

Public (189) Department.

ORDINARY

G.O., No. 444-445

~~Confidential~~ No. *Case*

DATED 20-4-99

MEDICAL SECTION.

[Despatch Abstract.]

Addressing the Govt of India
regarding the appointment of a
successor to ^{Surgeon General} Major C. Subbarao CB
Surgeon General with the Govt of
Madras

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
to	74-75	Publ	13-1-99				

[G. 11]
280-24-4-97.

Public (189) Department.

ORDINARY *mis*

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
to	646A-B	7712	1-99				

G.O., No. 444-445

~~Confidential No.~~ Case

DATED 20-4-99

INDEXED.

[Despatch Abstract.]

Addressing the Govt of India
regarding the appointment of a
successor to Surgeon Major
General C. Lithorpe C.B.

C No 867.

Seen by Hms J.H.S.

Sept 21-11-97

BACK PAPERS.

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

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READ AGAIN G.O., No.
189

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STATEMENT WITH DITTO

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9
25/4/99

Government {1899} of Madras.
PUBLIC.

CONFIDENTIAL

MISCELLANEOUS.

Recd.

Enclosures

} 1899.

Regd.

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G.O., &c., Nos. 444, 445, 20th April 1899.

APRIL.

Addressing the Government of India regarding the appointment of a successor to Surgeon-Major-General C. Sibthorpe, C.B., Surgeon-General with the Government of Madras.

GOVERNMENT OF MADRAS.
PUBLIC DEPARTMENT.

READ—the following paper:—

From A. H. L. FRASER, Esq., C.S.I., Officiating Secretary to the Government of India, Home Department (Medical), to the Chief Secretary to the Government of Madras, dated Calcutta, the 13th March 1899, No. 437.

I am directed to reply to your letter No. 75, dated the 18th January last, nominating Colonel Branfoot, I.M.S., to fill the vacancy which will shortly occur in the appointment of Surgeon-General with the Government of Madras.

2. The nomination of Colonel Branfoot has been made without reference to the claims of Colonel McGann and Colonel Sinclair, both officers of the Madras Establishment. Colonel McGann is disqualified under the orders contained in paragraph 12 of the Secretary of State's despatch No. 37, dated 25th February 1886, copy of which was forwarded to the Government of Madras with Home Department endorsement No. 6-231, dated 4th June 1886. But Colonel Sinclair is eligible. He has been for many years head of the Civil Medical Department in Burma. Colonel Sinclair is an officer of distinguished merit and ability and he has conducted the medical work of Burma with great credit and success. His large experience in administrative work renders him specially qualified for the post of Surgeon-General with the Government of Madras, and to pass him over would be to inflict serious injury on an officer who is entitled by his services to special consideration.

3. The Governor-General in Council therefore trusts that the Government of Madras will reconsider the question and will nominate Colonel Sinclair unless they have any objections to urge to his appointment.

ORDER—No. 444, Public, dated 20th April 1899.

The following letter will be despatched to the Government of India.

(True Extract.)

G. STOKES,
Chief Secretary.

LETTER—No. 445, Public, dated Ootacamund, 20th April 1899, to the Secretary to the Government of India, Home Department.

I am directed to acknowledge the receipt of your letter No. 437 (Confidential), dated 13th March 1899, regarding the nomination of an officer of the Indian Medical Service to fill the post of Surgeon-General with this Government on that office being vacated by Surgeon-General Sibthorpe. The Government of India demurs to the nomination of Colonel Branfoot to fill the vacancy, and suggests instead the nomination of Colonel Sinclair, unless this Government has any objection to the appointment of that officer.

2. In reply I am to invite the attention of the Government of India to the terms of the understanding arrived at between the Government of India and this Government with regard to the appointment of the Surgeon-General with this Government. In Mr. Hewett's letter No. 1312, dated 26th October 1897, it was observed that, though the appointment of a Surgeon-General with this Government will not, until the complete amalgamation of the service is effected, be strictly speaking a matter upon which a reference to the Government of India is required, yet as the appointment carries with it a step of military rank, which can only be conferred by the Government of India, and as it may happen that the officer selected by this Government may not at the time be at the disposal of His Excellency the Governor in Council, it is desirable that the appointment should not be made without the cognizance of the Government of India. To this end it was suggested that on the occurrence of a vacancy the Government of Madras should communicate to the Government of India the name of the officer whom it selects for the appointment. It was stated that the nomination would be accepted by the Government of India, unless there appear to be strong reasons against it. In Mr. Hewett's later letter No. 46, dated 22nd January 1898, the Government of India accepted the suggestion of this Government that in the unlikely event of strong reasons existing against the appointment of this Government's nominee, the Governor in Council should be invited to make a fresh nomination.

3. The procedure thus formulated, it will be observed, placed in the hands of this Government alone the right of nomination, and it was nowhere suggested that the power of objecting to the appointment of an unsuitable candidate, which was retained by the Government of India, might be utilized for the purpose of pressing upon this Government the claims of a nominee of the Government of India. Nor, in the opinion of this Government, can the arrangement agreed upon be legitimately construed to cover the request now made by the Government of India that this Government should show cause why an officer, other than its own nominee, should not be appointed to the post of Surgeon-General.

4. It is, I am to remark, inconvenient and unusual to discuss in official correspondence the personal merits of individual officers, and their claims to promotion, but the letter of the Government of India under reply has rendered such a discussion in the present case unavoidable. While accepting on the assurance of the Government of India the merit and ability of Colonel Sinclair, His Excellency the Governor in Council cannot but remember that Colonel Sinclair is an officer who has passed all his service in another province, to which he has been permanently transferred, and that he has no acquaintance with the languages or institutions of this Presidency, or with the *personnel* of the officers employed in the Medical Department. These disadvantages do not exist in the case of Colonel Branfoot, who has, moreover, shown marked distinction and ability both professionally and as an administrative officer, and is also in possession of the personal confidence of His Excellency the Governor in Council. In these circumstances His Excellency the Governor in Council regrets that he is unable to accept the suggestion put forward in the letter under reply, and to nominate Colonel Sinclair for the office of Surgeon General.

5. In conclusion I am to say that His Excellency the Governor in Council has already on a previous occasion felt that he had just cause to demur to certain steps which have been taken to withdraw from this Government authority in connection with the Medical Department, and to centralize the administration of that department under the Director-General of the Indian Medical Service. Mr. Stokes' letter No. 1301, dated 27th October 1898, drew attention to the manner in which an alteration with this object had been made in the Civil Service Regulations, without any previous intimation to this Government and without any opportunity for discussion being afforded. In the opinion of this Government there would be a further ground for complaint if the arrangement for filling up a vacancy in the office of Surgeon-General, entered into after careful consideration, were to be wrested from its legitimate interpretation, with the effect of debarring His Excellency the Governor in Council from selecting for the appointment the officer whom

he considers best fitted for it, and against whose personal merits and qualification no objections have been urged by the Government of India.

6. In these circumstances His Excellency the Governor in Council begs to re-iterate the request made in my letter, No. 75 of 18th January 1899, that the Government of India will accept the nomination of Colonel Branfoot as the officer best qualified to the office of Surgeon-General with the Government of Madras from the 17th May 1899. As the matter is urgent, the Governor in Council begs that a reply may be sent by telegraph.

G. STOKES,
Chief Secretary.

Public (189) Department.

CURRENT No.

Confidential No.

From

*The Govt of India
Home Dept
(Medical)*

No. 437

Order

Dated 13 - 3 - 99

Received 18 - 3 - 99

Registered 18 - 3 - 99

Enclosures -

Spare copies. -

SUBJECT.

*Regarding the appointment
of a successor to the
present Surgeon General*

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G.O.	No.	Department.	Date.

216 of 1891
& 1892
(back of)
P.E.A.

P.P.E. 81

P.P.E. 81

P.P.E. 81

11th of 1891

9

Confidential

Op 437

Putc no 867

Con. no 189

From

C. H. P. Fraser, Esq., C.S.I.,
Offg. Secretary to the Govt of India.

To

The Chief Secretary to the Government of Madras.

Calcutta 13th March 1897.
GOVERNMENT OF MADRAS

Home Department
Medical

I am directed to reply to your letter of 7th
inst. the 10th January last, regarding Colonel Bramfort,
S.M.S. to fill the vacancy which will shortly occur in
the appointment of Surgeon General with the Govern-
ment of Madras.

2. The nomination of Colonel Bramfort has been
made without reference to the claims of Colonel McGann
and Colonel Sinclair both officers of the Madras
Establishment. Colonel McGann is qualified under
the rules contained in para. 12 of the Secretary of
State's Despatch of 37th March 1886
copy of which was forwarded to the Government of
Madras with Home Department enclosure of 1st
June 1886. But Colonel Sinclair is
eligible. He has been for many years head of the
Civil Medical Department in Burma. Colonel
Sinclair is an officer of distinguished merit and ability
who has acquitted the medical work of Burma

From 1891

with great credit and success. His large experience
in Administrative work renders him specially
qualified for the post of Surgeon General with the
Government of Madras, and to pass him over would
be to inflict serious injury on an officer who is
entitled by his services to special consideration.

3. The Governor General in Council therefore
trusts that the Government of Madras will reconsider
the question and will nominate Colonel Sinclair
unless they have any objections to urge to his
appointment.

I have the honour to be,

Sir,

Your most obedt. Servant,

A. Fraser

Offg. Secretary to the Govt. of India.
Mud.

[29]
200-17-11

C. No. _____

ORDER IN COUNCIL.

*H.R. wants to disclaim
position in regard to the
Madame's Est. let out.*

7/28.

appointed to the J. M. S. as Asst. Surg. - 9.0.9. No 96 of 1870

Brought on the modern street from 1-10-69 - E.O. 12812 1/1970.

arrived in India 14.5.70 (Salt obtained from ^{mine} Contar H
appointed analyst of potable water, ^{Mineral salt} Sp. No. 1366 Public
dated 25.10.70

Services offered for by Bureau Sect.

Source not available - Sp. no. 3449 Aug 25.10.71.

Services again applied for, but not given, as he had not performed 2 years' regimental duty - Jo. R. No. 3853 emp of 5.12.7

Services placed temporarily at the disposal of the Ch. Commg.
Mr. Burns for change then sent
Jail Ranger - S.O. No. 301 of 1897
Page 232

(The rest of his services are detailed in the personal history of Services put up)

C₂
11-3-87

618.8.98
R 10-8-98

*Dr. Sinclair's relation
like this Govt*

Mr. H. K. ...

G. O. Volume 1 page 32

1. Hon. Members should see this.
2. If no reply has been received from the Govt. of India for Col. (Dr.) Brown, ...
services to ... (Dr. Sittler),
a reminder should go to them.

A. S. H. 19.3.99

*The letter from the
Secretary. Cont...*

1/27/99

NOTE FOR THE CHIEF SECRETARY.

With reference to the note in Council directing that Dr. Sinclair's position in regard to this Govt. should be looked up, a complete history of Dr. Sinclair's services has now been obtained. The chief events in it are as follows:-

Appointed to the I. S. S. (Madras) as Assistant Surgeon. . . 1-10-69

Arrived in India 14- 5-70

& served in Military Dept.

On 25th October 1870, under G.O. 1336 Public of that date, he was appointed to one of the four posts of "Analyst of potable water" then created and was posted to the Burma Circle. Although the appointment was actually made in the Public Dept., the analysis of water was made at the instances of the Military Sanitary Commission, and had reference specially to the conditions of water supply in cantonments. The cost of the scheme was to be met from Military funds (G.O. No. 536, Mily., dated 24th February 1870 and Memo. No. 1032 in G.O. No. 228, Mily., dated 15th March 1870).

It seems clear therefore that Dr. Sinclair's appointment did not constitute transfer to Civil employ.

In 1871 Dr. Sinclair services were applied for by the Chief Commissioner in Burma for employment as

con here

as Supt. of a Jail. The Military Dept. replied that he could not be taken away from his work as Water Analyst (G.O. No. 3449, Mily., dated 25th October 1871).

After another similar application had been made and refused on the ground that Dr. Sinclair, not having done two years' Regimental service, was not eligible for civil employ, he was eventually, in 1872, placed at the disposal of the Chief Commissioner (temporarily) ~~in 1872~~ (vide G.O.G. No. 301, of 1872, page 232, dated 24th Dec. 1872).

Public G.O. dated 24th December 1872, No. 1439 replaced his services at the disposal of the Military Dept. but this procedure now appears to have been incorrect, for it does not appear that he had ever left the Mily. Dept.

In 1874 the Govt. of India in the Military Dept. enquired whether Dr. Sinclair's services were available for permanent employment under the Govt. of India. This Govt. (also in the Military Dept.) replied in the affirmative, and his services were placed at the disposal of the Govt. of India on 30th December 1874. Since then he has served continuously in civil appointments in Burma.

Looked at from any point of view it does not appear that Dr. Sinclair can have any claim to promotion in this

this Presidency. His case seems to be on all fours with that of Mr. Houghton who has been permanently transferred to Burma. In its letter in G.O. No. 21 Public, dated 17th January 1895 the Govt. of India, while not traversing the implied view of this Govt. that Mr. Houghton had no further connection with Madras, said that for convenience sake his name should be retained in italics on the Madras list, ^{but} that he should be shown as permanently transferred to Burma. Mr. Houghton has obviously no claim to be promoted, say, to the Board of Revenue when he reaches the position in the list which would otherwise entitle him to have his qualifications considered, and there is apparently no reason why Dr. Sinclair should be differently treated.

Dr. Sinclair, it is true, stands on the list of the Madras branch of the I.M.S. but his name is, it is submitted, as in Mr. Houghton's case, only retained ^{there} as a matter of convenience. Further, even if this view cannot be upheld, it is difficult to see how an officer who has never been in civil employ in this Presidency can have any claim to promotion in the Madras Civil Dept. Had he spent all his time in Military employment in Burma he might conceivably have a claim to the post of Military Surgeon-General, because he is in the Madras list, but as things stand he does not

appear

appear to have any better claim to a high post in the Madras Civil Medical Dept. than any other I.M.S. Officer who has never served in that Dept. It may no doubt be said that under existing conditions the appointments of Surgeon General will in future almost always go to an officer who is at the time actually in Military Dept. employ, and not under this Govt. at all, but the accident that there are not sufficient civil appointments for Brigade Surgeon Lieutenant Colonels and the consequent necessity for sending to Military employ for a short period officers whose whole service has been civil, can hardly be admitted as placing such officers on the same footing, as regards claims to civil appointments in this Presidency, as officers whose whole service has been military, or, what is the same thing, whose whole service has been under another Govt. This Govt. is really hardly concerned with the question of the duty that Dr. Sinclair has actually been performing. He has not been in civil employ in Madras, he has been permanently removed from Madras, and his retention in the Madras list is merely a matter of convenience. There being no Burma branch of the I.M.S. his name had to be kept somewhere, and it was as well on the Madras list ^{as} elsewhere.

The resolution of the Govt. of India ordering the unification of

the three services laid down (para. 4) that the sphere of employment of officers on the Bengal, Madras and Bombay lists would remain as at present. The sphere of Dr. Sinclair's employment is obviously the provinces directly administered as far as personnel is concerned, by the Home Department of the Govt. of India.

AK
7/3/99

[Handwritten signature]

con. June

C 28-399 30-399
28-93 6-4-99

Public DEPARTMENT

C. No. 867 From the Govt. of India, No. 437, dated 13.3.1899

..... 189

..... 189

189

b. For order

The reply to the Govt of India should I think be to the following effect.

The ~~terms~~ terms of the arrangement ^{20.3.97} is clearly a departure from the arrangement decided upon in G.O. 1857 Public d 26/21/1897, and G.O 245 Public

It should then be pointed out on 14/2/98. The value of this
that the nomination to the office power to nominate is reserved
G.O. by this arrangement vests to asking if the nomination
in the G. in C., ~~that~~ but it is to be made at the discretion
was agreed that the Govt of India.

As shown in the list in the
might veto the nomination of
one officer against whose appt. no
strong reasons might in the
opinion of the G. of I. exist -

The suggestion of the Govt of India that it is for the Govt. to "urge its objections" to D. Sadaia is entirely consistent with the correspondence arrived at under which it is for the Govt of India to "urge its objections" to this Govt's nominee, & then leave it to this Govt to propose someone else.

Orders are solicited as to the nature of the reply to be sent to India.

NY

21/3/99.

21/3/99.

In the "unlikely event" of such reasons existing a further nomination was to be made by H.E. the G. in C. It was somewhere in the correspondence suggested that this power of selecting an unsuitable officer should be withheld by the G. of I. to put forward a nominee of their own, and in the opinion of this Govt. no such construction can legitimately be put on this arrangement that has been made.

This is inconvenient & unusual to discuss in official correspondence the personal claims & merits of individual officers to promotion but it becomes in the present case it has become unavoidable. While recognizing the merit & ability of Col. Sinclair as pointed out by the G. of I. H.E. the G. in C. cannot but remember that Col. Sinclair has passed all his service in another Province, that he has no acquaintance with

the institutions of this Presidency or with the personnel of the officers employed in the medical Dept. These disadvantages do not exist in the case of Col. Bramfoot who has moreover shown marked distinctness of ability both ^{professionally} as an administrative & as a War Office Officer, and is also in possession of the personal confidence of the G. in C. For these

reasons H.E. regrets that he is unable to accept the suggestion put forward in the letter under reply & to nominate Col. Sinclair for the office of L. G.

In conclusion it will be well to say that this Govt. has already felt it has ^{just} cause to demand to certain steps which have been taken to withdraw authority from this Govt & to centralize

it under the Director J. M. B.
The letter No. of this
Govt. drew attention to the way
in wh. ^{an} alteration with this object
had been made in the Civ. Serv.
Regns without any previous
intimation to this Govt. & without
any opportunity for discussion
being afforded.

In the opinion of this Govt.
that there wd. be an additional
a further ground for complaining
if ~~the~~ ^{as to filling the office of D. G.} arrangement entered into
after careful discussions, were
to be wrested from its legitimate
mean interpretation & other
steps with the effect
of debarring H.E. the Govt. in
C. from selecting for the
office apt. the officer he
considers best fitted for
it, not against whose ~~apt.~~
personal merits & qualifications
no reasons have been
advanced by the G. of I.
It will be necessary to
draft the letter carefully
I should of course wish to
see the draft. Act 27.3.99.

I agree H.E. 28-3-99
H.E. 6.4.99

Very urgent

ST
P
U. 1

Mr. H. Arnold Jones
The draft about the
I. G. S. S. S. of int.
telephone ~~line~~ ^{line} ~~it~~
~~as a formal~~ ^{formal} ~~it~~ ^{it} ~~and over~~
a ~~spring~~ ^{spring} ~~running~~ ^{running} ~~line~~
R. H. Jones
W. H. Jones

For the S. A.
The file was circulated
to the H. M. yesterday in box
No C-10 marked "Very urgent"
It has not returned
The following
25/4/99
draft telephone message
subd.
To
The Hon Mr Arnold C.S.D.
The file about the
den. to the
Line

CH
20-4-97

20/4/99

I should of course want to see the draft. MS 27.3.29.

7-4-64

C. No. 867 From the Gvt. of India, No., dated 189
 „....., „....., „..... 189
 „....., „....., „..... 189
 „....., „....., „..... 189

2 Km. NW Arundel
1. H.E. The End

5.94

ATA

James M. Smith

W. K.

From the Honorable Mr. Justice, Chief Secretary
to the Government, (The Secretary, to the Govt. of India)
Home Department.

Des/29
21-4-99

- " cannot answer H. R. the Governor in
- " I hope to re-iterate the request
- " made in N. 75 of 18 Jan.
- " 1899, that the fact of Indian will
- " be a recommendation of Col. Brown.
- " not as the officer best qualified to
- " the office of 9 years of

Sir,

I am directed to acknowledge the receipt of your letter of 457, confidential, dated 15th March 1909, regarding the nomination of an officer of the I.M.S. to fill the post of Surgeon General with this Govt. on the ~~approaching vacaton~~ ^{being vacated} of that office by Surgeon-General Withorpe. The Govt. of India *demurs* to the nomination of Mr. [redacted] to fill the

the nomination of Col. Sinclair unless this Govt. has any objection to the appointment of that officer.

2 In reply I am to invite the attention of the Government of India to the terms of the understanding arrived at between the Govt. of India and this Govt. with regard to the appointment of the Surgeon-General with this Govt. In Mr. Hewett's letter No. 1518, dated 23rd October 1927 it was observed that,

though the appointment of a Surgeon-General with this Govt. will not, until the complete amalgamation of the service is effected, be strictly speaking a matter upon which a reference to the Govt. of India is required, yet as the appointment carries with it a step of military rank which can only be conferred by the Govt. of India, and as it may happen that the officer selected by this Govt. may not at the time be at the disposal of His Excellency the Governor in Council, it is desirable that the appointment should not be made without the cognizance of the Govt. of India. To this end it was suggested

that on the occurrence of a vacancy the Govt. of ^{Madras} India should ^{communicate to the Govt. of India} ~~nominate~~ ^{for his appointment} the officer whom it selects, it was stated that the nomination ^{would} be accepted by the Govt. of India unless there appear to be strong reasons against it. In Mr. Hewett's later letter, No. 41, dated 22nd January 1928, the Govt. of India accepted the suggestion of

this

this Govt. that in the unlikely event of strong reasons existing against the appointment of this Govt.'s nominee, the Governor in Council should be invited to make a fresh nomination

3. The procedure thus formulated, it will be observed, ^{placed} ~~was~~ in the hands of this Govt. alone the right of nomination, and it was nowhere suggested that the power of ~~the~~ ^{delegates to} the appointment of an unsuitable candidate, which was retained by the Govt. of India, might be utilized for the purpose of pressing upon this Govt. the claims of a nominee of the Govt. of India. ~~or~~ in the opinion of this Govt., can the arrangement agreed upon be legitimately construed to cover the request now made by the Govt. of India that this Govt. should show cause why an officer, other than its own nominee, should not be appointed to the post of Surgeon-General

4. It is, I am to remark, inconvenient and unusual to discuss in official correspondence the personal ~~merits~~ merits of individual officers, and their claims to promotion, but the letter of the Govt. of India under reply has rendered such a discussion in the present case unavoidable, and while ^{accepting on the assurance of the Govt. of India} ~~recognizing~~ the merit and ability of Col. Sinclair, to which the Govt. of India ^{points} ~~states~~ the Governor in Council cannot but remember that Col. Sinclair is an officer who has passed all his service in another province.

to which he has been permanently trans-
ferred, and that he has no acquaint-
ance with the languages or institutions
of this Presidency, or with the personnel
of the officers employed in the Medical
Department. These disadvantages do not
exist in the case of Col. Pransfoot, who
has, moreover, shown marked distinction
and ability ^{both} professionally, and as
an administrative officer, and is also
in possession of the personal confidence
of H.E. the Governor in Council. In
these circumstances H.E. the Governor
in Council regrets that he is unable to
accept the suggestion put forward in
the letter under reply, and to nominate
Col. Sinclair for the office of Surgeon
General.

5. In conclusion I am to say that
H.E. the Governor in Council has already
on a previous occasion felt that ^{he} ~~to~~ had
just cause to demur to certain steps
which have been taken to withdraw
from this Govt. authority in connection
with the ^{Medical} ~~San.~~ Dept., and to centralize
the administration of the ~~San.~~ ^{Medical} Dept.
under the Dir. of the I.L.S. Mr. Stokes'
letter No. 1301, of 27/10/98 drew attention to
the manner in which an alteration with
this object had been made in the Civil
Service regulations, without any previous
intimation to this Govt., and without
any opportunity for discussion being
afforded. In the opinion of this Govt.
there would be a further ground for
^{if the arrangement}
complaint for filling up a vacancy in

the

61
the office of Surgeon-General, entered
into after careful consideration, were
to be ~~wrested~~ ^{to} from its legitimate
interpretation, with the effect of
debarring H.E. the Governor in Council
from selecting for the appointment
the officer whom he considers best
fitted for it, and against whose per-
sonal merits and qualification no
objection have been urged by the Govt.
of India.

(from order)

AX
11/4/99

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Director General

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