDINGS,

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No. 51 OF 1894.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

PUBLIC.

TO THE RIGHT HONOURABLE H. H. FOWLER,

Her Majesty's Secretary of State for India.

Simla, the 3rd October 1894.

SIR,

WE have the honour to forward, for your information, a copy of the papers entered in the annexed list, relative to a proposal made by the Government of Madras to appoint Subordinate Judges in that Presidency to be Assistant Sessions Judges to try Sessions cases referred to them by the Sessions Judges.

2. In 1890 the Government of Lord Lansdowne, in communicating to Local Governments the orders contained in Lord Cross's Despatch No. 104, dated the 12th September 1889, regarding the proposals of the Public Service Commission so far as they related to the Judicial and Executive Branches of the Administration, requested them to consider whether officers of the Provincial Service exercising only civil judicial functions should not undergo some period of probation in criminal business before they were appointed to a District and Sessions Judgeship. The Government of Madras expressed the opinion that this object could be secured either by the creation of two or three additional Subordinate Judgeships and the employment of about the same number of Subordinate Judges as Additional Sessions Judges, or by the appointment of all Subordinate Judges to be Additional Sessions Judges. There was, however, then no evidence to show that the agency for conducting Sessions trials in the Madras Presidency required to be strengthened; and Lord Lansdowne's Government considered that the desired result might be attained by transferring temporarily a Subordinate Judge, who gave promise of becoming an efficient District and Sessions Judge, to the executive line and employing him upon ordinary criminal work as a Deputy Magistrate and Collector. The Government of Madras have now represented that in order to permit of the efficient working of this system, it would be necessary to prescribe a Revenue test to be passed by Subordinate Judges prior to their first appointment, as some guarantee of fitness for revenue duties would be needed in their cases. But as only a few Subordinate Judges and District Munsifs would under this system be transferred temporarily to the executive line, the Madras Government consider that the knowledge of revenue matters would, as regards the majority of these officers, be of little use in the performance of their ordinary duties, and consequently the tests to be passed by them would be needlessly increased. They have come to the conclusion that the best method of securing the training of Subordinate Judges in criminal work will be to appoint these officers to be Assistant Sessions Judges, to try Sessions cases referred to them by the Sessions Judges. The latter (it is said), being thus relieved of Sessions work, will be able to an equal extent to relieve Subordinate Judges of civil appeals and suits.

3. We consider it undesirable that a Subordinate Judge, without having had any previous experience in criminal work, should be entrusted with the powers exercised by a Sessions Judge, still less with the oversight of Criminal Courts which would be involved in his appointment to be Additional Sessions Judge. But the present proposal (*vide* section 409 of the Code of Criminal Procedure, 1882) does not involve the investment of Subordinate Judges with any appellate power, and Sections 31 and 408 of the Code of Criminal Procedure respectively

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HOME DEPARTMENT PROCEEDINGS,

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limit the powers of sentence of an Assistant Sessions Judge and provide for an appeal from his decisions to the Court of Session. Moreover all cases reach an Assistant Sessions Judge after a careful preliminary inquiry by a Magistrate; and Subordinate Judges, experienced only in the work of the Civil Courts, will, we think, be better qualified to try cases in which such a preliminary inquiry has been carried out than to undertake the investigations, involving familiarity with police procedure and practice, which have to be performed by Magistrates in India. The Subordinate Judges, who would under the present proposal be invested with Criminal Judicial powers, are the picked men of their class; and having regard to their seniority and their standing in the service it might frequently be found unsuitable to employ them in Subordinate Magisterial posts. For these reasons we are prepared to support the proposal to invest Subordinate Judges in Madras with the powers of Assistant Sessions Judges, provided that the proposal is restricted to the conferment of these powers on selected Subordinate Judges to the extent necessary to provide an adequate supply for filling the appointments of District and Sessions Judge (four in number) which have been listed as open to the Madras Provincial Civil Service.

4. As, however, the offices of Assistant Judges in the Regulation Provinces are reserved to the Indian Civil Service by Statute 24 & 25 Vict., Cap. 54, it is necessary, before the proposal can be carried out, that a rule should be made by us with the sanction of the Secretary of State in Council in accordance with Statute 33 Vict., Cap. 3, Section 6. We accordingly submit for the necessary sanction the enclosed rule authorising the Government of Madras to appoint certain Subordinate Judges to be also Assistant Sessions Judges. The precise number of the officers to be so appointed will be subsequently determined by us. It will probably not be found necessary that more than two Subordinate Judges should exercise these powers at any one time.

5. Our Honourable Colleague Sir Charles Pritchard does not concur with the proposals made in this Despatch, and considers that the training of Subordinate Judges for the position of District and Sessions Judge should be effected in the manner originally suggested by the Government of India, *viz.*, by employing them for a time as Deputy Collectors and Magistrates; in order that they may have opportunity for acquiring the practical experience of the working of the Revenue and Police branches of the administration, which is recognised as a necessary preliminary to the appointment of members of the Indian Civil Service as District and Sessions Judges.

We have the honour to be,

SIR,

Your most obedient, humble Servants;

ELGIN.

G. S. WHITE.

A. E. MILLER.

H. BRACKENBURY.

C. B. PRITCHARD.

J. WESTLAND.

A. P. MACDONNELL.

INDIA OFFICE, LONDON,
The 8th November 1894.

Public.
No. 104.

TO HIS EXCELLENCY THE RIGHT HONOURABLE THE GOVERNOR
GENERAL OF INDIA IN COUNCIL.

MY LORD,

Having considered in Council the Draft rule which accompanied your Government's letter No. 51, dated the 3rd ultimo, I have accorded my sanction to it with the concurrence of a majority of the members present.

2. The reasons which have induced Your Excellency's Government to propose this special rule for the Presidency of Madras are fully stated in the third paragraph of the letter under reply. They appear to me very cogent, but they would seem to apply to other provinces also, and not exclusively to Madras. I presume that your Government are desirous of trying the experiment in one province before proposing a rule of general application.

I have the honour to be,

MY LORD,

Your Lordship's most obedient, humble Servant,

HENRY H. FOWLER.

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No. 67.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

PUBLIC.

Calcutta, the 24th January 1895.

NOTIFICATION.

IN exercise of the power conferred by the Statute 33 Vict., Cap. 3, Section 6, and in continuation of the rules published in Notification No. 2159, dated the 2nd November 1892, the Governor-General in Council has been pleased to make the following rule, which has been sanctioned by the Secretary of State in Council with the concurrence of a majority of the members present:—

The Government of Madras may appoint any Subordinate Judge, being a member of the Provincial Civil Service and a Native of India of proved merit and ability, to be also an Assistant Sessions Judge.

By order,

J. P. HEWETT,

Offg. Secy. to the Govt. of India.

No. 68 .

FROM

J. P. HEWETT, Esq., C.I.E.,
Offg. Secretary to the Government of India,

To

THE CHIEF SECRETARY TO THE GOVERNMENT
OF MADRAS.

Home Department.
Public.

CHIEF SECRETARY
-1. FEB. 1895
GOVERNMENT OF MADRAS

Calcutta, the 24th January 1895.

SIR,

WITH reference to the correspondence ending with your telegram No. 379, dated the 4th August last, I am directed to forward a copy of the papers noted in the margin, from which it will be seen that, under Statute 33 Vict., Cap. 3, Section 6, a rule has been issued by the Government of India, with the sanction of the Secretary of State in Council, authorising the Government of Madras to appoint any Subordinate Judge, being a member of the Provincial Civil Service and a Native of India of proved merit and ability, to be also an Assistant Sessions Judge. In view of the fact that the number of District and Sessions Judgeships thrown open to the Madras Provincial Service is four, the Governor General in Council considers that it should be sufficient to appoint not more than two Subordinate Judges to exercise the powers of Assistant Sessions Judges at any one time, and this view is expressed in paragraph 4 of the Despatch to the Secretary of State of 3rd October last. I am accordingly to ask that not more than two Subordinate Judges may be appointed at any one time to be Assistant Sessions Judges under the rule now sanctioned.

The Governor General in Council would be glad, when the rule has been in operation for two years, to learn the opinion of the Government of Madras as to how it has worked.

I have the honour to be,

SIR,

Your most obedient Servant,

J. P. Hewett.

Offg. Secretary to the Government of India.

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7 - 4 with 2 enclos. } enclosed

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