

Public (1899) Department.

ORDINARY Press

G.O., No. 646 A-646 B
Despatches nos 7 & 8.
~~Despatches~~ Care
DATED 12-6-99

MEDICAL SECTION.

[Despatch Abstract.]

Surgeon General Addressing
the Govt of India on the
subject of the selection of
a successor to — Libthorpe

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	644-5		12/6/99				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	754/6		11-8-98				

Government (1899) of Madras. PUBLIC.

Recd.

Regd.

Enclosures
1899.
Spare copies

G.O., &c., Nos. 646-A, 646-B, 12th June 1899.

JUNE.

Surgeon-General.

Directing that the Government of India be addressed requesting that the point at issue between this Government and the Government of India regarding the selection of a successor to Surgeon-General Sibthorpe be referred to the Secretary of State for India.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—the following papers:—

Telegram from the Government of India, Home Department, No. 768, dated 5th May 1899.

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 Simla, the 5th May 1899, No. 769.

I am directed to reply to your letter No. 445 (Public), dated the 20th April last, regarding the nomination of an officer of the Indian Medical Service to fill the post of Surgeon-General with the Government of Madras on that office being vacated by Surgeon-General Sibthorpe.

2. I am, in the first place, to say that paragraphs 2 and 3 of your letter do not correctly interpret the intention of Mr. Hewett's letter No. 1312, dated the 26th October 1897. You mention that one of the reasons for the necessity for clearly prescribing the procedure to be followed in such cases was the fact that it may happen that a Colonel of the Indian Medical Service belonging to the Madras Establishment may be serving outside the Madras Presidency. But, in assigning this reason, the Government of India did not merely desire to provide for the case where the officer whom the Local Government might wish to select is not at the time under their orders. They were influenced mainly by the consideration that it might be necessary to protect from supersession officers of the Madras Cadre who happened to be serving outside the Presidency, and the case of Colonel Sinclair was at the time cited as an instance in point.

3. The Government of India remain of the opinion that it would involve grave and unmerited injustice to Colonel Sinclair to supersede him for this appointment; and they do not regard the considerations set forth in paragraph 4 of your letter as of sufficient weight to justify this supersession. The Governor-General in Council, therefore, while greatly regretting to be unable to meet the wishes of the Government of Madras, is constrained to direct that Colonel Sinclair be appointed Surgeon-General with the Government of Madras in succession to Surgeon-General Sibthorpe. Colonel Sinclair is an officer of distinguished record and qualifications; and the Government of India have no doubt that he will speedily win the personal confidence of the Governor in Council.

4. The questions raised in your letter No. 1301, dated the 27th October 1898, have been discussed in the letter No. 660, dated the 20th April 1899, from this department.

ORDER—No. 646-A, Public, dated 12th June 1899.

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

(True Extract.)

G. STOKES,
Chief Secretary.

LETTER—No. 646-B, Public, 5 Sed Ootacamund, 12th June 1899, to the Secretary to the Government of India, Home Department.

In acknowledging the receipt of your letter No. 769, *Medical*, dated 5th May 1899, I am directed to state that His Excellency the Governor in Council is unable to acquiesce in the decision of the Government of India that Colonel Sinclair should be appointed Surgeon-General with this Government in succession to Surgeon-General Sibthorpe, and to request that under paragraph 2 of letter from your department, No. 2546, dated 17th June 1872, the point at issue may be referred to Her Majesty's Secretary of State for India. A despatch to the Secretary of State, copy of which has been sent direct, is forwarded herewith for favour of transmission.

LETTER—to the Right Hon'ble the Secretary of State for India, No. 7, Public, dated Ootacamund, 12th June 1899.

We have the honour to submit, for Your Lordship's orders, the following communication relating to circumstances in which we are unfortunately not in accord with the Government of India, whose action in the case presently to be mentioned we are reluctantly, and with due respect, compelled to regard as a breach of agreement between that Government and ourselves, and as an infringement of the law which governs the distribution among the various authorities in India of the power to make appointments and promotions.

2. For some years past changes have been effected by the Government of India in the constitution of the Indian Medical Department, which have tended towards the centralization in their hands of authority and control over the cadre of that Department in this Presidency. The main lines upon which these changes have proceeded have, we understand, received Your Lordship's assent, though, in the absence of the correspondence with Your Lordship on these subjects, with which we have not in most cases been favoured, we are unable to say how far the probable results of the policy of centralization upon medical administration in this Presidency have been brought prominently to notice. But in regard to the details of these changes, and the method of carrying them out, we have had on several occasions to address the Government of India, pointing out that their policy of centralization, and the procedure adopted in connection with it, have attenuated the legitimate authority of His Excellency the Governor in Council. In particular, we found ourselves compelled to demur to the departure from the recognised practice of direct communication between the Government of India and ourselves involved in permitting the Director-General of the Indian Medical Service to issue orders to the Surgeon-General in this Presidency, a subordinate of this Government, and to the introduction of new rules affecting the administration of the Medical Department in this Presidency without previous reference to us.

Into the details of these matters we do not now propose to enter, but we enclose copies* of the correspondence relating to them to explain the circumstances precedent to the special case in which, with due respect to the views of the Government of India, we venture to seek Your Lordship's orders.

3. The circumstances of this case are as follows: Surgeon-General Sibthorpe, the Surgeon-General with this Government, having in January last applied for three months' privilege leave, to

Enclosure A.

Letter from the Government of Madras, No. 1518, Public, dated 23rd November 1897 (paras. 8-14).

Do. No. 1301, Public, dated 27th October 1898.

Do. No. 196, Public, dated 15th February 1899.

Letter from the Government of India, No. 660, dated 20th April 1899.

Enclosure B.

Letter from the Government of Madras, No. 541, Public, dated 25th April 1898.

Letter from the Government of India, No. 1041, dated 3rd August 1898.

Letter from the Government of Madras, No. 1515, Public, dated 22nd December 1898.

Letter from the Government of India, No. 756, dated 4th May 1899.

extend to the date upon which his appointment as Surgeon-General would expire, this Government selected Colonel Branfoot (an officer on the Madras list who, after many years of civil employ in Madras, had recently been posted to military duty in Burma,) to officiate during the period of Surgeon-General Sibthorpe's leave, and subsequently to succeed to the permanent appointment. Application was accordingly made to the Government of India for Colonel Branfoot's services to fill the temporary vacancy, and at the same time, in accordance with an arrangement proposed by the Government of India in 1897, and assented to by us, his nomination as the most suitable officer to succeed permanently to the office of Surgeon-General was communicated to that Government. It being subsequently found that Surgeon-General Sibthorpe was, under the rules, ineligible for the leave for which he had applied, the necessity for the temporary appointment ceased to exist. As regards the permanent appointment the Government of India, in their

* Enclosure C.

letter No. 437,* dated 13th March 1899, objected to the selection of Colonel

Branfoot and requested this Government to nominate in his stead Colonel Sinclair, an officer whose name stands upon the list of the Indian Medical Service in Madras, but whose whole service, with the exception of a few months spent in military employ in this Presidency in 1870, has been passed in Burma, to which province he was in 1874 *permanently* transferred.

4. It is necessary here to explain the nature of the arrangement to which allusion has been made, and which was entered into between the Government of India and our Government in regard to the procedure to be adopted on the occurrence of a vacancy in the office of Surgeon-General in this Presidency. In their letter

† Enclosure D.

No. 1312,† dated 26th October 1897, the Government of India proposed that the

Governor in Council should, on the occurrence of a vacancy, nominate to the Government of India the officer whom he considered best qualified for the post of Surgeon-General. The Government of India added that this nomination would be accepted unless there should appear to be strong reasons to the contrary. It was explained that while it is not strictly necessary, pending the complete unification of the Presidential Medical Services, that a reference should be made to the Government of India in the matter, yet as appointment to the post of Surgeon-General carries with it promotion to the military rank of Surgeon-General, which it is in the power of the Government of India alone to confer, and since a Surgeon-Colonel, belonging to the Madras Establishment, might be serving outside the Madras Presidency, the procedure indicated was desirable. We accepted the proposal of the Government of India, stipulating, however, that in the unlikely event of strong reasons existing against our nominee, we should be invited by the Government of India to make a fresh nomination, and this suggestion was agreed to by the Government of India. The office of Surgeon-General being one to which our Government has by law and usage the power of appointment, this arrangement, under which the final approval of our nomination was vested in the Government of India was, we would now observe, of doubtful legal validity, in that it traversed the provisions of 21 and 22 Vic., Cap. 106, sec. 30. The rights of our Government appeared, however, to be sufficiently safeguarded by the stipulation which we made, and the legal question, to which we shall presently revert, was not at the time raised.

5. In reply to the Government of India's letter declining to accept the nomination of Colonel Branfoot, and requesting us to nominate Colonel Sinclair in

Enclosure E.

his stead, we addressed that Government in our letter No. 445, dated 20th April

1899, pointing out that the arrangement into which we had entered placed in our hands alone the right of nomination, and could not legitimately be construed as empowering the Government of India to call upon us to show cause why an officer, other than our nominee, should not be appointed Surgeon-General in this Presidency. We did not, however, confine ourselves to the discussion of the proper interpretation of the agreement, for we put forward what appear to us to be cogent reasons for considering Colonel Branfoot the officer best fitted for the post in

question. We pointed out that Colonel Sinclair, though nominally upon the Madras list, has served for only a few months in this Presidency, from which he was many years ago permanently transferred, and that he has no acquaintance with its languages or institutions, or with the *personnel* of the officers of the Madras Civil Medical Department. Colonel Branfoot, on the other hand, labours under none of these disadvantages. He has spent most of his service in civil employ under us, and the fact that at the time of his nomination he had been holding an appointment in Burma appeared to illustrate the second reason (referred to above paragraph 4) assigned by the Government of India for desiring the nomination to be referred to them. Of Colonel Branfoot's fitness for the post of Surgeon-General there can be no question, and he is, moreover, in possession of our personal confidence. Finding ourselves unable, in the interests of medical administration in this Presidency—a subject to which we attach much importance,—to accept the suggestion of the Government of India that we should nominate Colonel Sinclair, and observing that no objection had been raised against the personal merits and qualifications of Colonel Branfoot, we considered ourselves entitled, under the terms of our agreement, to adhere to our original nomination, and we informed the Government of India accordingly. In reply we received that Government's letter

* Enclosure E.

No. 769,* dated 5th May 1899, directing us to appoint Colonel Sinclair to the post of Surgeon-General.

The Government of India in that letter objected to our interpretation of the terms of our mutual agreement. They stated that in making their proposals regarding the procedure to be followed they had been mainly influenced by the consideration that it might be necessary to protect from supersession officers of the Madras Cadre who happened to be serving outside this Presidency.

6. Against this direction of the Government of India we now desire to appeal to Your Lordship. Having regard to the clear terms of our correspondence with the Government of India in connection with future appointments to the office of Surgeon-General, we do not think that the construction which that Government now seek to put upon our agreement is in any way justifiable. Whatever may have been the intention of the Government of India in framing their original proposals, we can see in the procedure as finally settled no suggestion of any intention to vest in that Government such power as would enable them to protect a senior officer from supersession, if we consider his nomination undesirable. This protection could only have been afforded by the assumption by the Government of India themselves of the power of appointment; but such an assumption is expressly barred by the terms of our agreement, and we may mention that our stipulation regarding our right to make a second nomination, which the Government of India have now ignored, was made with the special view of preventing that Government from taking the appointment into their own hands. Had any such intention on the part of the Government of India been made apparent, we should have declined to accept the proposed agreement. Questions of merit and qualifications as affecting the individual officers concerned are, we consider, solely within the province of the authority making the appointment,—in this case the Madras Government,—and if preference for individuals were accepted as a valid ground for interference by the Government of India in the present case, that Government might in like manner claim to nominate to any other post now filled by the Governor in Council under his statutory powers.

7. The Government of India observe in their latest letter that at the time when they proposed the arrangement in question, the case of Colonel Sinclair was cited as one in which interference with this Government's selection might be called for. We can find, however, in the earlier correspondence no reference to that officer, and we hold that in accepting our stipulation the Government of India disclaimed any right, which they might originally have purposed to assert, to press upon us his appointment as Surgeon-General. The question of Colonel Sinclair's personal qualifications for the post we do not propose to discuss further, but we may here point out that we do not admit that the selection of Colonel Branfoot for the office of Surgeon-General operated as a supersession of Colonel Sinclair, or afforded that

officer any ground for complaint. Colonel Sinclair's service in this Presidency was entirely military and it lasted for only ten months. At the end of that period he was appointed to a special post as "Analyst of potable water" in Burma. Thence he entered the Jail Department in that province, and he remained temporarily attached to that Department until in 1874, nearly twenty-five years ago,

* *Vide* correspondence in enclosure F. this Government was asked to place his services *permanently** at the disposal of the Government of India. This request was complied with, and Dr. Sinclair was at once gazetted *permanently* to the Burma Jail Department, in which he has since remained. We consider that in electing to serve *permanently* in Burma, Dr. Sinclair relinquished all claims to promotion to civil administrative posts in Madras. It is true that his name has been retained on the Madras list, but we regard this as a course adopted by the Government of India merely for convenience, and not as establishing any distinction, as far as this Government is concerned, between Colonel Sinclair and any other officer permanently transferred from our Presidency. In support of our view we may instance the case of Mr. Houghton of the Indian Civil Service who, having originally been posted to this Presidency, was subsequently transferred to Burma. When his transfer was declared permanent we enquired of the Government of India whether his name might be struck off our lists. In reply we were informed that if omitted from our lists Mr. Houghton's name would merely have to be added to the list of Civil Servants in Bengal. For convenience sake we were asked to retain his name, showing him as permanently transferred. Mr. Houghton has obviously no claim to promotion in this Presidency, and the case of Dr. Sinclair is in our view analogous to his. We may here note for Your Lordship's information that although Colonel Branfoot has recently been holding an appointment in Burma, it is a military and not a civil appointment, and his services have not been transferred to the Government of that province. There is therefore no analogy between his case and that of Colonel Sinclair.

8. In the foregoing paragraphs we have endeavoured to make plain to Your Lordship our position in regard to the agreement in question, and in regard to the correctness of our interpretation of its terms. As, however, a radical difference of opinion has arisen with respect to this interpretation between ourselves and the Government of India, we now desire in support of our claim to retain in our hands the appointment of our Surgeon-General, to appeal to the law which governs questions of appointment and promotion in India. Sec. 30 of 21 and 22 Vic., Cap. 106, lays down, that "All appointments to offices, commands and employments in India, and all promotions which by law or under any regulations, usage or custom are now made by any authority in India, shall continue to be so made by the like authority, and subject to the qualifications, conditions and restrictions now affecting such appointments respectively, but the Secretary of State in Council with the concurrence of a majority of members present at a meeting shall have the like power to make regulations for the division and distribution of patronage and power of nomination in India"

That the nomination of the Head of the Medical Department in this Presidency vests by usage in the Governor in Council is beyond dispute. In their

* Enclosure G.

† Enclosure H.

notification No. 150,* dated 15th March 1889, and in resolution No. 361,† dated 30th July 1886, the Government of India promulgated rules regarding the constitution of the Medical Department, in which the right to appoint the Surgeon-General in this Presidency was expressly reserved to our Government. These rules are stated to have been issued with the sanction of the Secretary of State, and whether that sanction constitutes a formal order regarding the distribution of patronage, such as is contemplated in the latter part of sec. 30, 21 and 22 Vic., Cap. 106, or whether the rules are merely to be regarded as indicating the existing usage, there can be no doubt that the right to select an officer for the post of Surgeon-General vests under the statute in our hands.

We may add that in 1894 the Government of India sought to restrict our power of appointing our Surgeon-General. On that occasion, as in the present

case, that Government objected to the officer whom we had selected, and requested us to reconsider the matter and make a fresh nomination. The Government of India however deferred to our objections, and left us uncontrolled in the exercise of our statutory right to select an officer for the appointment.

9. With these explicit provisions of the law for guidance we are of opinion that it was not, and is not, open to the Government of India to require their approval to the nomination by the Governor in Council to the office in question of any member of the Indian Medical Service attached to the Madras Presidency whose services may be available, and still less to direct us to appoint any particular officer. We therefore beg leave to request Your Lordship's sanction to our contention that the legal authority of the Governor in Council to appoint an officer to the post of Surgeon-General may be exercised now and in future without restraint.

We cannot but think that the mutual agreement proposed by the Government of India, and accepted by us out of respect for that authority, is strictly speaking an evasion of the statute law, and that no such modification of our statutory powers is valid unless made under orders by Your Lordship in Council, under the statute already quoted.

10. The present is, we would observe, not the only instance in which what we hold to be the statutory right of His Excellency the Governor in Council in regard to appointments has been similarly infringed by the Government of India. * *Vide* paragraph 5 of the Government of India's letter No. 660, Medical, dated 20th April 1899, in Enclosure A (page 16). Orders have been received* from that Government which will practically have

the effect of annulling or restricting our powers in the selection of the head of our Jail Department, of the Superintendents of our Lunatic Asylums, and of the Chemical Examiner in this Presidency. By these instructions the Government of India are, as we consider, modifying by executive order the statutory power of this Government, an act which can legally be effected only by the orders of Your Lordship in Council. On this subject, as well as on the larger question of the effects on our medical administration of the concentration in the hands of Government of India of control over officers serving under our orders, we propose shortly to address a further communication to Your Lordship. Regarding the matter at present under discussion we would add, that while we have in this letter based our contention on the formal ground of our agreement with the Government of India, and on the legal right conferred by statute on our Government, we also object to the action of the Government of India on administrative considerations. The provision of medical relief for the population of this Presidency must necessarily rest with the executive Government of Fort St. George, and if responsibility for good administration is to continue to vest in us, we must retain unfettered that power of selecting our staff which the Legislature has conferred upon us for the better government of the Presidency.

ENCLOSURE A.

From the Hon'ble Mr. A. T. ARUNDEL, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department (Medical), dated 23rd November 1897, No. 1518.

I have the honour to acknowledge the receipt of your strictly confidential letter No. 1023, dated 6th September 1897, with reference to the question of the preparation and submission by the Madras Government of a scheme for releasing Medical officers from civil employ when requisitioned by the Government of India for military service.

2. In paragraph 2 of your letter it is remarked that "it is indeed possible that such schemes have been prepared, but the delay and difficulty which have in some cases occurred in connection with recent demands for Commissioned Medical officers for military duty have suggested to the Government of India that definite plans have not everywhere been made for meeting military requirements, or that, if made, they have not been reduced to working order."

3. The question of formulating a scheme of the description given above was first brought to the notice of His Excellency the Governor in Council in the letter from the Government of India,

No. 8-Medl.-460 of 10th August 1892. At the request of the Madras Government a list was accordingly prepared by the Surgeon-General with this Government of the civil appointments and stations from which Commissioned Medical officers might be most conveniently and expeditiously withdrawn when required for military service. This list was approved by His Excellency the Governor in Council in G.O., No. 49, Public, dated 25th January 1893.

4. At the same time, in Mr. Galton's letter No. 50, Public, dated 25th January 1893, the attention of His Excellency the Governor-General in Council was invited to the inconvenience attending direct correspondence between the Surgeon-General with the Government of India and the local Surgeon-General regarding Commissioned Medical officers required for military duty. "Such correspondence," it was observed, "His Excellency the Governor in Council believes was intended to be confined to requests for information of a professional nature, and should not in his opinion be permissible in regard to matters of medical administration which are within the province of this Government."

5. Subsequently, in the year 1895, certain changes in the medical administration of this Presidency rendered it desirable to recast the original list, and an amended list, providing for the withdrawal of Commissioned Medical officers from 14 civil appointments, was issued by Government in G.O., No. 444, Public, dated 1st June 1895. The officers holding these appointments were at the same time warned that in the event of emergency their services were liable to be utilised in the order shown in the list, and that they should be prepared to move at a week's notice, fully equipped for field service. On the departure of the District Surgeon, who now takes their places would be filled by the Assistant Surgeon of the District concerned, who now takes charge of the work at head-quarters whenever the Commissioned Medical officer holding the post of District Medical and Sanitary officer proceeds on tour.

6. This scheme of the Government of Madras was, however, superseded by the scheme explained by the Government of India in their letter, dated 29th May 1896, No. 11-Medl.-436. This letter was to the effect that as there were objections to removing officers from certain named appointments for military service, the Government of India would in future call upon the officers serving in the Civil Medical Department for military service in the order of juniority. The names of the officers selected would be communicated by telegram by the Government of India to the Local Governments and Administrations, who would take steps to warn them for service, and to make arrangements for the conduct of their civil duties.

7. The arrangements for placing the Assistant Surgeon of the station in charge of the duties of the Commissioned officer thus removed held good under the scheme now announced by the Government of India. On receipt, therefore, of the names of the officers selected for military service by the Government of India nothing more remained to be done. The officers, after the list had received the final approval of His Excellency the Governor in Council, would be relieved without delay of their civil duties and detached for military service.

8. I am directed to invite your attention to the fact that in the recent call for Medical officers for military duty, the procedure formulated by the Government of India has not been adhered to, and that the result has been attended with inconvenience to this Government.

9. On July 28th a telegram (No. 785) was received from the Government of India requisitioning the services of four Commissioned Medical officers for military duty. This was followed by telegram No. 795, dated July 29th, to the same effect, which added that four more officers were to be warned to be in readiness for military duty in the event of a further call. These telegrams were communicated to the Surgeon-General for very early attention.

10. So far was this Government from having received any intimation that this requisition was impending, that in its telegram No. 558, dated 13th July, it had asked for the services of two Commissioned Medical officers for civil employ, urgently needed for temporary duty in sick leave vacancies. This request was replied to by the Government of India in their telegram No. 761, dated July 19th, in which they regretted their inability to lend the services of any Commissioned Medical officers at the present juncture. In this telegram no mention was made of the fact that the Government of India were about to ask for the loan of four officers from civil employ in this Presidency.

11. It was not till the receipt of your letter No. 810, dated 2nd August, that this Government became aware of the fact that so early as July 2nd the Director-General, Indian Medical Service, had sent a telegram to the Surgeon-General with this Government, warning him that the services of four junior Indian Medical Service officers might be required for military duty. This telegram the Surgeon-General acted upon so far as to warn the officers concerned to prepare for field service, but in view of the fact that the Government of India in their letter, dated 29th May 1896, had announced that in such cases the names of the officers required would be communicated by telegram to the Local Government, he took it for granted that this procedure had been duly followed, and was daily in expectation of receiving the orders of the Madras Government on the subject. While the Surgeon-General, therefore, was aware of the approaching demand for four Commissioned Medical officers, and had on his own initiative warned four officers to be in readiness, this Government was left in ignorance of the requirements of the Government of India and of the correspondence that was taking place.

12. The Surgeon-General on receipt from this Government of the telegrams from the Government of India, dated July 28th and 29th, ordered the marginally-named officers to proceed to Rawalpindi for military duty. These officers, three of whom were on plague duty, having been already warned, unknown

to Government, to be in readiness for service, proceeded at once to the front. The Government of Madras considered it inadvisable when the plague was prevalent not only in Bombay city, but also in the districts of Poona and Satara, to intrust the important duty of plague inspection to subordinates. It was, however, too late to prevent the departure of the officers selected for military duty at the front, and it was not till the 21st August that three District Surgeons could be deputed to take the place of the officers referred to. During the interval no Commissioned Medical officers were in charge of plague inspection at three important stations, namely, Guntakal, Bezwada and Arkonam, and the Presidency was during that time exposed to the danger of an importation of the plague from the Bombay Presidency.

13. From these facts it will be clear to His Excellency the Governor-General in Council that no delay took place in this Presidency in complying with the requisition for Commissioned Medical officers, and that, as far as this Presidency is concerned, no need for a new scheme has been revealed by the recent demand for Medical officers.

14. In this connection His Excellency the Governor in Council desires me again to invite the attention of His Excellency the Governor-General in Council to the remarks quoted above from Mr. Galton's letter No. 50 of January 25th, 1893, as the procedure of the Director-General, Indian Medical Service, then demurred to, has been the cause of the inconvenience experienced in the present instance also.

15. I am, in conclusion, to invite your attention to the Proceedings of this Government, dated 23rd November 1897, and the letter of the Surgeon-General with this Government read therewith, which form an enclosure to this letter. From this it will be seen that in case of great emergency 23 Commissioned Medical officers can be detached by this Government for military duty from the Madras Civil Medical Establishment, and their duties otherwise provided for. It is, however, essential to the successful working of this plan that due notice should be given by the Government of India to this Government of the number and names of the officers required, so that they may have time to prepare themselves for instant departure on receipt of the final requisition.

From the Hon'ble Mr. G. STOKES, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, dated Fort St. George, 27th October 1898, No. 1301.

The attention of this Government has, for some time past, been attracted to the growing inconvenience caused by the want of a definite understanding on certain points connected with the administration of the Civil Medical Department, and I am accordingly directed to address you on the subject.

2. The question to which I am now specially to refer is that of the exact position of the Director-General of the Indian Medical Service and his relations with the local Surgeon-General. Neither the scheme for the unification of the Indian Medical Service, communicated with Military Department letter No. 284 G., dated 31st March 1894, nor the arrangement finally published in the notification of the Government of India, No. 260, dated 6th March 1896, afforded any information as to the duties or powers of the Director-General. The former made no reference to that officer, while the latter merely stated that he would be the head of the Indian Medical Service when that service was amalgamated under the direct administrative control of the Government of India. There is nothing on record to suggest any intention on the part of the Government of India to confer upon the Director-General the right, which he has since assumed, to intervene in matters which relate to Civil Medical administration in this Presidency and which are therefore under the control of this Government.

3. The necessity which exists for a distinct understanding on the subject will be apparent from certain instances, to which I am directed to refer, in which the intervention of the Director-General has led to considerable inconvenience. The first of these cases has already been brought to the notice of the Government of India. My predecessor's letter, No. 1518, Public, dated 23rd November 1897, a reply to which is awaited, commented upon the action of the Director-General in instructing the Surgeon-General with this Government in July 1897 to warn certain medical officers that they might be required for military duty. It was mentioned that the result of this unauthorized direction was that the medical officers who had been warned were removed from

plague inspection stations, and had left for the front before they could be stopped, and the efforts of this Government to guard against the introduction of plague into this Presidency were thereby considerably hampered. It is no doubt true that the responsibility for this result rested in some measure on the Surgeon-General who had no authority to obey the Director-General's instructions in the matter. In addition, however, to the inconvenience thus caused, the Director-General's action in issuing the orders in question direct to a subordinate of this Government constituted, in the opinion of His Excellency the Governor in Council, a distinct encroachment on the functions of this Government.

4. The second instance of the intervention of the Director-General to which I am to allude occurred in connection with the recent deputation of Surgeon-Captain Bourke for training in the office of the Chemical Examiner at Madras. Mention has already been made in Mr. Arundel's letter, No. 591, dated 25th April 1898, of the fact that the communications between the Surgeon-General and the Director-General regarding the appointment of a successor to Surgeon-Captain VanGeyzel, in the event of the latter officer being granted leave, were carried on throughout without the knowledge or the sanction of this Government. In communicating to the Director-

No. 1200, dated 14th September 1897.
No. 1497 „ 17th November „

General the proceedings of this Government noted in the margin, the Surgeon-General acted without authority. The orders necessary to prevent a repetition of this error can, however, be issued by this Government. At present I am to invite special attention to Surgeon-Captain Bourke's communication, dated 21st April 1898, addressed to the Director-General of the Indian Medical Service, which forms an enclosure to this letter. In it Surgeon-Captain Bourke mentions that he had been informed by the Director-General that he was likely shortly to act as Chemical Examiner at Madras, and it was apparently on this understanding that he accepted the appointment as probationer in the Chemical Department. If Surgeon-Captain Bourke's account of the matter is correct, it is clear that the Director-General went entirely beyond his powers. The appointment of the Chemical Examiner rests with the Governor in Council, who had no intention of appointing Surgeon-Captain Bourke, and indeed at the time was not aware of that officer's existence. The subsequent correspondence and Surgeon-Captain Bourke's unnecessary journey to Madras are to be attributed entirely to the Director-General's unauthorized action in the matter.

5. Finally, I am to refer to the procedure adopted in connection with a change which has lately been introduced with regard to applications for leave from officers of the Indian Medical Service. It has come to notice that in April 1897 the Director-General directed the Surgeon-General to forward to him all applications for leave (other than privilege leave or leave on medical certificate) submitted by medical officers in civil employ. The Surgeon-General has in recent cases complied with this instruction, and several applications for leave have been received by this Government with an endorsement by the Director-General. Article 935 of the Civil Service Regulations has, it is observed, been altered so as to sanction this procedure. His Excellency the Governor in Council desires to point out that this important change has been introduced [not only] without any previous reference, [but even without subsequent communication] to this Government. [In fact, until the Director-General's endorsements began to be received the Governor in Council was unaware that any such change had been effected. Had an intimation on this subject been made in the ordinary official course by the Government of India to this Government instead of by the Director-General to the Surgeon-General, this Government would have been afforded an opportunity of stating its views on the subject.] I am now directed to observe that the change in procedure introduced appears to be open to grave objections. The officers of the Medical Department whose services are placed at the disposal of this Government should, His Excellency the Governor in Council thinks, be entirely under its control. The question whether or not leave should be granted depends in the first instance on the views of His Excellency the Governor in Council in the matter, and, secondly, on the question whether there is an officer available to fill the vacancy. If there is not, and if it is decided to grant the leave, the proper and convenient course would appear to be that this Government should apply to the Government of India for the services of another officer. Under the arrangements newly introduced the Director-General may or may not countersign the application for leave. It seems however to be of little moment whether he does so or not, for the Governor in Council has full liberty to grant the leave irrespective of the opinion of the Director-General. If however that officer's endorsement is to be looked upon as authoritative, His Excellency the Governor in Council strongly demurs to a procedure which has the appearance of placing this Government in subordination to the head of a department and regrets that he cannot accept the position.

6. The position assumed by the Director-General in these instances renders it, in the opinion of His Excellency the Governor in Council, essential that the powers of that officer in regard to

* NOTE.—The statement that the change in article 935, C.S.R., was not communicated to this Government has subsequently been found to be incorrect. Intimation that the change had been made was conveyed in a letter from the Government of India, dated 28th September 1897, No. 1147, in which this Government was requested to draw the attention of the Surgeon-General to the change in procedure. The revised rule was, however, incorporated in the edition of the Civil Service Regulations corrected up to May 1st, 1897, and the attention of this Government was not called to it until five months after it had been brought into force.

direct correspondence with the Surgeon-General with this Government should be clearly defined. Prior to the unification of the Presidential services, the arrangement in force was that the Surgeon-General with the Government of India could communicate direct with the Surgeon-General with this Government only in regard to statistics and the operation of departmental rules and orders, and it was clearly understood that such communications were to be confined to the giving and receiving of information on these points, and that no attempt should be made to give orders or issue instructions on the one hand, or to obtain them on the other.* The amalgamation of the medical services, while it altered the position of

this Government as far as regards the recruitment, promotion and retirement of medical officers, and the disposal of the reserve set apart to fill leave and other vacancies, did not, I am to observe, modify in any degree the control of the local Government over the officers of the Civil Medical staff actually serving under its orders. The Surgeon-General remains a subordinate of this Government and any arrangement under which he receives orders from a subordinate of the Government of India on matters in which this Government is concerned is, His Excellency in Council considers, a serious infringement of the statutory position and authority of this Government. I am accordingly to ask that the powers of the Director-General may be distinctly limited to those formerly enjoyed by the Surgeon-General with the Government of India, as far as regards the civil medical administration of this Presidency and the officers of the Indian Medical Service serving under the orders of this Government, and that, with the exception of correspondence which relates to professional matters, to statistics or to the operation of departmental rules or orders, all communications regarding the Civil Medical Department may in future be addressed by the Government of India to this Government and not by the Director-General to the Surgeon-General.

7. With regard to the letter addressed by Surgeon-Captain Bourke to the Director-General alluded to in paragraph 4 above, I am to explain that the letter was submitted to this Government by the Surgeon-General with a request that it might be forwarded to the Director-General of the Indian Medical Service. This Government was however unable to constitute itself a channel of communication between the Surgeon-General and a subordinate of the Government of India. I am therefore directed to submit the letter in question to the Government of India for disposal. The Surgeon-General was at the time informed that the letter would not be forwarded to the Director-General, and Surgeon-Captain Bourke was advised to communicate with that officer direct.

From the Hon'ble Mr. G. STOKES, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, dated Fort St. George, 15th February 1899, No. 196, Public.

My letter No. 1301, dated 27th October 1898, laid before the Government of India certain points connected with the administration of the Civil Medical Department in this Presidency, with special reference to the position taken up by the Director-General of the Indian Medical Service, and the Government of India was asked to define clearly the status of that officer in relation to this Government and the medical officers serving under its orders. The points discussed in that communication being in need of early settlement, His Excellency the Governor in Council considered it desirable to present them without delay for the consideration of the Government of India. They, however, only formed a part of a much larger question, namely, the suitability of the arrangements now subsisting for providing officers to meet the requirements of Civil Medical administration in this Presidency. Upon this I am now directed to address you.

2. In its reply to the letter of the Government of India, Military Department, No. 284-G., dated 31st March 1894, inviting an opinion upon the scheme for the unification of the Indian Medical Service, this Government, while accepting generally the proposed arrangement, suggested an alternative plan by which a certain fixed number of officers would be set apart to form a Presidential Civil Medical department, the strength of the department being calculated so as to cover not only the number of officers required to fill sanctioned appointments, but also the necessary leave reserve. No reply to this letter was received, and this Government is therefore not aware of the reasons why its suggestion failed to meet with the approval of the Government of India.

3. The objections to the Government of India's scheme, which led this Government to put forward its alternative proposal, were at the time purely speculative. The experience of over two years has however fully confirmed the apprehensions then felt as to the prejudicial effect of the unification upon the medical arrangements in this Presidency. Although the object of the unification was merely to bring the Indian Medical Service, viewed as a Military Department, into line with the other branches of the Military establishment, and it was not intended to affect in any way the internal working of the Civil Medical Department, the practical result of the change has been, so far as this Government is concerned, seriously to embarrass the medical organization. The responsibility for the efficiency of medical administration remains unaltered,

but in regard to the chief factor in the maintenance of efficiency, namely, the provision of a sufficient staff of officers, this Government has been left practically no voice. Not only has the Indian Medical Service in Madras been almost consistently undermanned, but what is of even more importance, medical work has been hampered by the inability of this Government to estimate with any degree of certainty the probability, at any given time, of additions to or reductions in the number of officers available for duty. Medical officers retire or proceed on leave, but though a reserve is maintained by the Government of India to meet such vacancies, their places on the list remain unfilled and meanwhile temporary arrangements have to be made: officers revert to military duty, but no corresponding transfer to the Civil Department is effected.

4. A reference to the Civil Medical lists since the date of the amalgamation of the three services will show clearly the disadvantages under which this Government has laboured. The number of sanctioned class I appointments on the Madras list is 48. This, however, includes four appointments in the Jail Department, only two of which have as yet been filled up. The actual number of posts to be filled is thus 46. On March 31st, 1896, there were 54 officers on the Madras list, just sufficient, owing to the small number of officers absent on leave, to fill the 46 posts. The class II appointments were all occupied by uncommissioned officers. On June 30th, 1896, there were only 52 officers on the list, one having retired and one reverted to military duty. Six officers were on furlough (considerably less than the maximum number to whom furlough may be granted) and one was on military duty, thus leaving 45 officers to fill the 46 sanctioned posts, and allowing no provision for officers absent on privilege leave. As a consequence three class I appointments were at that time held by uncommissioned officers. The number on the Madras list rose to 55 in December 1896, and as only five officers were on furlough the staff was sufficient. Compliance with the requirements of the Military Department reduced the nominal strength on September 30th, 1897, to 53, and the actual number of officers available to 37. In March 1898, when the military operations were at an end, the list had been further reduced, namely, to 52, while the number of officers available for duty stood at 38. Since then the strength has continued to decrease, having fallen to 50 in June 1898 and 48 in September 1898; the number of officers available for duty on the latter date was only 41. Looked at from another point of view, it will be found that, during the period in question, eleven officers have been struck off the Madras list either on retirement or on reversion to military duty, while only six have been added. Thus five officers have not been replaced at all: in the case of the other six a considerable interval has usually elapsed between the occurrence of the vacancy and the arrival of the officer sent to fill it.

5. The fact has not been overlooked that during part of the period referred to exceptional military requirements rendered it necessary to reduce the Civil Medical staff throughout India. Leaving out of consideration the period from June 1897 to March 1898 it will still be seen that the number of officers at the disposal of this Government has been kept considerably below what is necessary. At no time since March 1896 have there been more than seven officers on furlough, or about 12 per cent. of the whole cadre: little more than half the maximum number to whom leave can be granted. In the last quarter of 1896 and the first half of 1897, it was only by the reduction to a minimum of the grant of leave of all kinds that the number of officers was made sufficient to fill the sanctioned posts; and the same is the case now, when, of the six officers on furlough, five have had to take leave on medical grounds. The continued decrease in the strength of the Madras list during the year 1898 is viewed by His Excellency the Governor in Council with special apprehension. Whatever may have been the case at other periods during the last two years when the needs of other parts of India were of a pressing nature, the claims of this Government to at least its full complement can hardly be denied at the present time. The Government of India has however recently expressed its inability at present even to comply with the request of this Government for officers to take the place of others who have reverted to military duty.

6. It is no doubt true that at no time since the unification of the medical service was effected has the total number of officers on the Madras list actually fallen below the number of sanctioned posts, that is to say, there has always been a small reserve under the control of this Government to fill leave vacancies. To the existence of this reserve is to be attributed the fact that His Excellency the Governor in Council has been enabled to avoid, during the last two years, the total dislocation of the medical organization which would otherwise have resulted from the enforced grant of sick leave and the transfer of officers to military duty. But the advantage which this Government has enjoyed in the possession of even this small reserve is, His Excellency the Governor in Council understands, merely of a temporary and accidental nature. It is due to the fact that, when the medical services were amalgamated, no change was made in the conditions of service of officers of the Madras Medical service appointed before 1896, or in the sphere of their employment. The Civil Medical Department in this Presidency thus started, after the amalgamation, with a considerable reserve. Subsequent retirements and transfers to military duty, either on promotion or otherwise, have so far trenchanted only upon this reserve, and have not yet reached the point where they will encroach upon the number of officers actually required to do duty in sanctioned posts. But the attainment of this latter position cannot, in the ordinary course, be long delayed, and His Excellency the Governor in Council regards with much apprehension the results which will then ensue. The departure of an officer on retirement or on sick

leave, both causes beyond this Government's control, will leave a post vacant until such time as a substitute is supplied by the Government of India. Under the most favourable conditions such temporary vacancies cannot but cause inconvenience; if, on the other hand, the experience of the past two years may be taken as a guide, and vacancies thus occurring are either not filled at all or only after long delay, the result will be very serious disorganisation of medical arrangements in this Presidency. Further, the grant of ordinary leave, a matter which, as was pointed out in my letter No. 1301, Public, dated 27th October 1898, falls essentially within the province of the Government under which an officer is serving, will in practice then rest entirely in the hands of the Government of India. However desirable the grant of leave may be, His Excellency the Governor in Council will be powerless to sanction it, unless the Government of India approves and is prepared to supply an officer to fill the vacancy. This arrangement is one which is, His Excellency the Governor in Council considers, inconsistent with the position and responsibilities of this Government in regard to medical administration.

7. After full consideration His Excellency the Governor in Council is convinced that no arrangement for meeting the requirements of the Civil Medical Department in this Presidency is likely to prove satisfactory which does not place at the disposal of this Government not only an establishment of officers corresponding in number to the sanctioned posts, but also a sufficient reserve from which officers can be drawn to fill leave vacancies. The whole of the officers forming this staff should, this Government considers, be definitely set apart for service in the Civil Medical Department in this Presidency, and they should not be liable to be transferred to military duty, or to be removed for service elsewhere, without reference to this Government, or, in the case of permanent removal from the Presidency, until arrangements have been made for transferring instead to the Madras list the number of officers sufficient to raise it to its full strength. The whole of the officers forming this list should be under the orders of this Government alone, in regard to leave and duty. The individual officer returning from leave, or from temporary military duty for which his services had been lent, would, as of course, revert to the service of this Government. Subject to such general restrictions upon the grant of leave as the Government of India might from time to time have reason to impose in view of impending demands for war or other emergencies, all questions of leave should be for disposal by this Government. The grant of leave would depend upon the condition at the time of the local service, and it would be understood that no demand could be made upon the Government of India for extra officers to fill leave vacancies. As regards the officers who might from time to time be present in excess of the number required to fill class I appointments, His Excellency the Governor in Council would propose to employ them temporarily in sanctioned class II posts, meeting their cost from Provincial funds, so that no extra expense to the Government of India would be involved in the arrangement.

8. With regard to the number of officers who should thus be set apart for service in this Presidency, the Government considers that the strength should be such as to allow 20 per cent. of the officers to be absent at one time. This is the number to whom leave may be granted under article 341, Civil Service Regulations, and the records of the past five years lead His Excellency the Governor in Council to consider that no smaller provision would suffice. This reserve would provide officers to fill not only furlough, but also privilege leave vacancies, and to take the place of officers deputed on temporary special duty. Taking the number of sanctioned posts at 48, at which figure it will shortly stand, 60 officers will be required. For the present, however, and until medical officers are posted to the two further appointments in the Jail department for which they are eligible, the Government considers that it will suffice if 58 officers are placed upon its list. Eight more officers should therefore be added to the present strength, that is to say, three more than the number of officers removed from Madras since 1896 and not replaced.

9. In making these representations I am to explain that this Government has no desire to obtain for itself any undue advantage, or to evade the obligation, which it has always most readily and fully recognized, to assist the State in emergency even at the expense of its own administration. The power of the Government of India to obtain officers to meet special or urgent demands in other parts of India would be in no way diminished. The arrangements for meeting military requirements have already been definitely fixed and would require no modification. In the case of exceptional demands for medical officers for service of other kinds, this Government would in the Medical department, as hitherto in other branches of the administration, always be ready to reduce its staff to the utmost possible limit in order to assist other provinces by the loan of officers.

10. But while the proposal of this Government would thus prove in no way detrimental to the interests of the Government of India or of other Governments, its acceptance would be attended by results of the utmost importance to this Presidency. His Excellency the Governor in Council would have at his disposal a medical staff which would ordinarily be fixed and sufficient, in place of one which is fluctuating and inadequate, and the maintenance of a definite policy in medical administration, which of late it has been found necessary to abandon in many important details, would be again possible.

11. The subject is one to which His Excellency the Governor in Council attaches much importance, and I am to express the earnest hope that the proposals now put forward will meet with the approval of the Government of India.

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 Simia, the 20th April 1899, No. 669.

I am directed to reply to your two letters noted in the margin on the subject of the administration of the Indian Medical Service in the Madras Presidency. In your first letter it is stated that inconvenience has been caused

- (1) No. 1301 (Public), dated the 27th October 1898.
(2) No. 198 (Public), dated the 15th February 1899.

through the want of a distinct understanding on the subject of the position of the Director-General, Indian Medical Service, and his relations with the Surgeon-General with the Government of Madras, and certain instances are given to illustrate this statement. The Government of Madras request that, to avoid those inconveniences, the powers of the Director-General may be distinctly limited to those formerly enjoyed by the Surgeon-General with the Government of India as far as regards the Civil Medical Administration of the Madras Presidency and the officers of the Indian Medical Service serving under the orders of the Madras Government, and that, with the exception of correspondence which relates to professional matters, to statistics or to the operation of departmental rules or orders, all communications regarding the Civil Medical Department may in future be addressed by the Government of India to the Government of Madras and not by the Director-General to the Surgeon-General. In your second letter it is explained that the points discussed in the earlier letter only form a part of a much larger question, namely, the suitability of the arrangements now subsisting for providing officers to meet the requirements of the Civil Medical Administration in the Madras Presidency. In the opinion of the Government of Madras the present system, under which there is a single reserve for the whole of the Indian Medical Service, is not suitable, and the Governor in Council desires that a separate reserve of officers may be allotted to the Madras Presidency to be definitely set apart for service in the Civil Medical Department in that Presidency.

2. I am, in the first place, to convey the remarks of the Government of India on the general principles governing the administration of the Indian Medical Service, and afterwards to deal with the special points raised in your letter of the 27th October last. The Governor-General in Council regrets that he is unable to entertain the suggestion, which was considered and negatived before the orders for the amalgamation of the Indian Medical Service were issued, that a separate reserve of officers should be set apart for service in the Madras Presidency. It is not possible to treat the Madras Presidency differently from the rest of India in this matter, and to split up the reserve into small portions at the disposal of the different Local Governments would be inconsistent with the scheme of a unified medical service for military and civil duty throughout India. Not only would considerable extra expenditure be involved, but the proposal would lead to grave difficulty and inconvenience in the administration of the Indian Medical Service and in the supply of medical officers to meet military or civil emergencies. The Government of Madras base their request for a revision of the present arrangements on the ground that the difficulty they have experienced and still experience in obtaining a sufficient number of officers to fill the Civil Medical appointments in the Madras Presidency is due to the working of the unification scheme, and that but for that scheme there should, now that the acute stage of the frontier trouble is over, be no difficulty in satisfying the claims of the Local Government to at least its full complement of officers. This is, however, not the case. The present difficulty which is experienced throughout India in supplying the needs of the Civil Medical Administration is due to several causes which are unconnected with the unification of the Medical Service in the three Presidencies. The Indian Medical Service is at present below its full strength; there are still special military demands; a number of officers have been removed from ordinary civil work for plague duty, and many officers are on leave. There are 524 sanctioned military and civil appointments in the Indian Medical Service, and including the reserve of 25 per cent. the total number of officers should be 655. On the 15th February last the position was as follows:—The total number borne on the rolls was only 627, or 28 short of the full complements; the frontier troubles still make it necessary to maintain special field hospitals in the Tochi, Kuram, Khyber and Malakand, absorbing 28 officers who would otherwise be available for civil appointment; 32 officers were on special plague duty and unavailable for ordinary work; leave having been closed for a long period, it has during the past year been necessary to allow a number of officers to go home, and on the 15th February 108 Civil and Military Officers were on leave. With 627 officers on the rolls and 168 on leave or special duty, there were only 459 officers available to fill the 524 sanctioned appointments, leaving a deficiency of 65. It will be seen from the following statement that the Government of Madras have not borne an unfair share of this deficiency:—

	Appointments.	Present.	Deficiency.
Madras	46	41	5
Bombay	49	40	9
Bengal	57	47	10
North-Western Provinces and Oudh	46	39	7
Punjab	32	24	8
Burma	21	19	2
Central Provinces	16	13	3
Assam	9	9	0
Foreign Office	26	24	2
Government of India	16	12	4

The question of increasing the general reserve of the Indian Medical Service is at present under the consideration of the Government of India, and when arrears of leave are worked off and field hospitals are demobilized and the plague ceases, the strain on the reserve will cease and the service will return to its normal condition. The Government of Madras will then find no difficulty or delay in procuring the officers of the Indian Medical Service required to fill their civil appointment, for they will be able to indent on their full share of the reserve, and in addition four supernumerary officers will, under the rules contained in Home Department Resolution No. ^{14 Medical} ₇₃₀₋₇₂, dated the 12th December 1894, be at their disposal to step at once into short or unexpected vacancies. The Government of India see no reason to apprehend that under normal conditions difficulty or inconvenience, such as is mentioned in paragraph 6 of your letter of the 15th February, is likely to arise. In the meantime no system can protect the Government of Madras from bearing a share of the general deficiency.

3. The fact that a separate reserve for leave and casualties cannot be placed at the disposal of the Local Government renders necessary the rule in Article 935 of the Civil Service Regulations to which exception is taken in paragraph 5 of your letter of the 27th October. The Government of Madras do not appear to have apprehended quite correctly the intention and scope of the article, which in no sense places the Local Government in a position of subordination to the head of the Indian Medical Service. If the Director-General countersigns the application of leave unconditionally, he thereby signifies that he is prepared to supply a substitute. If he countersigns on the understanding that he cannot provide a substitute, it is open to the Local Government to grant the leave if they can make proper arrangements to carry on the work, and of this they, and not the Director-General, are the judge. If the Director-General cannot countersign the leave application, it means either that the service is so depleted that no more officers can be granted leave, or that a special demand for officers is about to arise. The Director-General is the only person who has complete information on the above points, and the system under which applications for leave pass before him for countersignature is therefore necessary, and in the opinion of the Governor-General in Council it is not open to objection.

4. The next general question which it is necessary to notice is the procedure to be followed in placing the services of officers of the Indian Medical Service temporarily or permanently at the disposal of the Government of Madras for civil duty. I am to forward, for the information of the Governor in Council, a copy of the Resolutions* of the Government of India in this Department noted in the margin containing the general orders on this subject, which are in force in the Bengal Presidency. The Resolution of June 1884 directed that Local Governments and Administrations, when they desired the services of a Commissioned Medical Officer, should not apply for an officer by name, but should merely report the occurrence of the vacancy, leaving the selection of an officer to the Government of India. The Resolution of August 1884 laid down the rule that Local Governments should not confirm a temporary appointment until the Government of India had placed the services of the Commissioned Medical Officer permanently at their disposal. The amalgamation of the medical services of Bengal, Madras and Bombay into one service under the direct control of the Governor-General in Council makes it necessary that these general orders should regulate the system throughout India. The Governments of Madras and Bombay and their Surgeons-General have no longer the knowledge of the officers of the Indian Medical Service in military employ to enable them to select officers for civil duty. The Government of India are, however, willing that the Government of Madras should, when they please, nominate any officer for civil employ who served in the Madras Presidency before the 1st of April 1895.

5. There is one other general question which the Government of India desire to notice. It has become necessary to constitute certain separate departments in the Civil Medical Service owing to the necessity for certain special qualifications or technical training and experience. For instance, it was explained to Local Governments in this Department Circular No. ^{8 Jails} ₃₄₃₋₃₅₁, dated the 22nd June 1896, that it was necessary to provide for the technical instruction of officers in the management of large central jails. Arrangements were therefore made for constituting a department of jail officers, and it was ordered that, when a Local Government required an officer for a central jail, there being at its disposal no accepted candidate for the Jail Department who was not already in charge of a central jail, application should be made to the Government of India. A similar necessity led to the issue of this Department Resolutions Nos. 159-169, dated the 11th February 1898, inaugurating what will become a department of Chemical Examiners. When the scheme for placing centralised lunatic asylums under the superintendence of trained medical officers is complete, a similar Imperial Department of specialists in lunacy will be required. It is likely that another specialised department will be formed when the suggestions that have been made for training bacteriologists and stimulating bacteriological inquiry are carried out. Whenever such a department is formed to meet special requirements by specially trained officers, it will be necessary to apply to appointments in that department the rules of June 1893 which govern the appointment of officers to the Jail Department.

6. With regard to your letter of the 27th October, I am, in the first place, to say that the Government of India have, apart from the remarks regarding the appointment of and grant of leave to officers made in this letter, no wish to exercise any control over the Civil Medical Administration of the Government of Madras beyond the general control exercised in all matters by the Governor-General in Council. They do not think that there is anything in the position and functions of the Director-General of the Indian Medical Service inconsistent with this view, and they are quite willing to give effect to the wish of the Government of Madras that, with the exception of correspondence which relates to professional matters, to statistics, or to the operation of departmental rules or orders, all communications regarding the Civil Medical Department shall in future be addressed by the Government of India to the Government of Madras and not by the Director-General to the Surgeon-General. With regard to the first instance alluded to in your letter of the 27th October, I am to say that the Government of India agree with the Government of Madras that the first warning of the need of officers for military duty ought to have been sent to the Local Government. The orders which will now be issued will prevent the recurrence of such a case. The second instance to which you refer is that of Captain Bourke and the Chemical Examinership. The general question of the Chemical Examiner's Department has been noticed in paragraph 5 above, and a separate communication on the subject of the correspondence connected with Captain Bourke will be sent to the Government of Madras in reply to your letter No. 1545 (Public), dated the 22nd December 1898. It is not therefore necessary to discuss the matter further in this letter. The third instance mentioned in your letter is the countersignature by the Director-General of the Indian Medical Service of applications for leave. The reasons for the adoption of this procedure have been fully explained in paragraph 3 above, and I am to add * that the attention of the Government of Madras was drawn to the revised article 935 of the Civil Service Regulations in this department letter No. 1147, dated the 28th September 1897.

ENCLOSURE B.

From the Hon'ble Mr. A. T. ARUNDEL, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, No. 591, dated 25th April 1898.

I am directed to refer to the resolution of the Government of India, No. 157-169, dated 11th February 1898, and also to Mr. Nathan's letter, No. 173, dated 14th February 1898, and to your telegram No. 375, dated 26th of March 1898, on the subject of the posting of Surgeon-Captain Bourke to this Presidency.

2. In the resolution quoted above the Government of India communicates the proposals which have received the sanction of the Secretary of State for the recruitment and training of Chemical Examiners. Under this scheme one of the junior officers of the Indian Medical Service will be attached to the laboratory of the Chemical Examiner at Calcutta, Madras or Bombay for training. The resolution, however, does not make it clear how and by whom the selection of officers is to be made. In the arrangements proposed by the Government of India in Mr. Lyall's letter, No. 331, dated 24th of May 1894, a special Chemical Department was contemplated, to be recruited from the three Presidential Medical Services as vacancies arose in the Chemical Examinership of each province. Under the present scheme no special department is to be constituted and it is not explained whether the selection of probationers is to be made from each presidential list with reference to probable vacancies in the Chemical Examinership of that Presidency or from the general list of the Indian Medical Service with a view to supply the needs of any province in which a vacancy may occur. His Excellency the Governor in Council would demur to any scheme which would limit his power of selecting the most suitable probationer to be trained for employment as Chemical Examiner in this Presidency.

3. The proposal to create an Imperial Chemical Department having been abandoned, it would at first sight appear that the Government of India in its present resolution concurred with the opinion of this Government just expressed, and intended that each Presidency should make its own selection of officers to be trained in its own laboratory, subject only to the conditions as to the period of probation and salary now laid down by the Government of India. The wording of paragraph 2 (i) of the resolution, however, "one of the junior officers of the Indian Medical Service . . . will be attached to the laboratory of the Chemical Analyzer at Calcutta, Madras or Bombay," leaves it doubtful whether this is the intention of the Government of India, and this doubt is strengthened by Mr. Nathan's letter No. 173, referred to above, in which it was stated that the Government of India had decided to attach Surgeon-Captain Bourke to the laboratory of the Chemical Examiner at Madras as a probationer. Under these circumstances I am directed to state that this Government would view with concern the interference of the Government of India with this detail of the administration of the Presidency. His Excellency in Council is of opinion that centralization of control in such matters by the Supreme Government would be a retrograde step attended with undesirable results.

* Full note on page 17.

4. Turning to the question of Surgeon-Captain Bourke's posting to this Presidency I am to observe that in Mr. Nathan's letter, No. 173, of the 14th February 1898, it was stated that the Government of India had decided to attach Surgeon-Captain Bourke to the laboratory of the Chemical Examiner as a probationer. This decision was stated to be in pursuance of the scheme explained in the Home Department resolution already referred to, and this Government had therefore no objection to raise to the arrangement made by the Government of India. Subsequently however it came to notice that Surgeon-Captain Bourke's deputation to this Presidency was in consequence of certain communications between the Surgeon-General with this Government and the Director-General of the Indian Medical Service. From this correspondence, which was carried on without the knowledge or the authority of this Government, it appears likely that the Government of India was led to believe that no officer on the local list was available to act in the anticipated vacancy in the Chemical Examinership, and that this Government desired the deputation of an officer from another province for eventual appointment to that post. That this was the view adopted by the Government of India is rendered probable by your telegram No. 375, dated 26th of March 1898, in which you enquired whether the Madras Government proposed to retain Surgeon-Captain Bourke.

5. I am directed to state for the information of the Government of India that His Excellency the Governor in Council has appointed to the vacant post of Chemical Examiner Surgeon-Major Sanjana, an officer who has already undergone six months' training in the local laboratory under a system established by this Government some years ago. The services of Surgeon-Captain Bourke will therefore not be required. This Government has, however, no objection to his remaining under training for any period which the Government of India may fix provided no charge is debited to Provincial funds on this account. As he is attached to the laboratory by the direct orders of the Government of India and not for employment in this Presidency his pay will presumably be a charge on Imperial funds.

6. Surgeon-Captain Bourke has brought to the notice of this Government that he is at present unable to draw his pay in the absence of a gazette notification attaching him to the Chemical Examiner's laboratory, and I am accordingly to suggest that the necessary orders with regard to this officer may be issued at an early date.

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Medical), to the Chief Secretary to the Government of Madras, dated Simla, 3rd August 1898, No. 1041.

I am directed to acknowledge the receipt of your No. 591, dated the 25th April 1898, explaining the circumstances under which the Government of Madras selected Surgeon-Major Sanjana to act as Chemical Examiner in that Presidency, in preference to Surgeon-Captain Bourke who was then attached to the Laboratory of the Chemical Examiner, Madras, as a probationer, and expressing the opinion of the Governor in Council on the arrangements proposed by the Government of India for the training of probationers for the Chemical Examiner's Department.

2. In reply, I am in the first place to say that the remarks contained in paragraphs 2 and 3 of your letter under reply appear to have been based on a misapprehension in so far as they imply that the proposal to create an Imperial Chemical Department has been abandoned. It is true that the particular form in which the proposal was set forth in Home Department letter No. 331, dated 24th May 1894, was not adopted, but the Home Department Resolution No. 159-169, of the 11th February 1898, although it made no mention of an Imperial department, stated in effect the conditions on which that department would in future be recruited. The revised scale of salaries which would be drawn by Chemical Examiners under the new scheme was shown in it and provision made that a junior officer of the Indian Medical Service with a taste for and a practical knowledge of chemistry should be selected as a probationer with a view to his subsequent training at the Calcutta, Bombay or Madras laboratories, and employment as a Chemical Examiner wherever his services might be required. Only one medical officer at a time was thus to be selected for training, and it was intended that he should be employed in any of the provinces in which his services would be likely to be needed. Under these conditions the selection of the officer must necessarily devolve on the Government of India, and it appears to the Governor-General in Council that this procedure is the natural result of the orders reconstituting the Indian Medical Service, according to which all officers who entered that service on and after the 28th January 1897 have been placed on one cadre.

I am to add that the proposals above described are the result of much thought and discussion and have been sanctioned by the Secretary of State: they are being given effect to in other provinces and, in the opinion of the Government of India, it is essential that they should also be applied to the Madras Presidency.

3. In explanation of the circumstances under which Surgeon-Captain Bourke was deputed to the Madras Presidency, I am to say that, in accordance with the arrangements above described, this officer, who had already taught chemistry in Dublin, was selected as the first probationer for

the Chemical Department. In November last, however, the Surgeon-General with the Government of Madras sent the Director-General of the Indian Medical Service a copy of the Proceedings of the Government of Madras noted in the

No. 1200, dated the 14th September 1897.
 „ 1497 „ the 15th November „

margin relating to the contemplated departure on leave of Surgeon-Major VanGeyzel, and asked the Director-General to depute an officer to be trained at the Chemical Examiner's laboratory at Madras. Surgeon-Captain Bourke was accordingly selected for this purpose; but, as he was then temporarily employed on plague duty, his services could not be spared at once, and he did not leave for Madras till the middle of March, by which time he was required not as a probationer but to act as Chemical Examiner. The orders of the Government of Madras, No. 1200, dated 14th September 1897, appear to the Government of India to have justified the reference by the Surgeon-General with the Government of Madras to the Director-General of the Indian Medical Service and the consequent action taken on it.

4. As the Governor in Council had appointed Surgeon-Major Sanjana to act as Chemical Examiner and intimated in your telegram, No. 190, of 22nd April last, that the services of Surgeon-Captain Bourke were not required, orders were issued for his transfer to the Bombay Presidency where he is now officiating as Chemical Analyser.

5. In paragraph 5 of your letter under reply it is said that presumably the pay of Surgeon-Captain Bourke will be an Imperial charge, as he was attached to the laboratory at Madras by the direct orders of the Government of India, and not for employment in the Madras Presidency. I am to observe that the question of the incidence of Surgeon-Captain Bourke's pay must be

Paragraph 4 (VI) of Finance and Commerce Department Resolution No. 1769, dated the 22nd March 1877.
 Paragraph 49 of Finance and Commerce Department letter No. 4420-A., dated the 15th October 1896.
 Paragraph 2 of Finance and Commerce Department Resolution No. 3531-A., dated the 11th August 1897.

decided in accordance with the principles laid down in the orders noted in the margin, and the charge should therefore be Provincial. Moreover, it will be seen from paragraph 49 of the Finance and Commerce Department letter No. 4420-A., dated the 15th October 1896, that

the assignment made under the Provincial settlement with the Government of Madras expressly includes provision for ordinary inter-provincial charges, and the Government of India are of opinion that the expenses incidental to the attachment of Surgeon-Captain Bourke to the Chemical Examiner's laboratory at Madras should be dealt with as thus provided for.

From the Hon'ble Mr. G. STOKES, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, No. 1545, Public, dated Fort St. George, 22nd December 1898.

I am directed to acknowledge the receipt of your letter No. 1041, Medical, dated 3rd August 1898, regarding the selection of an officer to officiate as Chemical Examiner in this Presidency.

2. The Government of India explains in paragraph 2 of the letter under reply that the arrangement approved in Home Department Resolution No. 159—169, dated 11th February 1898, for providing officers for employment as Chemical Examiners amounts in effect to the creation of an Imperial Chemical Department. It is stated that the selection of officers for service as probationers in that department must necessarily devolve upon the Government of India, that being the natural result of the amalgamation of the Presidential Medical Departments into one Imperial Service. In the Home Department Resolution, and the letter under reply, as well as in the correspondence between the Government of India and the Secretary of State, no definite pronouncement appears as to the manner in which an officer is to be selected from the list of probationers when a vacancy occurs among the Chemical Examiners, but His Excellency the Governor in Council infers from the paper before him that the Government of India proposes to keep the selection in this case also in its own hands.

3. The Government of India refers to the proposals for the establishment of an Imperial Chemical Department put forward in Home Department letter, No. 331, Medical, dated 24th May 1894, and intimates that the arrangement then contemplated has not been abandoned, but that the present scheme is merely a modification of it. His Excellency the Governor in Council, however, finds that the new proposals differ materially, in regard to their effect upon the position and functions of this Government, from those of 1894. The original scheme included a provision under which a vacancy occurring in the office of Chemical Examiner in this Presidency would be followed by the selection, to fill the consequent vacancy among the probationers, of an officer serving under this Government. It was further explicitly stated that an officer posted to a particular station would be under the orders of the Local Government concerned, which would be consulted before any posting was made. It is unnecessary at present to offer any opinion as to the merits of the scheme of 1894, of which this Government, as then constituted, approved. In the arrangement which has taken its place, the position of this Government and its claim to make and control appointments on its own establishment, appear to have been left altogether out of consideration. This radical departure from the original proposals, which has been decided

upon without consulting this Government, has resulted in an arrangement which His Excellency the Governor in Council regrets that he cannot accept.

4. That the apprehensions of this Government, regarding the position to which it is proposed to relegate it under the new scheme, are not without foundation is evident from the procedure adopted in connection with the deputation of Captain Bourke to this Presidency early in the present year. In paragraph 3 of the letter under reply the Government of India remarks that when Captain Bourke was actually despatched to Madras in March last he was required not as a probationer but to act as Chemical Examiner. This is the first intimation which has reached this Government that the intention of the Government of India in deputing Captain Bourke to this Presidency went beyond the ostensible object referred to in Mr. Nathan's letter No. 173, dated 14th February 1898, namely, his attachment for training to the Chemical Examiner's laboratory. As you are aware, the intention of the Government of India was not actually fulfilled, owing to the fact that this Government had already selected for employment as Chemical Examiner an officer with the requisite training. As far as the appointment of a successor to Dr. VanGeyzel is concerned, the matter may therefore be considered closed; the arrangements proposed for the future will be presently discussed. But before passing from this subject I am to say that His Excellency the Governor in Council has learnt with much concern that the Government of India had in contemplation a course which would have constituted an unprecedented encroachment on the functions of this Government. The Resolution of the Government of India had at the time barely been promulgated; Captain Bourke had not undergone the probation which forms the basis of the scheme, and was not therefore better qualified or entitled than many other officers of the Indian Medical Service to be provided with an appointment as Chemical Examiner; and His Excellency the Governor in Council is aware of no reason which would have justified the removal from his hands of the power to appoint an officer to fill a sanctioned post in the establishment of this Presidency.

5. Interpreting the resolution of the Government of India now under consideration in the light of the procedure adopted in Captain Bourke's case, I am to say that the present scheme is, in the opinion of His Excellency the Governor in Council, open to grave objections. As to the desirability of training such officers of the Indian Medical Service as are likely eventually to be entrusted with chemical work, there can be no doubt; and the arrangements for this purpose now sanctioned by the Government of India have, as has been already mentioned in the correspondence on this subject, been anticipated in this Presidency by the introduction some years ago of somewhat similar regulations regarding training. But of the large measure of centralisation which is involved in the scheme His Excellency the Governor in Council is unable to approve. It is not essential to the improvement in the arrangements for providing trained Chemical Examiners which it is desired to effect; on the other hand it leads to a result which will be at once anomalous, and in the highest degree inconvenient, in that it will remove from Presidential control an appointment the duties of which are entirely Presidential, and will absorb into an Imperial Department a post which is intimately connected with, and an essential part of, the Provincial Administration. It is argued in support of the view that the selection of officers for service as Chemical Examiners must rest with the Government of India, that that is the natural result of the unification of the Presidential Medical Services. This argument is, however, one which might with equal force be held to justify the assumption by the Government of India of the right to nominate an officer to any of the sanctioned medical appointments in this Presidency. Under existing conditions it is generally necessary for this Government when a medical officer retires or is granted leave to apply to the Government of India for an officer to bring the Provincial establishment up to its proper strength, but the selection of an officer to fill the particular appointment vacated rests with His Excellency the Governor in Council. I am to urge that the procedure in the case of Chemical Examiners should follow a similar course. The essential provisions of the present scheme for raising the professional qualifications of these officers would be equally well secured under the administration of the Madras Government. It is apparently intended by the Government of India to post a probationer for training in the laboratory of the Presidency in which his services are likely to be required. The possible occurrence of a vacancy through the retirement of, or grant of leave to, a Chemical Examiner is a matter regarding which the Local Government is likely to have the most accurate information. His Excellency the Governor in Council therefore considers that it should be left to this Government when a vacancy in the office of Chemical Examiner is anticipated, either to depute for training a junior officer serving in this Presidency, or, if none such is available, to apply in the ordinary course to the Government of India for a suitable officer. The officer thus trained could, when not employed as Chemical Examiner, be lent for employment on Chemical work in other provinces, if his services should be required. This course, while it would secure the desired end, would obviate the excessive centralisation now contemplated, would leave the appointment and control of the Chemical Examiner in the hands of His Excellency the Governor in Council from which it cannot without grave inconvenience be removed, and would render unnecessary the intervention of the Government of India in the details of the Provincial Administration, an intervention which, except when circumstances render it unavoidable, is in the opinion of His Excellency the Governor in Council, open to grave objection, and earnestly to be deprecated. I am accordingly to request that the strong opinion of this Government on the

subject may be laid before the Government of India, and that that Government may be moved to reconsider its scheme as far as regards the points above referred to.

6. Turning to the question dealt with in the concluding paragraph of the letter under reference I am to say that this Government is still of opinion that the charges incurred in connection with Captain Bourke's training should fall upon Imperial funds. The term "ordinary inter-provincial charges" can, I am to suggest, hardly be applied to a case in which a new Imperial Department is constituted after the settlement of the Provincial contract. This view is supported by paragraph 11 of the letter of the Government of India, Finance and Commerce, No. 1245 A., dated 16th March 1897, in which Local Governments were warned that if they wish to incur increased expenditure not contemplated at the time when the Provincial assignment is settled such increase must be met from increased revenue. It is a reasonable inference that increased expenditure on Imperial objects should be met from Imperial funds. The basis of the prohibition, as a general rule, of inter-provincial adjustments was doubtless the belief that charges incurred by one administration on behalf of others would ordinarily be counter-balanced by similar expenditure borne by other provinces on its behalf, but where, as in the present instance, no such reciprocity is possible, this principle appears inapplicable.

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 Simla, the 4th May 1899, No. 756.

I am directed to reply to your letter, No. 1545, Public, dated the 22nd December 1898, stating the views of the Government of Madras on the subject of the selection of an officer to officiate as Chemical Examiner, and requesting a reconsideration of the scheme introduced by the Government of India for the training and selection of Chemical Examiners.

2. The scheme was prepared after careful deliberation, and, in the opinion of the Government of India, it has introduced a much needed reform. No Medical Officer is fit to be a Chemical Examiner unless he has a natural taste and liking for the work, and has paid special attention to chemical studies. His work is of the most responsible kind. On the medico-legal side it may involve issues of life and death, and on the commercial side results of the greatest importance to mercantile interests. It is, therefore, essential that competent men should be appointed. The scheme recently introduced will help greatly to secure this end, whilst the alternative suggested in paragraph 5 of your letter is much less satisfactory and would amount practically to reverting to the condition of affairs which the Resolution reorganizing the staff of Chemical Examiners was intended to remedy.

3. Guided by these considerations the Government of India have already, in paragraph 5 of my letter No. 660, dated the 20th April 1899, issued general orders to the effect that the procedure for the selection of an officer for the post of Chemical Examiner will, in future, be the same as that laid down for the Jail Department in Home Department Circular No. 8-Jails, dated the 22nd June 1896. That is to say, a list of trained candidates for the Chemical Examiner's Department will be kept by the Director-General, Indian Medical Service, and communicated periodically to Local Governments. When a Local Government has need for the services of a Chemical Examiner, they will apply to the Government of India unless a selected candidate is at the time serving under them. The place of training will not necessarily be the place where the next vacancy is likely to occur as suggested in paragraph 5 of your letter. A fresh probationer will be trained every year, and the place of his training will be settled on general grounds of expediency. When the scheme has been in force for some years all the principal Local Governments will probably have trained candidates in their employ, and in such cases no reference to the Government of India will be required.

4. Paragraph 4 of your letter continues the discussion about the deputation of Captain Bourke, I.M.S., to Madras. With reference to the remarks in that paragraph, I am to say that this Department letter No. 173, dated the 14th February 1898, meant, as was stated in the letter that Captain Bourke would be sent to Madras as a probationer. The subsequent remark, in paragraph 3 of this Department letter, No. 1041, dated the 3rd August 1898, that Captain Bourke was required as a Chemical Examiner when he went to Madras, was made with regard to the reference by the Surgeon-General with the Government of Madras to the Director-General, Indian Medical Service, and the action taken on it, and meant merely that Captain Bourke was sent to act as Chemical Examiner because it was understood that the Government of Madras desired his services in that capacity.

5. In paragraph 6 of your letter a further representation is made about the allocation of the charges on account of Captain Bourke's training. The deputation of officers to study for the appointment of Chemical Examiner is an integral part of the scheme of improving the Chemical

Examiner's staff. The expenditure entailed by the training of these officers falls under a Provincial head and there are, in the opinion of the Governor-General in Council, no grounds for departing from the ordinary rule of classification and classing it as Imperial. His Excellency in Council must, therefore, adhere to the orders on this subject passed in paragraph 5 of Mr. Hewett's letter of the 3rd August.

ENCLOSURE C.

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 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.

ENCLOSURE D.

(1)

From J. P. HEWETT, Esq., c.i.e., Secretary to the Government of India, Home Department (Medical), to the Chief Secretary to the Government of Madras, dated Simla, 26th October 1897, No. 1312.

I am directed to invite a reference to the notification of the Government of India in the Military Department No. 260, dated the 6th March 1896, on the subject of the reorganization and amalgamation of the Indian Medical Service, one of the effects of which is that eventually promotion to the offices of Surgeons-General with the Governments of Madras and Bombay will be open to Surgeons-Colonel on the three lists, and a reference to the Government of India will, therefore, be necessary for the filling of a vacancy in those appointments.

2. Pending the complete amalgamation of the services, which will not be effected until the officers appointed before the second examination of 1896 rise to the grade of Surgeon-Colonel, there is not strictly the same necessity for a reference to the Government of India since selection is limited to officers on the Madras cadre; but the selection involves also promotion to the rank of Surgeon-Major-General, which has to be conferred by the Governor-General in Council; and of Surgeon-Major-General, Indian Medical Service, has already been made the administrative since the Director-General, Indian Medical Service, and since it may happen that a Surgeon-head of the Indian Medical Service throughout India, and since it may happen that a Surgeon-Colonel, belonging to the Madras establishment, may be serving outside the Madras Presidency, it seems desirable that the procedure should be clearly laid down. It has been suggested that the following arrangement would, except in privilege leave vacancies when it will be open to the Governor in Council to grant the leave and select the officer to officiate, merely notifying to the Government of India the name of the officer selected in order that the rank of Surgeon-Major-General may be temporarily conferred on him, meet the wishes of the Governor in Council. On the occurrence of a vacancy in the post of Surgeon-General with the Government of Madras, the Governor in Council will nominate to the Government of India the officer whom His Excellency in Council thinks best qualified for the appointment. The Government of India will accept the recommendation unless there appear to be strong reasons against it and, if it is accepted, intimate the fact to the Government of Madras by whom the appointment will then be notified. After the appointment has been so notified, the Government of India will confer on the officer in question the rank of Surgeon-Major-General.

3. I am to request that, with the permission of the Governor in Council, the views of the Government of Madras on the procedure now proposed may be communicated to this department.

(2)

From the Hon'ble Mr. G. STOKES, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, dated Fort St. George, 26th November 1897, No. 1558.

I am directed to acknowledge the receipt of your letter, No. 1312, of the 26th ultimo, requesting the views of this Government on the procedure proposed to be adopted on the occurrence of a vacancy in the post of Surgeon-General with the Government of Madras.

2. In reply, I am to say that His Excellency the Governor in Council accepts the proposal of the Government of India, but considers that, in the unlikely event of strong reasons existing against the nominee recommended, His Excellency the Governor in Council should be invited by the Government of India to make a fresh nomination.

(3)

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India (Home Department—Medical), to the Chief Secretary to the Government of Madras, dated Calcutta, 22nd January 1898, No. 46.

With reference to your letter No. 1558, Public, dated the 26th November 1897, regarding the procedure to be adopted on the occurrence of a vacancy in the post of Surgeon-General with the Government of Madras, I am directed to say that the Governor-General in Council accepts the suggestion of the Government of Madras that, in the unlikely event of strong reasons existing against the nominee recommended, the Governor in Council should be invited by the Government of India to make a fresh nomination.

ENCLOSURE E.

From the Hon'ble Mr. G. STOKES, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, dated Ootacamund, 20th April 1899, No. 445.

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 qualifications no objections have been urged by the Government of India.

In these circumstances His Excellency the Governor in Council begs to reiterate the request made in my letter No. 75, dated 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.

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 Simla, the 5th May 1899, No. 769.

I am directed to reply to your letter No. 445 (Public), dated the 20th April last, regarding the nomination of an officer of the Indian Medical Service to fill the post of Surgeon-General with the Government of Madras on that office being vacated by Surgeon-General Sibthorpe.

2. I am, in the first place, to say that paragraphs 2 and 3 of your letter do not correctly interpret the intention of Mr. Hewett's letter No. 1312, dated the 26th October 1897. You mention that one of the reasons for the necessity for clearly prescribing the procedure to be followed in such cases was the fact that it may happen that a Colonel of the Indian Medical Service belonging to the Madras Establishment may be serving outside the Madras Presidency. But, in assigning this reason, the Government of India did not merely desire to provide for the case where the officer whom the Local Government might wish to select is not at the time under their orders. They were influenced mainly by the consideration that it might be necessary to protect from supersession officers of the Madras Cadre who happened to be serving outside the Presidency, and the case of Colonel Sinclair was at the time cited as an instance in point.

3. The Government of India remain of the opinion that it would involve grave and unmerited injustice to Colonel Sinclair to supersede him for this appointment; and they do not regard the considerations set forth in paragraph 4 of your letter as of sufficient weight to justify this supersession. The Governor-General in Council, therefore, while greatly regretting to be unable to meet the wishes of the Government of Madras, is constrained to direct that Colonel Sinclair be appointed Surgeon-General with the Government of Madras in succession to Surgeon-General Sibthorpe. Colonel Sinclair is an officer of distinguished record and qualifications; and the Government of India have no doubt that he will speedily win the personal confidence of the Governor in Council.

4. The questions raised in your letter No. 1301, dated the 27th October 1898, have been discussed in the letter No. 660, dated the 20th April 1899, from this department.

ENCLOSURE F.

Proceedings of the Government of India, Military Department, dated Fort William, 24th September 1874, No. 1175.

Office Memorandum to the Military Department (Home Department—Judicial), dated Fort William, 15th September 1874.

The undersigned is directed to request that the Military Department will be good enough to ask the Government of Madras whether, with reference to General Order of the Government of India, Military Department, No. 732, dated 16th July 1874, there is any objection to the services of Dr. Sinclair being made over permanently to the Government of India in the Home Department.

(Signed) T. J. C. PLOWDER,
Offg. Under Secretary.

No. 1383.

Copy of the above forwarded to the Secretary to the Government of Fort St. George, Military Department, with a request that the Right Hon'ble the Governor in Council may be moved to state whether the services of Dr. Sinclair can be made available permanently.

(By Order.)

(Signed)

Dy. Secy. to the Govt. of India.

Letter from the Secretary to the Government of Fort St. George, Military Department, to the Secretary to the Government of India, Military Department, dated Ootacamund, 29th October 1874, No. 3547.

With reference to your office docket No. 1383, ^{Appointments} ~~Transfer~~, dated 24th September 1874, I am directed to state that the services of Surgeon D. Sinclair, M.B., are available for permanent civil employment under the Government of India.

Notification of the Government of India, No. 66, Judicial, dated 15th January 1875.

Surgeon D. Sinclair, M.B., Officiating Superintendent of the Moulmein Central Jail, is confirmed in that appointment.

ENCLOSURE G.

Notifications of the Government of India, Home, Revenue and Agricultural Department—Medical, dated Fort William, 15th March 1880, No. 150.

In continuation of G.G.O., No. 13, dated 2nd January 1880, issued in the Military Department, and subject to such modifications as may hereafter be deemed necessary, the Governor-General in Council is pleased, with the sanction of Her Majesty's Secretary of State, to issue the following orders regarding the administrative staff of the Indian Medical Department in the several provinces of India.

2. From the 31st March 1880 the following administrative appointments will be made :—

	Monthly salary. RS.
One Surgeon-General for Civil Medical Administration in Madras	2,500

4. Officers will be selected for the above-named administrative offices by the Government of India for the Bengal Presidency and by the Governments of Madras and Bombay for those Presidencies respectively. Selections will be made in each Presidency from the whole Indian Medical Service of that Presidency; and the principles of selection hitherto followed in making such appointments will be observed.

(Signed) C. BERNARD,
Offg. Secy. to the Govt. of India.

ENCLOSURE H.

Notification of the Government of India, Home Department (Medical), dated Simla, 30th July 1886, No. 361.

In continuation of G.G.O., No. 13, dated 2nd January 1880, and in modification of the orders marginally noted, the Governor-General in Council is pleased, with the sanction of Her Majesty's Secretary of State, to issue the following orders regarding the administrative staff of the Indian Medical Service in the several provinces of India.

Home Department Notification, No. 150, dated 15th March 1880.
Home Department Resolution, Nos. F. 336-42, dated 30th July 1880.

2. The administrative appointments are the following :—

	Monthly salary. RS.
One Surgeon-General with the Government of Madras	2,500

4. Officers will be selected for the above-named administrative offices by the Government of India for the Bengal Presidency and by the Governments of Madras and Bombay for those Presidencies respectively. Selections will be made in each Presidency from the whole Indian Medical Service of that Presidency; and the principles of selection hitherto followed in all other respects in making such appointments will be observed.

(True Extract.)

(Signed) A. P. MACDONNELL,
Offg. Secy. to the Govt. of India.

LETTER—to the Right Hon'ble the Secretary of State for India, No. 8, Public, dated Ootacamund, 12th June 1899.

We have the honour to forward herewith a copy of a despatch which we have addressed to Your Lordship through the Government of India.

GOVERNMENT OF FORT ST. GEORGE.

PUBLIC (1899) DEPARTMENT.

(Copy.)

**Letter to the Right Honourable the
Secretary of State for India.**

**Dated 12th June,
No. 8 of 1899.**

*Forwarding a copy of a despatch, addressed through the Government of India, on the
subject of the appointment of an officer as Surgeon-General with the Government of Madras.*

PUBLIC DEPARTMENT.

* LETTER—to

THE RIGHT HON'BLE THE SECRETARY OF STATE FOR INDIA.

MY LORD,

We have the honour to forward herewith a copy of a despatch which we have addressed to Your Lordship through the Government of India.

We have the honour to be,

My Lord,

Your Lordship's most obedient, humble servants,

(Signed) A. E. HAVELOCK.

(„) A. T. ARUNDEL.

(„) H. M. WINTERBOTHAM.

OOTACAMUND,
12th June 1899.

Public (1899) Department.

CURRENT No.

Telegram

From

*The Govt of India
(Hona)*

Order

*Circulated for
information, pending
receipt of the promised
letter.*

No. 768

Dated 5 May 99

Received } 6 " "

Registered }

Enclosures -

Spare copies. -

The letter must be waited.

Unless some new reasons

*are advanced for negating
the nomination, this Govt
will I suppose appeal to
the Secretary of State.*

SUBJECT.

*Stating that Col. Braithwaite's
nomination is not accepted.*

Act 8599.

*HS
9-5-99*

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

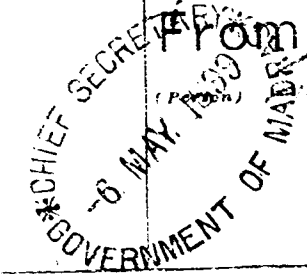
CURRENT INDIAN TELEGRAPHS. Monthly Number. 35

Code Class. 201

To (Office) Cotacamund From (Office) Simla

For 24/9. Day 5 Hour 16 Minute 2 Official Instructions. Urgent.

To (Person) Madras From (Person) Milner



32 Word Form.

Number 1757 received; your letter number 445 further dated 20th. Mr. Milner + Colonel Brown have no objection not to accept + letter issued. Hushy -

Lead from LN. Sent to LN. Telegraph Master.

UGP No. 201 T-17 0 97-2 00003 COTACAMUND 15 39

Public Dept

C. N. 1433

From 1899

From

The Govt of India

Home Dept
(Medical)

No 769

22nd May 1899

Received 15 May 1899

Registered 15 May 1899

Enclosures - 2

Spare copies - 7 of
the current

Subject

Regarding the appointment
of a successor
Surgeon General Libthorp
C.B.

No. 769.

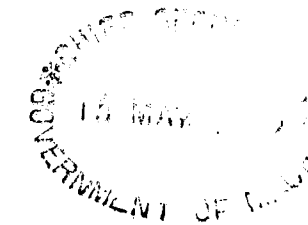
FROM

A. H. L. FRASER, Esq., C.S.I.,
Officiating Secretary to the Government of India,

TO

THE CHIEF SECRETARY TO THE GOVERNMENT OF
MADRAS.

Home Department.
Medical.



Simla, the 5th May 1899.

SIR,

I AM directed to reply to your letter No. 445 (Public), dated the 20th April last, regarding the nomination of an officer of the Indian Medical Service to fill the post of Surgeon-General with the Government of Madras on that office being vacated by Surgeon-General Sibthorpe.

2. I am, in the first place, to say that paragraphs 2 and 3 of your letter do not correctly interpret the intention of Mr. Hewett's letter No. 1312, dated the 26th October 1897. You mention that one of the reasons for the necessity for clearly prescribing the procedure to be followed in such cases was the fact that it may happen that a Colonel of the Indian Medical Service belonging to the Madras Establishment may be serving outside the Madras Presidency. But, in assigning this reason, the Government of India did not merely desire to provide for the case where the officer whom the Local Government might wish to select is not at the time under their orders. They were influenced mainly by the consideration that it might be necessary to protect from supersession officers of the Madras Cadre who happened to be serving outside the Presidency, and the case of Colonel Sinclair was at the time cited as an instance in point.

3. The Government of India remain of the opinion that it would involve grave and unmerited injustice to Colonel Sinclair to supersede him for this appointment; and they do not regard the considerations set forth in paragraph 4 of your letter as of sufficient weight to justify this supersession. The Governor General in Council, therefore, while greatly regretting to be unable to meet the wishes of the Government of Madras, is constrained to direct that Colonel Sinclair be appointed Surgeon-General with the Government of Madras in succession to Surgeon-General Sibthorpe. Colonel Sinclair is an officer of distinguished record and qualifications; and the Government of India have no doubt that he will speedily win the personal confidence of the Governor in Council.

4. The questions raised in your letter No. 1301, dated the 27th October 1898, have been discussed in the letter No. 660, dated the 20th April 1899, from this Department.

I have the honour to be,

SIR,

Your most obedient Servant,

A. H. L. Fraser.

Offg. Secy. to the Govt. of India.

(189 9) Department.

D. O. No. ~~189 9~~ 189 9

D. O.

From
The Secy. General to the Govt of
Bombay

No.

Dated 26th May 1899

Received 31st " " "

Registered 13th June " "

Enclosures 000.

Spare copies.

SUBJECT.

Re Administration of Indian Medical
Services in the Bombay Presidency

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No. 662.

FROM

A. H. L. FRASER, Esq, C.S.I.,

Offg. Secretary to the Government of India,

TO

THE SECRETARY TO THE GOVERNMENT OF BOMBAY,
GENERAL DEPARTMENT.

Home Department.
Medical.

Simla, the 20 April 1899.

SIR,

I AM directed to forward, for the information and guidance of the Government of Bombay, a copy of the correspondence with the Government of Madras noted in the margin on the subject of the administration of the Indian Medical Service. The position of the Government of Bombay in this matter is the same as that of the Government of Madras, and the following general principles, which have been laid down by the Governor General in Council in the letter to the Government of Madras, No. 466, dated , therefore apply also to the Bombay Presidency :—

- (1) The present system, under which there is one Indian Medical Service reserve for leave and casualties for the whole of India, must be maintained; separate reserves cannot be allotted to each Local Government.
- (2) It follows that the procedure prescribed in Article 935 of the Civil Service Regulations, under which the Director General of the Indian Medical Service countersigns applications for leave from officers of the Indian Medical Service, is necessary.
- (3) The orders of 1884, requiring Local Governments to report the occurrence of a vacancy, leaving the Government of India to select a suitable officer, and to abstain from confirming an officiating officer without first obtaining the orders of the Government of India permanently transferring him, must regulate appointments to civil employ throughout India, including the Madras and Bombay Presidencies. The Governor General in Council will, however, have no objection to the Government of Bombay nominating any officer for civil employ who served in the Bombay Presidency before the 1st April 1895.
- (4) When special departments are formed in the Civil Medical Service with a view to secure officers of special qualifications and training for specialised work, the orders of June 1896* regarding appointments to the Jail Department will apply to such departments. They therefore apply to appointments in the Chemical Examiner's Department.

* Home Department Circular No. 343-351, dated the 22nd June 1896, regarding appointments to the Jail Department will apply to such departments. They therefore apply to appointments in the Chemical Examiner's Department.

- (5) With the exception of correspondence which relates to professional matters, to statistics or to the operation of departmental rules or orders, all communications regarding the Civil Medical Department will be addressed by the Government of India to the Government of Bombay and not by the Director General, Indian Medical Service, to the Surgeon General with the Government of Bombay.

I have the honour to be,

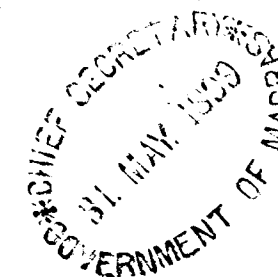
SIR,

Your most obedient Servant,

A. H. L. FRASER,

Offg. Secy. to the Govt. of India.

Bombay May 899.



Dear Sir

With reference to your D.O. telegram N^o 273, dated the 20th instant and mine of the 24th idem, I am desired to inform you that the Government of India have forwarded, for the information and guidance of this Government, a copy of their correspondence with the Government of Madras on the subject of the administration of the Indian Medical Service, which is summarized in their letter N^o 602 dated the 20th April 1899, a copy of which is herewith enclosed. I am to thank you for your letter of the 14th inst.

D.O. No 267 A

which the Government of Madras have foreseen or experienced in the administration of their Civil Medical Department have also been apprehended in this Presidency but that owing to the prevalence of plague for the last three years and the abnormal state of the Medical Department consequent on the importation of doctors from England, this Government have not yet learnt how the new system laid down by the Government of India will work in practice, although difficulty is experienced on the numerous occasions that the Director General, Indian Medical Service, endorses

an application for leave with the condition that the Local Government must supply a substitute. This Government are, however, making enquiries as to the recruitment of the Civil Medical Service in Lower Bengal and Burma with a view if desirable of adopting the same system.

Yours sincerely,

R B Shewell
As Sec to Govt.

To
The Secretary to the Govt. of Madras.
Public Dept.

Public Dept
10.6.99

My dear Fraser

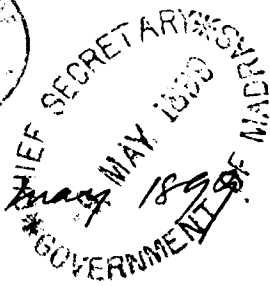
I enclose herewith
an advance copy of
the dispatch to the
Secretary of State regarding
the selection of a successor
to Surgeon General Silbthorpe
in the appointment of
Surgeon General with the
Govt. medical - the signed
copy, with official covering
letter to the Govt. of India
will follow in ~~about~~
~~about~~ three or four
days.

Cls
10.6.99 Hk 11/10/99

A. H. L. Fraser Esq
C. S. I.
Offy. Secy to the Govt.
Bombay

will be
deposited
through the office
17/6/99

Wm. A. Robinson Esq



My dear Stokes,

In view of the
probability of our having
to appeal to the Secretary
of State against the
decision of the Govt. of India
in the matter of the
appointment of Surg. Genl.

will you please look
up the law on this
point.

In the Handbook of Pro. & Rec.
(p. 1) it is laid down by
21 & 22 Vic. c. 106 s. 30, that

"All appointments to offices,
commissions & employments in
India, & all promotions ^{which}
by law or under any regulations
usage or custom, are now

made by any authority in India,
shall continue to be made in
India by the like authority, &
subject to the qualifns. conditions
& restrictions now affecting such
appointments respectively; but
the Sec. of S. in Council, with the
concurrence of a majority of
members present at a meeting,
shall have the like power to make
regulations for the division &
distribution of patronage &
power of nomination among the
several authorities in India & &

In the absence of any
orders of the Sec. of S. with
regard to this appointment.

in question. The action of
the Govt of India in interfering
with the authority of the
Govt in Council, would
appear to be illegal.

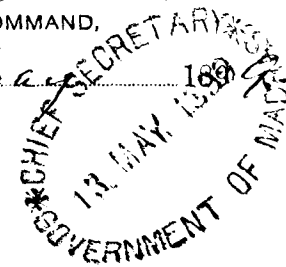
Yours sincerely
J. S. S. S.

Apparently the G. in C. cannot
divest himself of his
powers without the sanction
of the Sec of State in Council.

D. O.

Office of Principal Medical Officer,
MADRAS COMMAND.

Ootacamund, 13 May 1898



My Dear Stokes,

I am Confidential D.O. of
the 12th to D.O. transferred
to be -

there will be no difficulty
in your having the services
of Col: McFann I.M.S. as
a temp. measure

Yours sincerely
J. S. S. S.
J. S. S. S.

Appointment of S.G.

page 1 of the
Handbook of Procedure
& Precedents

in de clas 3 + 4 (Ull TU
C 85 S 78

Mrs. A. White thinks that
my case is clearly correct.
There is no error here.

1/17-5-f.

NOTE FOR THE

Sec ~~xxx~~ of 21 + 22 Viet.
Cap 106 says plainly
that all appointments
shall be made by any authority
in India should continue
to be made by the same
authority, under the Dept
of the Interior, direct.
Paper has been called
for with a view to showing
if possible that the fact
which at this time
concerned to that of S.G.
was filled up by this Govt.
So many changes have
been made since then
in the status of the head
of the Civil Serv. Dept that
the point will probably not
be easy to establish.

Sec ~~xxx~~ of 21 + 22 Viet.
Cap 106 has not been
affected, as far as can
be discovered, by any later
amendments. The
The Civil Serv. Dept.

that the Superintendent and
Control of Local Govts in the
C.C. in Cuzco, and under
Local Govts by the C.C.
in Cuzco cannot apply to
cases in which the C.C. enjoys
privileges which are by a later
law reserved for the Secy of
State.

Turning, however, to the
more recent correspondence
on the subject, attention is
invited to para 2 of
the Govt of India Resoln
d 30/7/06 no 361, in
which it is expressly stated
that selection for the post
of S.G. in Madras rests
with this Govt. This
interposition was authorized
by the Secy of State, & in
the absence of any definite
cancellation of it by the
same authority it would
appear to be still in force.

The next paper that
bears on this point is the
Letter of the Govt of India
no 284 G. d 21/3/94.
Enclosure II in that letter

said that from the
Office of S.G. in Madras
there was to be a
called Punjab, Lahore, & others
then pending. This proposal,
it appears, was
involved the selection of
to the Govt of India of
the Govt of India.

The Govt of India no 617
Resoln d 24/8/94 stipulates
that no office from which
Pres should be appointed
S.G. have been until the
office in the Madras
Govt had been absorbed.

In the interposition which
finally issued, the provisions
of Enclosure I did
not find a place, and
it would have been doubtless
that arrangements had
been decided upon in the
Council. But the Govt
of India subsequently made
better clear. In its
Letter no 1312 d 26/1/97
it said that pending the

complete amalgamation of
 the services, which will not
 be effected until the officers
 appointed before the second
 Census of 1896 rise to the
 grade of Super Col. . . .
 selection is limited to
 officers on the Madras cadre;
 and it was mentioned that
 a reference to the Govt. of
 India is only necessary
 because that Govt. alone
 can confer the necessary
 military rank. That being
 their interpretation of
 the Sect of State's order
 adopted by the Govt. of India,
 x nothing ^{having} ~~has~~ once occurred
 to change the position,
 it is submitted that
 until the complete
 amalgamation the orders
 of the Sect of State in 1886
 hold good and that this
 Govt. can claim its right
 to select a S.G. All that
 the Govt. of India can
 apparently do is ~~apparently~~

Conclude in the same way

to refuse to lead his
 services, or to refuse to
 pay him as Super Major
 General. The order of 1886
 must be taken as the
 Sect of State's order passed
 under the authority of
 21 & 22 V. cl. Cap 106, see
xxx, and until it is
 cancelled it is legally
 binding.

Mr.

12/5/91

No. 769.

FROM

A. H. L. FRASER, ESQ., C.S.I.,
Officiating Secretary to the Government of India,

TO

THE CHIEF SECRETARY TO THE GOVERNMENT OF
MADRAS.

Home Department.
Medical.

Simla, the 5th May 1899.

SIR,

I AM directed to reply to your letter No. 445 (Public), dated the 20th April last, regarding the nomination of an officer of the Indian Medical Service to fill the post of Surgeon-General with the Government of Madras on that office being vacated by Surgeon-General Sibthorpe.

2. I am, in the first place, to say that paragraphs 2 and 3 of your letter do not correctly interpret the intention of Mr. Hewett's letter No. 1312, dated the 26th October 1897. You mention that one of the reasons for the necessity for clearly prescribing the procedure to be followed in such cases was the fact that it may happen that a Colonel of the Indian Medical Service belonging to the Madras Establishment may be serving outside the Madras Presidency. But, in assigning this reason, the Government of India did not merely desire to provide for the case where the officer whom the Local Government might wish to select is not at the time under their orders. They were influenced mainly by the consideration that it might be necessary to protect from supersession officers of the Madras Cadre who happened to be serving outside the Presidency, and the case of Colonel Sinclair was at the time cited as an instance in point.

3. The Government of India remain of the opinion that it would involve grave and unmerited injustice to Colonel Sinclair to supersede him for this appointment; and they do not regard the considerations set forth in paragraph 4 of your letter as of sufficient weight to justify this supersession. The Governor General in Council, therefore, while greatly regretting to be unable to meet the wishes of the Government of Madras, is constrained to direct that Colonel Sinclair be appointed Surgeon-General with the Government of Madras in succession to Surgeon-General Sibthorpe. Colonel Sinclair is an officer of distinguished record and qualifications; and the Government of India have no doubt that he will speedily win the personal confidence of the Governor in Council.

4. The questions raised in your letter No. 1301, dated the 27th October 1898, have been discussed in the letter No. 660, dated the 20th April 1899, from this Department.

I have the honour to be,

SIR,

Your most obedient Servant,

A. H. L. FRASER,

Offg. Secy to the Govt. of India.

[REDACTED]
[REDACTED]

Public

DEPARTMENT

C. No	From the	No.	dated	
				189
				188
				189
				189

Letter from the Govt of India regarding
Col. Sindain's appointment
as S. G.

Submitted for orders.

[Signature]
15/5/19

1113

Public

DEPARTMENT.

C. No.	From the	No.	dated	189
"	"	"	"	188
"	"	"	"	189
"	"	"	"	189

In order

- (1) Am to the Undersecretary
- (2) H. E. the Governor

I am ready to concur -
My only doubt is as to
whether we should not
explain why we prefer
our nominee?

H. E.
18-8-99-

A sketch of the despatch
to the Secy of State regarding
the appointment of the
S. G. Dava up of the Am to
the Am and is submitted
herewith for perusal & order.

H. E.
18/8/99



17th May 1897.

My dear Stokes,

Here is the
rough sketch of the
despatch ~~to~~ the Secy.
J.S. re the S. & S. app't.

Please regard it
as a sketch &
modify as you see fit.

necessary in preparing
the draft.

H.E. as you know
concurs with the general
line of argument
but I have not
had an opportunity
of showing the paper
to Webster & others.

Yours sincerely

Wm. A. D.

Rough sketch of draft
of despatch to Secy. of State.

My Lord.

We have the honour
to submit for your L^{ty} orders
the following communication
relating to circumstances in
which we unfortunately are
not in accord with the Govt.

of India, whose action in the
case presently to be mentioned
we are reluctantly ^{and with due respect} compelled
to regard as a breach of
agreement between that
Govt and ourselves, and
at the same time an
infringement of the
law relating to promotions
& appointments.

The Govt of India have
for some years past been
effecting changes tending
towards a centralization

2
in their hands of authority
& control over the ~~Indian~~ ^{medical} ~~cadres~~
Dept. Presidential ~~branches~~;
the Indian medical Dept.

We have on several occasions
addressed the Govt of India
^{objecting}
explaining that in carrying
out their policy of centralization
they have attenuated
the legitimate authority of
H.E. the G. in C. ~~has been attenuated~~

The issue of order ^{from} the
D. G. I. M. D. as a subordinate
- the S. G. - of this Govt. and by
the issue of new rules ^{affecting the administration of the Dept in this Province} without
previous ^{reference to with} ~~consultation~~ ^{to}
this Govt.

Into the details of these
matters we do not propose to
enter, but we enclose
copies of the correspondence
relating to them to explain
the circumstances precedent
to the special case in which
with due respect ^{views of the} to the Govt.
of India we venture to
seek your L's orders.

See if there is any dispute
of leg. of the sent no direct
forwarded by India relating
to this.

conferences of
the recognized practice of
communication ^{between} ~~from~~ that to
our ^{own} ~~subordinate~~, and by
permitting

See our letter to India in 28
protecting against the removal
of medical officers for acting
duty on the frontiers by an
order of the S. G. to the S. G. ^{from}
without intimation to this
Govt. Also their recent reply.
See also the rules requiring
appl. for posts to go to
S. G. for counter signature.
These were not common? ^{to}
Govt. ^{Viz} alteration of the
There was another recent alteration
of the C. I. R. affecting acting
allowances of desk-lungers. ^{how}
that apply to this? ^{Sp} ^{Sp}
not common to us. There was
a question in the Legis. Council
about this matter.
See also order of S. G. to S. G.
re appl. of S. G. to S. G.
exam.
There are probably other cases.

The circumstances of this
case are as follows.

[Here enter particulars
as given in our letter
to India.]

[Also India's replies]

Questions of qualification
affecting the
individual officers concerned
are we consider ^{and solely within}
the province of the authority
making the appl. - in this
case the Govt. of India
the ground for interference
the Govt. of India might in like
manner claim to ^{not} ~~nominate~~
to all other posts ^{most} ~~not~~
by H.E. the G. in C. under ^{had}
statutory powers.

appeal to the law that
governs questions of
nomination & appointment
in India.

Act 21 & 22 Vic. cap. 106
~~Act 22 & 23~~
Sec. 30 lays down that

"all appointments to offices, commands & employments in India &
all promotions, which by law or under any regulations, usage or custom
are now made by any authority in India, shall continue to be
made in India by the like authority, & subject to the qualifications
conditions & restrictions now affecting such appointments respect-
ively; but the S. of S. in C., with the concurrence of a majority of
members present at a meeting, shall have the like power to make
regulations for the division & distribution of patronage & power of nomination
in India, & x x"

3
Then note parenthetically that
the proposed amendment to the Statutory power
on our current view of doubtful legal
validity as noted in para. - below.
H.E.

Need not think ~~the~~
~~now brought up~~ ^{the} ~~Govt. of India~~
now seeks to put upon this
agreement is in any way justified
and we may mention that ~~the~~
right to make a second nomination
wh. the Govt. of India has now ignored
was ~~specifically provided~~ ^{advised} by this
Govt. with the special view of preventing
the Govt. of India from taking the
nomination into their own hands.
We do not find any mention of C. I.
Circulars in the correspondence that
took place at the time, and we
must further object that ~~we~~
cannot admit the right of
Govt. of India to put ~~its~~
interpretation upon a ~~mutual~~
agreement.
~~As a matter of fact~~
As a radical difference ^{with}
regard to the agreement ^{has}
arisen ^{and we} ~~by~~ ^{have} ~~to~~

It enters the specific powers conferred by the Secy. of S. with regard to the appt of S. G. with these explicit provisions of the law for guidance we are of opinion that it is not open to the Govt. of India to require their approval to the nomination or the appointment by H.E. the G. in C. of any member of the J. M. S. attached to the Madras Presy. whose services may be available, and that ~~the G. in C. has made regulations under the Act in question, modifying the practice which has existed before & has continued since the passing of the Act, the right of H.E. the G. in C. to appoint such officer as he may select for the office of S. G. from among the members of the J. M. S. attached to the Madras Presy. & available for the appointment, remains unaffected & unrestricted.~~

(After consulting the Advocate General)
and we are advised by the Advocate General

still less that the Govt. of India has power to direct this Govt. to appoint any particular officer.

we cannot but think that the agreement proposed by the Govt. of India & accepted by this Govt. in respect to that authority is strictly speaking an evasion of the statute law and that no such modification of statutory powers is valid unless ~~for~~ issued under orders by your Lordship in Council under the Statute already quoted.

We therefore beg leave to request your Lordship's sanction to our contention that the legal authority of H.E. the G. in C. to appoint an officer ~~at present~~ to the post of S. G. may be exercised without restraint.

In this connection we would refer your Lordship to the enclosed letters (No. 27) of the Govt. of India requiring H.E. the G. in C. to apply to that Govt. for an officer to fill the post of chemical exam^r without reference any individual, & No (No 27) with regard to promotions to the office of Insp. Genl. of Jails. We cannot but ^{consider} think that the instructions conveyed in these letters infringe the provisions of the law already quoted and ^{practically} render null & void the ^{legal} powers of H.E. the G. in C. in these matters. We think that the differences of opinion that must inevitably arise when it is attempted to modify by executive orders the clear provisions of a legal enactment may be with advantage to the administration be avoided by the issue of regulations under the said Act if it ^{should} be deemed right by your Lordship to do so.

HT 71.5.89.

Refer to the Despatch of the Secy. of S. giving a general sanction to the proposal for Chem. Exam^r. It was sent by India. Verify by ref. to letter just recently received from India. Is there any despatch on this subject. Refer to the instructions of the Secy. of S. on this subject & verify.

~~Should any such regulations be proposed we trust we may be permitted to express our opinion upon them before they are finally adopted. Should such regulations be in contemplation we should believe it a favour if we were permitted an opportunity of expressing our opinion on the general policy of centralization now being carried on.~~



18th May 1899
CHIEF SECRETARY
GOVERNMENT OF MADRAS

My dear Stokes

There is one point
in our appeal to the Secy.
of S. re Surg. Gen. which
may be materially
strengthened.

The Govt of India seem to
have proceeded on the
analogy that as Burma

forms part of the Madras
command for military
purposes, there is a similar
connection in civil administration.
This of course is not the
case, the Provinces are
entirely separate and
distinct as far as civil
Administration is concerned,
and an officer permanently
employed on civil duty in

the one province has no claims
upon the other for appointments
or promotion. ^{It is not open to this Govt. as India claims to appoint Col. S. as S. G. without the previous concurrence of the Madras Govt.}
Please refer - wiring to Madras
if necessary - to the corresponding
relating to Col. Sinclair's first
employment in Burma. If
his services were requested
~~otherwise than temporarily~~ ^{permanently}, or if they were
placed at the disposal of the
then Chief Commr. for employment
in Burma, he has no more
claim on the Madras Govt.
for promotion, than have
Messrs. Hume & Walker.

in Govt in Council shall appoint
a Hospital Board which is
to consist of the Directors.

By a General order
of July 1857, published
by the Govt of India "under
instructions from the Hon.
Comptroller in Council", the
Hospital Boards ~~were~~
were abolished, & the
functions previously confided
to them were placed in the
hands of an officer in each
Presidency to be designated
"Director General of the Medical
Dept." to be selected by
the Governor General in Council
or the Governors in Council.
Each Director General was
to be assisted by an Asst. Dir.
General, to be appointed for
5 years, renewable at the
discretion of Govt.

^{m.c.}
In G.O. No 285 dated
22.1.58, Surgeon Duncan
Macpherson was appointed
by the Madras Govt. as Asst.
Genl. of Hospitals and

the new system.

A Royal Warrant
of 10.5.73 altered the
designations of medical
officers to Surgeon General,
Deputy Surge Genl., Surgeon
Major & Surgeon.

On the 12th April 1881
the Civil Medical Administration
was separated from the
Military, & the appointment
of "Surgeon Genl. with the
Govt of Madras" for Civil
Medical Administration
was constituted. The
selection for the appt.
was vested in the Govt.
of Madras. Surgeon Major
Cornish was the first
officer nominated for the
appt. of Surge Genl., under
the new conditions, & he
was promoted to Dy. Surge
Genl. & Surgeon Genl. in
the same Gazette, without
any reference to the G.O.
Subsequent appointments
were Dy. Surge Genl. from

1785
In the Resolution of the
Sept. 1785, the Court of
Directors laid down that
"the Governor in Council
shall appoint a Hospital
Board which is to consist
of the Director, Chief Surgeon,
& Surgeon of the Hospital
established at Antigua."

1786
In April 1786, the
Medical Dept. of the Army
was recommended by the
Board of Directors, to consist
of a Physician General &
Staff of Surgeons &c, &
accordingly Dr. James Anderson
was appointed by the Medical
Dept. to be Physician General
& Director of the Hospital.

1786
On the 8th July 1786, the
President & Council published
the rules & orders from the
Court of Directors regarding
the Constitution of the Medical
Dept. The 2nd Clause of the
was to the effect "The name

in March 1885, Dr. Surge
Genl Bidie acting in April
1886 & confirmed in Oct
1886. All these appointments were
made without the G. & S.
having any voice in the

In 1890, a report
was made to the G. & S.
regarding the proposed app't
of Dr. Surge Genl Donnelly
Donnelly to be Surgeon Genl,
but the question was only
with reference to his
eligibility under the age
rule. He was declared
disqualified, & Dr. Surge
Genl de Salazar was then
appointed Surgeon Genl
without further report
to the G. & S.

In March 1894,
when Surge Genl de Salazar's
retirement was imminent,
the G. & S. wished that
it was advisable that
the Indian Govt. should
consult India as to the
appointment of a

Commissioner, & a Commission
organization might offer
the appointment. The Govt.
then nominated Surgeon
Col. Spalhorpe, & though
the G. & S. at first objected
to the nomination without
assigning reasons, it
subsequently withdrew
its objection "in deference
to the representation of the
Govt. of India". Dr. Schilling
was then gazetted Surgeon
Genl by the Indian Govt.

After the abolition
of the Presidency Army
system in 1894, the G. & S.
issued a unification
scheme for the Indian
medicine Dept. but
this is not to be put
effect until the office
appointed. Before the
commencement of 1896 rise
to the grade of Surgeon Colon
under this scheme, the
app't. of Surgeon Genl in
India & Bombay will

be open to Surge Colonels
on the three lists, but
until the scheme comes
into effect - the selection
for the post of Surge Genl
will be limited to
Officers on the Indian Cadre,
as before from the Govt.
of India No 1312 dated 26.10.97.
it was admitted that
pending the complete
amalgamation of the
services, there would not
be strictly the same
necessity for a reference
to the Govt. of India in
the selection of an officer
for the post, but that
it would be necessary
to submit the nomination
to the G. of I. inasmuch
as since the abolition of
the Presidential Army
system, the rank of
Surgeon Major General
would have to be conferred
and by the Govt. Genl
in Council. The following

procedure was therefore
proposed by the G. of I.
& accepted by the Govt.
On the occurrence of a
vacancy, the Govt. will
nominate to the G. of I.
the officer whom the Govt.
in Council considers best-
qualified to fill the post -
the G. of I. will accept
the recommendation unless
there appears to be strong
reasons against it, in
which case the G. of I.
will invite the Indian
Govt. to make a fresh
nomination.

Cy
20.5.97

Code
Class.

INDIAN TELEGRAPHS. Monthly
Number.

To

From

(Office)

(Office)

Words.

Day.

Hour.

Minute.

Official
Instructions.

To

From

(Person)

(Person)

32 Word Form.

F.C.I.

Recd. from

LN.

Sent to

LN.

Telegraph Master.

At

By

3. 12. 04

At

By

3. 12. 04

U.P.—No. 295 T—12 12 04—5008000

OCTOBER 22 0 00

NOTE FOR THE UNDER SECRETARY.

A telegram received
 from the Madras
 office just now (6.10.88)
 reg: the draft
 general order of
 1888 is subd. for
 promulgation in Anti-
 nakhai form
 previous note.

LM
 22/5/88

Notes for Public Reference

Both S. & R. on the
record office reference
searched of the drafts
General order of 1888
but it ~~is~~ is not
forthcoming. Please
see military code.

6122 (see herewith)
5-8-89

when it is said that
the draft 304 was
sent to the Govt. military
dept with G. I. letter
No. 1821-B. Same
22-7-89.

Sending to Rama.

Swamy's mistake
because just now it

is any change of the

of the Govt. being found

I shall telegraph &
then send the paper

In haste
K. M.
22/5/89

[6]
[12]

NOTE FOR THE UNDER SECRETARY.

Note by Pub. Clerk 222-598

Subd. for proposal
in Continuation of
telegram from the
London office sent
to us on the 22nd.
instant.

ALL -
24/5988.

NOTE FOR THE *CS*

H. M. Linn.

A draft despatch on the subject of the appointment of a S.G. is submitted. The draft follows the rough sketch prepared by the Honble. Mr. Arundel, but the latter part of that sketch, in which detailed reference is made to the orders of India in regard to the I.A. of Prisons, & the Chemical Clear. has been omitted in accordance with the note in the linked file, in which it has been decided that a separate despatch should go on this general subject.

The d. from the Govt of Bombay, received in reply to our d. no. 1095, which they ^{have} had any correspondence with the Govt. of India on this subject, is submitted for perusal. *AX* *H. M. Linn.*

Appointments of a Surgeon General

C. No	From the	No.	, dated	189
"	"	"	"	189
"	"	"	"	189
"	"	"	"	189

H.M. & Co.

H.M. would like a complete
copy of despatch & enclosures
as soon as printed.
The printing will no
doubt be done as expeditiously
as possible

Nov 1899

Will C.S. please send me
a printed proof corrected
before finally starting off.

Done H.
5/16/19.

Note
 Inserted with ref. to the H.A.s
 being as to whether we have received
 any despatches from the S. & S. on these
 subjects. No despatches have been
 received except in regard to the
 Chemical Board of India, in
 which case the Govt. of India has
 correspondence. The Govt. of India has,
 however, in most cases said that its
 proposals are made with the sanction
 of the S. & S. and it is therefore admitted
 that the Govt. cannot well affect to
 regard them as made entirely on the
 responsibility of the Govt. of India alone.

Letter No. 1318 Pub. d/15-11-97
 " " 591 Pub. d/25-4-98
 " " 1301 " " 27-10-98
 " " 196 " " 15-8-99

Enclosures A, B, C & D.

The replies of the Govt. of India
 to these letters must be given.
 In one case they accepted our
 contention, in others they did not.
 A.A.

*
 Letter no 1318 Pub. d/15-11-97
 (para 5-14)
 " no 1301 Pub. d/27-10-98
 " no 196 Pub. d/15-8-99
 Letter to Govt. of India no 660
 d/20-4-99

Letter from Govt. of India
 no 591 Pub. d/25-4-98
 Letter from Govt. of India
 no 1301 Pub. d/27-10-98
 Letter from Govt. of India
 no 196 Pub. d/15-8-99
 Letter from Govt. of India
 no 660 Pub. d/20-4-99

matters we do not now propose to
 enter, but we enclose copies of the
 marginally correspondence relating to
 then to explain the circumstances pre-
 cedent to the special case in which,
 with due respect to the views of the
 Govt. of India, we venture to seek
 your Lordship's orders.
 3. The circumstances of this case
 are as follows. Surgeon ~~Major~~ Genl.
 Sibthorpe, the A.S. with this Govt.,
 having in January last applied for
 three months' privilege leave, to ex-
 tend to the date upon which his appoint-
 ment as A.S. would expire, this Govt.
 selected Col. Branfoot (an officer on
 the Madras List who, after many years
 of civil employ in Madras, had recently
 been posted to military duty in Burma)
 to officiate during the period of
 Surgeon ~~Major~~ Genl. Sibthorpe's leave,
 and subsequently to succeed to the per-
 manent appointment. Application was
 accordingly made to the Govt. of India
 for Col. Branfoot's services to fill
 the temporary vacancy, and at the same
 time, in accordance with ^{an} ~~the~~ arrange-
 ment proposed by the Govt. of India in
 1897, and assented to by us, his nomi-
 nation as one most suitable officer to
 succeed ^{permanently} ~~permanently~~ to the office of
 A.S. was communicated to that Govt.
 It being subsequently found that Surgeon
~~Major~~ Genl. Sibthorpe was, under the
 rules, ineligible for the leave for
 which he had applied, the necessity
 for

flag B

and since a Surgeon Colonel, belonging to the Madras Establishment might be serving outside the Madras Presidency,

Law and
MA

Legal
MA

Enclosure C

the military rank of Surgeon Major
Lieut., which it is in the power of
the Govt. of India alone to confer,
the procedure indicated was desirable.
^{we}
~~This Govt.~~ accepted the proposal of
the Govt. of India, stipulating, how-
ever, that in the unlikely event of
strong reasons existing against ~~the~~ our
nominee, of this Govt., ~~the~~ ^{we} Govern-
~~or in Council~~ should be invited by the
Govt. of India to make a fresh nomina-
and this suggestion was speedily ~~by the Govt. of India~~
tion, [^] The office of ~~the~~ being one to
which our Govt. has by usage the power
of appointment, this arrangement,
under which the final approval of our
nomination was vested in the Govt. of
India was, we would now observe, of
doubtful validity, in that it traversed
the provisions of 21 & 22 Vic. Cap.
106, sec. 39. The rights of our Govt.
appeared, however, to be sufficiently
safe guarded by the stipulation which
we made, and the legal question, to
which we shall presently revert, was
not at the time raised.

5. In reply to the Govt. of
India's letter declining to accept the
nomination of Col: Branfoot, and re-
questing us to nominate Col: Sinclair
in his stead, we addressed that Govt.
in our letter No. 445, d/20-7-96, point-
ing out that the arrangement into
which we had entered placed in our
hands alone the right of nomination,
and could not legitimately be construed
as empowering the Govt. of India to

call

call upon ^{us} the Government in Council
to show cause why an officer, other than
~~our~~ ^{our} nominee, should not be appointed
to this Presidency. We did not however
confine ourselves to the discussion
of the proper interpretation of the
agreement, for we put forward that appear-
ing to us to be cogent reasons for consider-
ing Col: Branfoot the officer best fitted
for the post in question. We pointed
out that Col: Sinclair, though nominal-
ly upon the Madras list, has served for
only a few months in this Presidency, from
which he was many years ago permanently
transferred, and that he has no acquaint-
ance with its languages or institutions,
or with the personnel of the officers
of the Madras Civil Medical Dept. Col:
Branfoot on the other hand labours under
none of these disadvantages. He has spent
most of his service in civil employ-
ment under this Govt. Of his fitness for
the post of C.M. there can ~~be no question~~
be no question, and he is moreover in
possession of our personal confidence.
Finding ourselves unable, in the inter-
ests of the medical administration in
this Presidency - a subject to which we
attach much importance, - to accept the
suggestion of the Govt. of India that
we should nominate Col: Sinclair, and
observing that no objection had been
raised against the personal merits and
qualifications of Col: Branfoot, we con-
sidered ourselves entitled, under the
terms of our agreement, to adhere to
our

and the fact that at the time
of his nomination he ^{has} been holding
an appointment ^{in Burma} appeared to
illustrate the second reason
^{referred to} ^{above} assigned by the Govt.
of India for desisting the nomina-
tion to be referred to them.

Chick
H.A.

MA

Enclosure E

our original nomination, and we inform-
ed the Govt. of India accordingly. In
reply we received that Govt's letter
No. 769, d/ 5 May '99, directing us
to appoint Col: Sinclair to the post
of S.G.

The Government of India in that
letter objected to our interpretation
of the terms of our mutual agreement.
They stated that in making their pro-
posals regarding the procedure to be
followed they had been mainly influ-
enced by the consideration that it
might be necessary to protect from
supersession, officers of the Madras
Cadre who happened to be serving out-
side this Presidency.

6. Against this direction the
Govt. of India we now ~~intend~~ ^{desire} to appeal
to your Lordship. Having regard to the
clear terms of our correspondence with
the Govt. of India in connection with
future appointments to the office of
Surgeon General, we do not think that
the construction which that Govt. now
seek to put upon our agreement is in
any way justifiable. Whatever may have
been the intention of the Govt. of
India in framing ~~its~~ ^{their} original proposals
we can see in the procedure as final-
ly settled no suggestion of any inten-
tion to vest in that Govt. such
power as would enable them to protect
a senior officer from supersession, if
we consider his nomination undesirable.
This protection could only have been
afforded

to call up the appointment of the Govt. of India themselves of the power of ~~the~~ ^{our} non-appointment; but such an assumption is ~~not~~ ^{is} expressly barred by the terms of our agreement, and we may mention that our stipulation regarding our right to make a second nomination, which the Govt. of India ~~has~~ ^{have} not ignored, was made with the special view of preventing that Govt. from taking the appointment into their own hands. Questions of merit and qualifications as affecting the individual officers only concerned are, we consider, solely within the province of the authority making the appointment; in this case the Madras Govt. - and ~~[conferment]~~ if preference for individuals were accepted as a valid ground for interference by the Govt. of India in the case ~~[of]~~ ^{of} ~~Surgeon-General~~, that Govt. might in the same manner claim to nominate to ~~[of]~~ ^{other posts} now filled by the Governor in Council under his statutory powers. The Govt. of India observes in ~~the~~ ^{its} latest letter that at the time when ~~it~~ ^{they} proposed the arrangement in question, the case of Col. Sinclair was cited as one in which interference with this Govt.'s selection might be called for. We find in the ~~correspondence~~ ^{correspondence} no reference to that officer, and we hold, ~~therefore~~ ^{that}, in accepting our stipulation, the Govt. of India ~~expressly~~ ^{has} disclaimed any ~~qualification~~ ^{right} which ~~it~~ ^{they} might ~~have~~ ^{originally} supposed to assert, to press upon us terms of appointment as S.G. ~~his~~ ^{his} ~~claim~~ ^{claim} to be appointed S.G.

Had any such intention on the part of the Govt. of India been made apparent we should have declined to accept the proposed agreement.

Must

present

any

can

however

MA

must

The question of Col. Sinclair's personal qualifications for the post we do not propose to discuss ~~further~~ ^{further}, but we may here point out that we do not admit that the selection of Col. Sinclair for the office of Surgeon-General operated as a supersession of Colonel Sinclair, or afforded that officer any ground for complaint. Col. Sinclair's service in this Presidency was entirely military and it lasted for only ten months. At the end of that period he was appointed to a special post as "Analyst of portable water" in Burma. Thence he entered the Jail Dept. in that province, and he remained temporarily attached to that Dept. until 1874, ~~when~~ ⁱⁿ this Govt. was asked to place his services ~~permanently~~ ^{permanently} at the disposal of the Govt. of India. This request was complied with, and Mr. Sinclair was at once gazetted ~~permanently~~ ^{permanently} to the Burma Jail Department, in which he has since remained. We consider that in electing to serve permanently in Burma, Mr. Sinclair relinquished all claims to promotion to civil administrative posts in Madras. It is true that his name has been retained on the Madras list, but we regard this as a course adopted by the Govt. of India merely for convenience, and not as establishing any distinction, as far as this

in nearly twenty-five years ago, MA
** vice correspondence on enclos. #*
1 (enc. 2) 1874

endeavour to make
 MS MS
 [omit] MS
 29th in reply to MS.
 with respect to this interpretation MS MS

We may here note for your Lordship's information that although Col. Bramfort has recently been holding an appointment in Burma, it is a military & not a civil appointment, and his services have not been transferred to the Govt. of that province. There is therefore no analogy between his case and that of Col. Lindsay.

~~Govt. his claims to be appointed.~~

8. In the foregoing paras. we have ~~plain~~ plain to your Lordship our position in regard the agreement in question, and ~~we beg respectfully to submit~~ the correctness of our interpretation of its difference terms. As, however, a radical of opinion has arisen ~~on the subject~~ between ourselves and the Govt. of India, we now desire in support of our claim to retain in our hands the appointment of our Surgeon-General, to appeal to the law which governs questions of appointment and promotion in India. Sec. 30 of 21 and 22 Vic. Cap. 106 lays down, that "All appointments to offices, commands and employments in India, and all promotions which by law or under any regulations usage or custom are now made by any authority in India, shall continue to be so made by the like authority, and subject to the qualifications conditions and restrictions now affecting such appointments respectively, but the Secretary of State in Council with the concurrence of a majority of members present at a meeting shall have the like power to make regulations for the division and distribution of patronage and power of nomination in India x x x x x x"

That the nomination of the Head of the Medical Dept. in this Presidency vests by usage in the Governor in Council is ~~we think~~ beyond dispute.

In

MS omit MS

In their notification No. 187, dated 15th March 1913, and in resolution No. 361, dated 15th July 1916, the Govt. of India promulgated rules regarding the constitution of the Medical Dept., in which the right to appoint the Surgeon-General in this Presidency was expressly reserved to ~~this Govt.~~ ^{our} Govt. These rules are stated to have been issued with the sanction of the Secretary of State, and whether that sanction constitutes a formal order regarding the distribution of patronage, such as is contemplated in the latter part of section 20, 21 & 22 Vic. Cap. 113, or whether the rules are merely to be regarded as indicating the existing usage, there can ~~be no doubt~~ ^{omit} ~~that the right to select an officer for the post of Surgeon-General vests under the statute in our hands.~~

2. With these explicit provisions of the law for guidance we are of opinion that it is not, and is not open to the Government of India to require their approval to the nomination by the Governor in Council to the office in question of any member of the I.M.C. attached to the Madras Presidency whose services may be available, still less ~~the Govt. of India has power to direct us~~ ^{us} to appoint any particular officer. We therefore beg leave to ^{request} ~~submit~~ your Lordship's sanction to our contention that the legal authority of ~~the~~ ^{the} Governor

Governor in Council to appoint an officer to the post of Surgeon-General may be exercised without restraint.

We cannot but think that the mutual agreement proposed by the Govt. of India, and accepted by us out of respect for that authority, is strictly speaking an evasion of the statute law, and that no such modification of our ~~statutory powers is valid unless made~~ under orders by your Lordship in Council under the statute already quoted. The present is, we would observe, not the only instance in which what we ~~hold~~ ^{hold} ~~conceive~~ to be the statutory right of H.E. the Governor in Council in regard to appointment has been similarly ~~infringed~~ ^{infringed} by the Govt. of India. Orders have been received from that Govt. which will practically have the effect of ~~depriving us of our power~~ ^{our} in the selection of the head of ~~the~~ ^{our} Jail Dept., of the Secy. of our Sanative Refuges, and of the Chemical Examiner in this Presidency. ~~Regarding these cases, as well as the larger question of the effects on our medical administration of the concentration in the hands of Govt. of India of control over officers serving under our orders, we propose shortly to address a further communication to your Lordship. Regarding the matter at present under discussion we would~~ ^{request} ~~add~~ ^{add} that ~~we have~~ ^{we have} in this letter based our contention on

now and in future
MS
MA

10.
MS
MA

infringed
MA
omit
MA
annulling or restricting
our powers
MS
MA

By these instructions the Govt. of India are as we considered ~~annulling or restricting~~ ^{annulling or restricting} ~~the statutory power of this Govt.~~ ^{the statutory power of this Govt.} ~~which can legally be exercised only by the Govt. of your Lordship in Council.~~

On this subject as well as on
MS
MA
omit
MA
while

the

C. I.

we also object

Paul

out 1/2

and if [the] responsibility
for ^{good} ~~the~~ administration ~~of~~
~~the~~ ~~policy~~ is to continue
to ^{rest on} ~~rest on~~ ^{us}, we must [be
~~left~~ ^{retain} unfettered with
power of selecting our
staff which the Legislature
has conferred upon us.
for the government of the
Presidency H.A.

HA

4. b. 99.

A handwritten signature in black ink, appearing to be "HWS".

HW
5-6-89

Mr. W. C. Coker

1. 2/1/88.
2. Please send me two fair copies when completed, to printer me.

42H
10.6.99

Jan 21st 1899
 in 13.6.99. arrived at
 the P.S. - M.
 14/6/98

Attention is directed to the
correspondence which will send
type from which it will be
seen that the Govt of India
in 1894 took up a similar
position which was afterwards
accepted. But on receiving a
telegram (flag II) backed up
by a des. from H.E. the Govt
to the Viceroy, withdrew their
request that this Govt should
submit a fresh nomination
in place of that of D. Subbaray
Perhaps the following will

~~"We may have observed that the Court of the
the right of the Court to
select its Judges General
back on the previous occasion
simply attempted~~

we may add that in
1894 the Govt of India sought
to restrict MA

statutory
MS
9.6.99

Mr On checking the Budget
9/6/99 I called to remind the
chair person and I think the
chair addition will be made.

2/16/88

[illegible]

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

Ootacamund,

10th June 1899.

My dear Fraser,

I send herewith an advance copy of the Despatch to the Secy. of State regarding the selection of a successor to Surgeon General Sibthorpe in the appointment of ~~the~~ Surgeon General with the Govt. of Madras. The signed copy with official covering letter to the Govt. of India will follow in three or four days.

Yours sincerely,

(Signed) G. Stokes.

To

A. H. Fraser Esq., C.S.I., *despd with enclos.*

Officiating Secy. to the Govt. of India,

Home Dept.

12-6-99.

These notes have
been sent to the
SA & the Pres
etc with
proof of dispatch
to - bgs

4/11/11
Cm
15/11/11

Note for the info
Gov Pres

Proof of deposit
to the Gov of State
is returned during the
pleas. It is of
is, corrected, and
sent without fail
to Ostrom's list
Morrow's post office
as follows:-

- 2 copies on blue paper
(hand made paper)
without correction
- 2 copies on blank
paper with signature
corrected

The number of the deposit
should be returned
by telephone from
the Head Clerk Chief
last day of the
month in

one copy on
hand made paper
with signature

12

NOTE FOR THE Head Clerk, U.S. DIST. CT.

The Sup. Court.

Pres has been told to send you, under confidential cover, on Monday, the 12th Inst., a printed copy of a dispatch to the Secy of State regarding the appointment of Surgeon General. This copy should be posted to Simsbury without fail by Monday evening's post, under cover of the accompanying D.O. to the A.P.H. Forster, etc. See to the S. & S. office. I will send the Sup. Court. Pres will take care of it on Monday morning for a dispatch for the dispatch. Please report to the Secy on Monday, that the D.O. is dispatched. Enclosed, has been posted at the same time sent up a number of the same date, for a second dispatch to the

Confidential

No 7 given
2/12/6/99

Done
E.H.

Chambers
2^d cont.

10/1/02

La
I have reported
to U.S. that the
O/S & despatches have
been posted in time
for this day's post
to Lima

The despatch was
numbered ~~7~~ 7 and
dated 12 June '99 -

The second despatch
to the despatchers from
Oatley ~~may~~ should
be numbered 8 of
12 June 1899.

12 June 1899.
Yours
12/6/99

enc. 1357. Telegram from the Govt. of India, Home Dept, no 768
dated 31 May 1899 - (4)

C. No. 1438 From the Gov. of India, No. 769, dated 5-5 1899. 4

189

189

..... 189 .

order no. ~~646~~ A dated 12. 6. 99
P.S.

The following letter
will be addressed to the
Govt. of India.

Cu
5.6.25

Letter no. 646 B.

20th Aug. to the Govt. of India

Human Dept

Li

~~Der 1. d. 1871~~

In acknowledging ^{8/5/99}

The receipt of some letter

no 769 interview. dated

5th May 1893. Town

directed to note that

H.S. the Gov. in Council

is unable to acquire

in the absence of

Govt. of India that Colonel
 Sinclair should be appointed
 & Surgeon General with this Govt,
 in succession to Surgeon General
 Sibthorpe, and to request
 that under para 2 of letter
 from your dept. no 2526 dated
 17 June 1892, the point at
 issue may be referred
 to Hon. Secy. of State for
 India. A despatch to
 the Secy. of State. Copy of
 which has been ^{sent} ~~forwarded~~
 direct, is forwarded
 herewith for forwarding.

[Signature]

Letter - no. 8 of 12.6.99.

To the Hon. Secy. of State
 for India

[Signature]

we have the
 honour to forward
 herewith, copy of a
 despatch to the Hon. Secy. of State.

4
 under Secy. of State
 the Govt. of India.

As
 5.6.99 *[Signature]* *[Signature]*

GOVERNMENT OF FORT ST. GEORGE.

PUBLIC (1899) DEPARTMENT.

Letter to the Right Honourable the
Secretary of State for India.

Dated _____,
No. 7 of 1899.

PUBLIC DEPARTMENT.

LETTER—to

THE RIGHT HON'BLE THE SECRETARY OF STATE FOR INDIA.

MY LORD,

We have the honour to submit, for Your Lordship's orders, the following communication relating to circumstances in which we are unfortunately not in accord with the Government of India, whose action in the case presently to be mentioned we are reluctantly, and with due respect, compelled to regard as a breach of agreement between that Government and ourselves, and as an infringement of the law which governs the distribution among the various authorities in India of the power to make appointments and promotions.

2. For some years past changes have been effected by the Government of India in the constitution of the Indian Medical Department, which have tended towards the centralization in their hands of authority and control over the cadre of that Department in this Presidency. The main lines upon which these changes have proceeded have, we understand, received Your Lordship's assent, though, in the absence of the correspondence with Your Lordship on these subjects, with which we have not in most cases been favoured, we are unable to say how far the probable results of the policy of centralization upon medical administration in this Presidency have been brought prominently to notice. But in regard to the details of these changes, and the method of carrying them out, we have had on several occasions to address the Government of India, pointing out that their policy of centralization, and the procedure adopted in connection with it, have attenuated the legitimate authority of His Excellency the Governor in Council. In particular, we found ourselves compelled to demur to the departure from the recognised practice of direct communication between the Government of India and ourselves involved in permitting the Director-General of the Indian Medical Service to issue

orders to the Surgeon-General in this Presidency, a subordinate of this Government, and to the introduction of new rules affecting the administration of the Medical Department in this Presidency without previous reference to us.

Into the details of these matters we do not now propose to enter, but we enclose copies* of the correspondence relating to them to explain the circumstances precedent to the special case in which, with due respect to the views of the Government of India, we venture to seek Your Lordship's orders.

3. The circumstances of this case are as follows: Surgeon-General Sibthorpe, the Surgeon-General with this Govern-

* Enclosure A.

Letter from the Government of Madras, No. 1518, Public, dated 23rd November 1897 (paras. 8-14).

Do. No. 1301, Public, dated 27th October 1898.

Do. No. 196, Public, dated 15th February 1899.

Letter from the Government of India, No. 669, dated 20th April 1899.

Enclosure B.

Letter from the Government of Madras, No. 591, Public, dated 25th April 1898.

Letter from the Government of India, No. 1941, dated 3rd August 1898.

Letter from the Government of Madras, No. 1545, Public, dated 22nd December 1898.

Letter from the Government of India, No. 756, dated 4th May 1899.

ment, having in January last applied for three months' privilege leave, to extend to the date upon which his appointment as Surgeon-General would expire, this Government selected Colonel Branfoot (an officer on the Madras list who, after many years of civil employ in Madras, had recently been posted to military duty in Burma) to officiate during the period of Surgeon-General Sibthorpe's leave, and subsequently to succeed to the permanent appointment. Application was accordingly made to the Government of India for Colonel Branfoot's services to fill the temporary vacancy, and at the same time, in accordance with an arrangement proposed by the Government of India in 1897, and assented to by us, his nomination as the most suitable officer to succeed permanently to the office of Surgeon-General was communicated to that Government. It being subsequently found that Surgeon-General Sibthorpe was, under the rules, ineligible for the leave for which he had applied, the necessity for the temporary appointment ceased to exist. As regards the permanent appointment the Government of India, in their

letter No. 437,* dated 13th March 1899,

* Enclosure C.

objected to the selection of Colonel

Branfoot and requested this Government to nominate in his stead Colonel Sinclair, an officer whose name stands upon the list of the Indian Medical Service in Madras, but whose whole service, with the exception of a few months spent in military employ in this Presidency in 1870, has been passed in Burma, to which province he was in 1874 *permanently* transferred.

4. It is necessary here to explain the nature of the arrangement, to which allusion has been made, and which was entered into between the Government of India and our Government in regard to the procedure to be adopted on the occurrence of a vacancy in the office of Surgeon-General in this Presidency. In their letter

No. 1312,† dated 26th October 1897, the

† Enclosure D.

Government of India proposed that the

Governor in Council should, on the occurrence of a vacancy, nominate to the Government of India the officer whom he considered best qualified for the post of Surgeon-General. The Government of India added that this nomination would be accepted unless there should appear to be strong reasons to the contrary. It was explained that while it is not strictly necessary, pending the complete unification of the Presidential Medical Services, that a reference should be made to the Government of India in the matter, yet as appointment to the post of Surgeon-General carries with it promotion to the military rank of Surgeon-General, which it is in the power of the Government of India alone to confer, and since a Surgeon-Colonel, belonging to the Madras Establishment, might be serving outside the Madras Presidency, the procedure indicated was desirable. We accepted the proposal of the Government of India, stipulating, however, that in the unlikely event of strong reasons existing against our nominee, we should be invited by the Government of India to make a fresh nomination, and this suggestion was agreed to by the Government of India. The office of Surgeon-General being one to which our Government has by law and usage the power of appointment, this arrangement, under which the final approval of our nomination was vested in the Government of India was, we would now observe, of doubtful legal validity, in that it traversed the provisions of 21 and 22 Vic., Cap. 106, sec. 30. The rights of our Government appeared, however, to be sufficiently safeguarded by the stipulation which we

made, and the legal question, to which we shall presently revert, was not at the time raised.

5. In reply to the Government of India's letter declining to accept the nomination of Colonel Branfoot, and requesting us to nominate Colonel Sinclair in his stead, we addressed that Government in our letter No. 445, dated 20th April

Enclosure X.

1899, pointing out that the arrangement into which we had entered placed in our hands alone the right of nomination, and could not legitimately be construed as empowering the Government of India to call upon us to show cause why an officer, other than our nominee, should not be appointed Surgeon-General in this Presidency. We did not, however, confine ourselves to the discussion of the proper interpretation of the agreement, for we put forward what appear to us to be cogent reasons for considering Colonel Branfoot the officer best fitted for the post in question. We pointed out that Colonel Sinclair, though nominally upon the Madras list, has served for only a few months in this Presidency, from which he was many years ago permanently transferred, and that he has no acquaintance with its languages or institutions, or with the *personnel* of the officers of the Madras Civil Medical Department. Colonel Branfoot, on the other hand, labours under none of these disadvantages. He has spent most of his service in civil employ under us, and the fact that at the time of his nomination he had been holding an appointment in Burma appeared to illustrate the second reason (referred to above paragraph 4) assigned by the Government of India for desiring nomination to be referred to them. Of Colonel Branfoot's fitness for the post of Surgeon-General there can be no question, and he is, moreover, in possession of our personal confidence. Finding ourselves unable, in the interests of medical administration in this Presidency—a subject to which we attach much importance,—to accept the suggestion of the Government of India that we should nominate Colonel Sinclair, and observing that no objection had been raised against the personal merits and qualifications of Colonel Branfoot, we considered ourselves entitled, under the terms of our agreement, to adhere to our original nomination, and we informed the Government of India accordingly. In reply we received that Government's letter

* Enclosure B.

No. 769, dated 5th May 1899, directing us to appoint Colonel Sinclair to the post of Surgeon-General.

The Government of India in that letter objected to our interpretation of the terms of our mutual agreement. They stated that in making their proposals regarding the procedure to be followed they had been mainly influenced by the consideration that it might be necessary to protect from supersession, officers of the Madras Cadre who happened to be serving outside this Presidency.

6. Against this direction of the Government of India we now desire to appeal to Your Lordship. Having regard to the clear terms of our correspondence with the Government of India in connection with future appointments to the office of Surgeon-General, we do not think that the construction which that Government now seek to put upon our agreement is in any way justifiable. Whatever may have been the intention of the Government of India in framing their original proposals, we can see in the procedure actually settled no suggestion of any intention to vest in that Government such power as would enable them to protect

a senior officer from supersession, if we consider his nomination undesirable. This protection could only have been afforded by the assumption by the Government of India themselves of the power of appointment; but such an assumption is expressly barred by the terms of our agreement, and we may mention that our stipulation regarding our right to make a second nomination, which the Government of India have now ignored, was made with the special view of preventing that Government from taking the appointment into their own hands. Had any such intention on the part of the Government of India been made apparent, we should have declined to accept the proposed agreement. Questions of merit and qualifications as affecting the individual officers concerned are, we consider, solely within the province of the authority making the appointment,—in this case the Madras Government—and if preference for individuals were accepted as a valid ground for interference by the Government of India in the present case, that Government might in like manner claim to nominate to any other post now filled by the Governor in Council under his statutory powers.

7. The Government of India observe in their latest letter that at the time when they proposed the arrangement in question, the case of Colonel Sinclair was cited as one in which interference with this Government's selection might be called for. We can find, however, in the earlier correspondence no reference to that officer, and we hold that in accepting our stipulation, the Government of India disclaimed any right, which they might originally have purposed to assert, to press upon us his appointment as Surgeon-General. The question of Colonel Sinclair's personal qualifications for the post we do not propose to discuss further, but we may here point out that we do not admit that the selection of Colonel Branfoot for the office of Surgeon-General operated as a supersession of Colonel Sinclair, or afforded that officer any ground for complaint. Colonel Sinclair's service in this Presidency was entirely military and it lasted for only ten months. At the end of that period he was appointed to a special post as "Analyst of potable water" in Burma. Thence he entered the Jail Department in that province, and he remained temporarily attached to that Department until in 1874, nearly twenty-five years ago,

* Vide correspondence in enclosure F.

this Government was asked to place his services *permanently** at the disposal

of the Government of India. This request was complied with, and Dr. Sinclair was at once gazetted *permanently* to the Burma Jail Department, in which he has since remained. We consider that in electing to serve *permanently* in Burma, Dr. Sinclair relinquished all claims to promotion to civil administrative posts in Madras. It is true that his name has been retained on the Madras list, but we regard this as a course adopted by the Government of India merely for convenience, and not as establishing any distinction, as far as this Government is concerned, between Colonel Sinclair and any other officer permanently transferred from our Presidency. In support of our view we may instance the case of Mr. Houghton of the Indian Civil Service who, having originally been posted to this Presidency, was subsequently transferred to Burma. When his transfer was declared permanent we enquired of the Government of India whether his name might be struck off our lists. In reply we were informed that if omitted from our lists Mr. Houghton's name would merely have to be added to the list of Civil Servants in Bengal. For convenience sake we were asked to retain his name, showing him as permanently

transferred. Mr. Houghton has obviously no claim to promotion in this Presidency, and the case of Dr. Sinclair is in our view analogous to his. We may here note for Your Lordship's information that although Colonel Branfoot has recently been holding an appointment in Burma, it is a military and not a civil appointment, and his services have not been transferred to the Government of that province. There is therefore no analogy between his case and that of Colonel Sinclair.

8. In the foregoing paragraphs we have endeavoured to make plain to Your Lordship our position in regard to the agreement in question, and in regard to the correctness of our interpretation of its terms. As, however, a radical difference of opinion has arisen with respect to this interpretation between ourselves and the Government of India, we now desire in support of our claim to retain in our hands the appointment of our Surgeon-General, to appeal to the law which governs questions of appointment and promotion in India. Sec. 30 of 21 and 22 Vic., Cap. 106, lays down, that "All appointments to offices, commands and employments in India, and all promotions which by law or under any regulations, usage or custom are now made by any authority in India, shall continue to be so made by the like authority, and subject to the qualifications, conditions and restrictions now affecting such appointments respectively, but the Secretary of State in Council with the concurrence of a majority of members present at a meeting shall have the like power to make regulations for the division and distribution of patronage and power of nomination in India"

That the nomination of the Head of the Medical Department in this Presidency vests by usage in the Governor in Council is beyond dispute. In their

* Enclosure G.

† Enclosure II.

notification No. 150,* dated 15th March 1880, and in resolution No. 361,† dated 30th July 1886, the Government of

India promulgated rules regarding the constitution of the Medical Department, in which the right to appoint the Surgeon-General in this Presidency was expressly reserved to our Government. These rules are stated to have been issued with the sanction of the Secretary of State, and whether that sanction constitutes a formal order regarding the distribution of patronage, such as is contemplated in the latter part of sec. 30, 21 and 22 Vic., Cap. 106, or whether the rules are merely to be regarded as indicating the existing usage, there can be no doubt that the right to select an officer for the post of Surgeon-General vests under the statute in our hands.

9. With these explicit provisions of the law for guidance we are of opinion that it was not, and is not, open to the Government of India to require their approval to the nomination by the Governor in Council to the office in question of any member of the Indian Medical Service attached to the Madras Presidency whose services may be available, and still less to direct us to appoint any particular officer. We therefore beg leave to request Your Lordship's sanction to our contention that the legal authority of the Governor in Council to appoint an officer to the post of Surgeon-General may be exercised now and in future without restraint.

We cannot but think that the mutual agreement proposed by the Government of India, and accepted by us out of respect for that authority, is strictly speaking an evasion of the statute law, and that no such modification of our statutory powers

is valid unless made under orders by Your Lordship in Council, under the statute already quoted.

10. The present is, we would observe, not the only instance in which what we hold to be the statutory right of His Excellency the Governor in Council in regard to appointments has been similarly infringed by the Government of India. Orders have been received from that Government which will practically have the effect of annulling or restricting our powers in the selection of the head of our Jail Department, of the Superintendents of our Lunatic Asylums, and of the Chemical Examiner in this Presidency. By these instructions the Government of India are, as we consider, modifying by executive order the statutory power of this Government, an act which can legally be effected only by the orders of Your Lordship in Council. On this subject, as well as on the larger question of the effects on our medical administration of the concentration in the hands of Government of India of control over officers serving under our orders, we propose shortly to address a further communication to Your Lordship. Regarding the matter at present under discussion we would add, that while we have in this letter based our contention on the formal ground of our agreement with the Government of India, and on the legal right conferred by statute on our Government, we also object to the action of the Government of India on administrative considerations. The provision of medical relief for the population of this Presidency must necessarily rest with the executive Government of Fort St. George, and if responsibility for good administration is to continue to vest in us, we must retain unfettered that power of selecting our staff which the Legislature has conferred upon us for the government of the Presidency.

We have the honour to be,

My Lord,

Your Lordship's most obedient, humble servants,

OOTACAMUND,

June 1899.

Exd. J. Henricus.

We may add that in 1884 the Govt. of India sought to restrict our power of appointing our Surgeon-General. On that occasion, as in the present case, that Govt. objected to the officer whom we had selected, and requested us to reconsider the matter and make a fresh nomination. The Govt. of India however deferred to our objections, and left us uncontrolled in the exercise of our statutory right to select an officer for the appointment.

* vide para. 5 of the Cont. of India Act no 660 Medical d 20/4/99. in Enclosure A. (page 16)

ENCLOSURE A.

From the Hon'ble Mr. A. T. ARUNDEL, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department (Medical), dated 23rd November 1897, No. 1518.

I have the honour to acknowledge the receipt of your strictly confidential letter No. 1023, dated 6th September 1897, with reference to the question of the preparation and submission by the Madras Government of a scheme for releasing Medical officers from civil employ when requisitioned by the Government of India for military service.

2. In paragraph 2 of your letter it is remarked that "it is indeed possible that such schemes have been prepared, but the delay and difficulty which have in some cases occurred in connection with recent demand for Commissioned Medical officers for military duty have suggested to the Government of India that definite plans have not everywhere been made for meeting military requirements, or that, if made, they have not been reduced to working order."

3. The question of formulating a scheme of the description given above was first brought to the notice of His Excellency the Governor in Council in the letter from the Government of India, No. 8-Medl.-460 of 10th August 1892. At the request of the Madras Government a list was accordingly prepared by the Surgeon-General with this Government of the civil appointments and stations from which Commissioned Medical officers might be most conveniently and expeditiously withdrawn when required for military service. This list was approved by His Excellency the Governor in Council in G.O., No. 49, Public, dated 25th January 1893.

4. At the same time, in Mr. Galton's letter No. 50, Public, dated 25th January 1893, the attention of His Excellency the Governor-General in Council was invited to the inconvenience attending direct correspondence between the Surgeon-General with the Government of India and the local Surgeon-General regarding Commissioned Medical officers required for military duty. "Such correspondence," it was observed, "His Excellency the Governor in Council believes was intended to be confined to requests for information of a professional nature, and should not in his opinion be permissible in regard to matters of medical administration which are within the province of this Government."

5. Subsequently, in the year 1895, certain changes in the medical administration of this Presidency rendered it desirable to recast the original list, and an amended list, providing for the withdrawal of Commissioned Medical officers from 14 civil appointments, was issued by Government in G.O., No. 444, Public, dated 1st June 1895. The officers holding these appointments were at the same time warned that in the event of emergency their services were liable to be utilised in the order shown in the list, and that they should be prepared to move at a week's notice, fully equipped for field service. On the departure of these officers or of any of them, their places would be filled by the Assistant Surgeon of the District concerned who now takes charge of the work at head-quarters whenever the Commissioned Medical officer holding the post of District Medical and Sanitary officer proceeds on tour.

6. This scheme of the Government of Madras was, however, superseded by the scheme explained by the Government of India in their letter, dated 29th May 1896, No. 11-Medl.-436. This letter was to the effect that as there were objections to removing officers from certain named appointments for military service, the Government of India would in future call upon the officers serving in the Civil Medical Department for military service in the order of juniority. The names of the officers selected would be communicated by telegram by the Government of India to the Local Governments and Administrations, who would take steps to warn them for service, and to make arrangements for the conduct of their civil duties.

7. The arrangements for placing the Assistant Surgeon of the station in charge of the duties of the Commissioned officer thus removed held good under the scheme now announced by the Government of India. On receipt, therefore, of the names of the officers selected for military service by the Government of India nothing more remained to be done. The officers, after the list had received the final approval of His Excellency the Governor in Council, would be relieved without delay of their civil duties and detached for military service.

8. I am directed to invite your attention to the fact that in the recent call for Medical officers for military duty, the procedure formulated by the Government of India has not been adhered to, and that the result has been attended with inconvenience to this Government.

9. On July 28th a telegram (No. 785) was received from the Government of India requisitioning the services of four Commissioned Medical officers for military duty. This was followed by telegram No. 795, dated July 29th, to the same effect, which added that four more officers were to be warned to be in readiness for military duty in the event of a further call. These telegrams were communicated to the Surgeon-General for very early attention.

10. So far was this Government from having received any intimation that this requisition was impending, that in its telegram No. 558, dated 13th July, it had asked for the services of two Commissioned Medical officers for civil employ, urgently needed for temporary duty in sick

leave vacancies. This request was replied to by the Government of India in their telegram No. 761, dated July 19th, in which they regretted their inability to lend the services of any Commissioned Medical officers at the present juncture. In this telegram no mention was made of the fact that the Government of India were about to ask for the loan of four officers from civil employ in this Presidency.

11. It was not till the receipt of your letter No. 810, dated 2nd August, that this Government became aware of the fact that so early as July 2nd the Director-General, Indian Medical Service, had sent a telegram to the Surgeon-General with this Government, warning him that the services of four junior Indian Medical Service officers might be required for military duty. This telegram the Surgeon-General acted upon so far as to warn the officers concerned to prepare for field service, but in view of the fact that the Government of India in their letter, dated 29th May 1896, had announced that in such cases the names of the officers required would be communicated by telegram to the Local Government, he took it for granted that this procedure had been duly followed, and was daily in expectation of receiving the orders of the Madras Government on the subject. While the Surgeon-General, therefore, was aware of the approaching demand for four Commissioned Medical officers, and had on his own initiative warned four officers to be in readiness, this Government was left in ignorance of the requirements of the Government of India and of the correspondence that was taking place.

12. The Surgeon-General on receipt from this Government of the telegrams from the Government of India, dated July 28th and 29th, ordered the marginally-named officers to proceed to Rawalpindi for military duty. These officers, three of whom were on plague duty, having been already warned, unknown

to Government, to be in readiness for service, proceeded at once to the front. The Government of Madras considered it inadvisable when the plague was prevalent not only in Bombay city, but also in the districts of Poona and Satara, to intrust the important duty of plague inspection to subordinates. It was, however, too late to prevent the departure of the officers selected for military duty at the front, and it was not till the 21st August that three District Surgeons could be deputed to take the place of the officers referred to. During the interval no Commissioned Medical officers were in charge of plague inspection at three important stations, namely, Guntakal, Bezwada and Arkonam, and the Presidency was during that time exposed to the danger of an importation of the plague from the Bombay Presidency.

13. From these facts it will be clear to His Excellency the Governor-General in Council that no delay took place in this Presidency in complying with the requisition for Commissioned Medical officers, and that, as far as this Presidency is concerned, no need for a new scheme has been revealed by the recent demand for Medical officers.

14. In this connection His Excellency the Governor in Council desires me again to invite the attention of His Excellency the Governor-General in Council to the remarks quoted above from Mr. Galton's letter No. 50 of January 25th, 1893, as the procedure of the Director-General, Indian Medical Service, then demurred to, has been the cause of the inconvenience experienced in the present instance also.

15. I am, in conclusion, to invite your attention to the Proceedings of this Government, dated 23rd November 1897, and the letter of the Surgeon-General with this Government read therewith, which form an enclosure to this letter. From this it will be seen that in case of great emergency 23 Commissioned Medical officers can be detached by this Government for military duty from the Madras Civil Medical Establishment, and their duties otherwise provided for. It is, however, essential to the successful working of this plan that due notice should be given by the Government of India to this Government of the number and names of the officers required, so that they may have time to prepare themselves for instant departure on receipt of the final requisition.

From the Hon'ble Mr. G. STOKES, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, dated Fort St. George, 27th October 1898, No. 1301.

The attention of this Government has, for some time past, been attracted to the growing inconvenience caused by the want of a definite understanding on certain points connected with the administration of the Civil Medical Department, and I am accordingly directed to address you on the subject.

2. The question to which I am now specially to refer is that of the exact position of the Director-General of the Indian Medical Service and his relations with the local Surgeon-General. Neither the scheme for the unification of the Indian Medical Service, communicated with Military Department letter No. 284 G., dated 31st March 1894, nor the arrangement finally published in the notification of the Government of India, No. 263, dated 6th March 1896, afforded any information as to the duties or powers of the Director-General. The former made no reference

to that officer, while the latter merely stated that he would be the head of the Indian Medical Service when that service was amalgamated under the direct administrative control of the Government of India. There is nothing on record to suggest any intention on the part of the Government of India to confer upon the Director-General the right, which he has since assumed, to intervene in matters which relate to Civil Medical administration in this Presidency and which are therefore under the control of this Government.

3. The necessity which exists for a distinct understanding on the subject will be apparent from certain instances, to which I am directed to refer, in which the intervention of the Director-General has led to considerable inconvenience. The first of these cases has already been brought to the notice of the Government of India. My predecessor's letter, No. 1518, Public, dated 23rd November 1897, a reply to which is awaited, commented upon the action of the Director-General in instructing the Surgeon-General with this Government in July 1897, to warn certain medical officers that they might be required for military duty. It was mentioned that the result of this unauthorized direction was that the medical officers who had been warned were removed from plague inspection stations, and had left for the front before they could be stopped, and the efforts of this Government to guard against the introduction of plague into this Presidency were thereby considerably hampered. It is no doubt true that the responsibility for this result rested in some measure on the Surgeon-General who had no authority to obey the Director-General's instructions in the matter. In addition, however, to the inconvenience thus caused, the Director-General's action in issuing the orders in question direct to a subordinate of this Government constituted, in the opinion of His Excellency the Governor in Council, a distinct encroachment on the functions of this Government.

4. The second instance of the intervention of the Director-General to which I am to allude occurred in connection with the recent deputation of Surgeon-Captain Bourke for training in the office of the Chemical Examiner at Madras. Mention has already been made in Mr. Arnold's letter, No. 591, dated 25th April 1898, of the fact that the communications between the Surgeon-General and the Director-General regarding the appointment of a successor to Surgeon-Captain VanGeyzel, in the event of the latter officer being granted leave, were carried on throughout without the knowledge or the sanction of this Government. In communicating to the Director-General the proceedings of this Government noted in the margin, the Surgeon-General acted without authority. The orders necessary to prevent a repetition of this error can, however, be issued by this Government. At present I am

No. 1200, dated 14th September 1897.
No. 1497, dated 17th November "

to invite special attention to Surgeon-Captain Bourke's communication, dated 21st April 1898, addressed to the Director-General of the Indian Medical Service, which forms an enclosure to this letter. In it Surgeon-Captain Bourke mentions that he had been informed by the Director-General that he was likely shortly to act as Chemical Examiner at Madras, and it was apparently on this understanding that he accepted the appointment as probationer in the Chemical Department. If Surgeon-Captain Bourke's account of the matter is correct, it is clear that the Director-General went entirely beyond his powers. The appointment of the Chemical Examiner rests with the Governor in Council, who had no intention of appointing Surgeon-Captain Bourke, and indeed at the time was not aware of that officer's existence. The subsequent correspondence and the Surgeon-Captain Bourke's unnecessary journey to Madras are to be attributed entirely to the Director-General's unauthorized action in the matter.

5. Finally, I am to refer to the procedure adopted in connection with a change which has lately been introduced with regard to applications for leave from officers of the Indian Medical Service. It has come to notice that in April 1897 the Director-General directed the Surgeon-General to forward to him all applications for leave (other than privilege leave or leave on medical certificate) submitted by medical officers in civil employ. The Surgeon-General has in recent cases complied with this instruction, and several applications for leave have been received by this Government with an endorsement by the Director-General. Article 935 of the Civil Service Regulations has, it is observed, been altered so as to sanction this procedure. His Excellency the Governor in Council desires to point out that this important change has been introduced (not only) without any previous reference (but even without subsequent communication) to this Government. In fact, until the Director-General's endorsements began to be received the Governor in Council was unaware that any such change had been effected. Had an intimation on this subject been made in the ordinary official course by the Government of India to this Government instead of by the Director-General to the Surgeon-General, this Government would have been afforded an opportunity of stating its views on the subject. I am now directed to observe that the change in procedure introduced appears to be open to grave objections. The officers of the Medical Department whose services are placed at the disposal of this Government should, His Excellency the Governor in Council thinks, be entirely under its control. The question whether or not leave should be granted depends in the first instance on the views of His Excellency the Governor in Council in the matter, and, secondly, on the question whether there is an officer available to fill the vacancy. If there is not, and if it is decided to grant the leave, the proper and convenient course would appear to be that this Government should apply to the Government of India for the services of another officer. Under the arrangements newly introduced the Director-General may or may not countersign the application for leave. It seems however to be of little moment whether he does so or not, for the Governor in Council has full liberty to

* *note.* The statement that the change in art 935 C.S.R. was not communicated to this Government has subsequently been found to be incorrect. Information that the change had been made was conveyed in a letter from the Govt of India dated 28 Sept 1897, no 1147, in which the Govt was requested to draw the attention of the Surgeon General to the change in the procedure. The revised rule was, however, incorporated in the edition of the Civil Service Regulations issued up to May 1897, and the attention of this Govt was not called to it until five months after it had been brought into force.

grant the leave irrespective of the opinion of the Director-General. If however that officer's endorsement is to be looked upon as authoritative, His Excellency the Governor in Council strongly demurs to a procedure which has the appearance of placing this Government in subordination to the head of a department and regrets that he cannot accept the position.

6. The position assumed by the Director-General in these instances renders it, in the opinion of His Excellency the Governor in Council, essential that the powers of that officer in regard to direct correspondence with the Surgeon-General with this Government, should be clearly defined. Prior to the unification of the presidential services, the arrangement in force was that the Surgeon-General with the Government of India could communicate direct with the Surgeon-General with this Government only in regard to statistics and the operation of departmental rules and orders, and it was clearly understood that such communications were to be confined to the giving and receiving of information on these points, and that no attempt should be made to give orders or

* Vide letter from the Government of India, Home Department, Medical, No. 623, dated 1st October 1899.

issue instructions on the one hand, or to obtain them on the other.* The amalgamation of the medical services, while it altered the position of this Government as far as regards the recruitment, promotion and retirement of medical officers and the disposal of the reserve set apart to fill leave and other vacancies, did not, I am to observe, modify in any degree the control of the local Government over the officers of the Civil Medical staff actually serving under its orders. The Surgeon-General remains a subordinate of this Government and any arrangement under which he receives orders from a subordinate of the Government of India on matters in which this Government is concerned is, His Excellency in Council considers, a serious infringement of the statutory position and authority of this Government. I am accordingly to ask that the powers of the Director-General may be distinctly limited to those formerly enjoyed by the Surgeon-General with the Government of India, as far as regards the civil medical administration of this Presidency and the officers of the Indian Medical Service serving under the orders of this Government, and that, with the exception of correspondence which relates to professional matters, to statistics or to the operation of departmental rules or orders, all communications regarding the Civil Medical Department may in future be addressed by the Government of India to this Government and not by the Director-General to the Surgeon-General.

7. With regard to the letter addressed by Surgeon-Captain Bourke to the Director-General alluded to in paragraph 4 above, I am to explain that the letter was submitted to this Government by the Surgeon-General with a request that it might be forwarded to the Director-General of the Indian Medical Service. This Government was however unable to constitute itself a channel of communication between the Surgeon-General and a subordinate of the Government of India. I am therefore directed to submit the letter in question to the Government of India for disposal. The Surgeon-General was at the time informed that the letter would not be forwarded to the Director-General, and Surgeon-Captain Bourke was advised to communicate with that officer direct.

From the Hon'ble Mr. G. STOKES, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, dated Fort St. George, 15th February 1899, No. 196, Public.

My letter No. 1301, dated 27th October 1898, laid before the Government of India certain points connected with the administration of the Civil Medical department in this Presidency, with special reference to the position taken up by the Director-General of the Indian Medical Service, and the Government of India was asked to define clearly the status of that officer in relation to this Government and the medical officers serving under its orders. The points discussed in that communication being in need of early settlement, His Excellency the Governor in Council considered it desirable to present them without delay for the consideration of the Government of India. They, however, only formed a part of a much larger question, namely, the suitability of the arrangements now subsisting for providing officers to meet the requirements of Civil Medical administration in this Presidency. Upon this I am now directed to address you.

2. In its reply to the letter of the Government of India, Military Department, No. 284-G., dated 31st March 1894, inviting an opinion upon the scheme for the unification of the Indian Medical Service, this Government, while accepting generally the proposed arrangement, suggested an alternative plan by which a certain fixed number of officers would be set apart to form a Presidential Civil Medical department, the strength of the department being calculated so as to cover not only the number of officers required to fill sanctioned appointments, but also the necessary leave reserve. No reply to this letter was received, and this Government is therefore not aware of the reasons why its suggestion failed to meet with the approval of the Government of India.

3. The objections to the Government of India's scheme, which led this Government to put forward its alternative proposal, were at the time purely speculative. The experience of over two years has however fully confirmed the apprehensions then felt as to the prejudicial effect of

the unification upon the medical arrangements in this Presidency. Although the object of the unification was merely to bring the Indian Medical Service, viewed as a Military Department, into line with the other branches of the Military establishment, and it was not intended to affect in any way the internal working of the Civil Medical Department, the practical result of the change has been, so far as this Government is concerned, seriously to embarrass the medical organization. The responsibility for the efficiency of medical administration remains unaltered, but in regard to the chief factor in the maintenance of efficiency, namely, the provision of a sufficient staff of officers, this Government has been left practically no voice. Not only has the Indian Medical Service in Madras been almost consistently undermanned, but what is of even more importance, medical work has been hampered by the inability of this Government to estimate with any degree of certainty the probability, at any given time, of additions to or reductions in the number of officers available for duty. Medical officers retire or proceed on leave, but though a reserve is maintained by the Government of India to meet such vacancies, their places on the list remain unfilled and meanwhile temporary arrangements have to be made: officers revert to military duty, but no corresponding transfer to the Civil Department is effected.

4. A reference to the Civil Medical lists since the date of the amalgamation of the three services will show clearly the disadvantages under which this Government has laboured. The number of sanctioned class I appointments on the Madras list is 48. This, however, includes four appointments in the Jail Department, only two of which have as yet been filled up. The actual number of posts to be filled is thus 46. On March 31st, 1896, there were 54 officers on the Madras list, just sufficient, owing to the small number of officers absent on leave, to fill the 46 posts. The class II appointments were all occupied by uncovenanted officers. On June 30th, 1896, there were only 52 officers on the list, one having retired and one reverted to military duty. Six officers were on furlough (considerably less than the maximum number to whom furlough may be granted) and one was on military duty, thus leaving 45 officers to fill the 46 sanctioned posts, and allowing no provision for officers absent on privilege leave. As a consequence three class I appointments were at that time held by uncovenanted officers. The number on the Madras list rose to 55 in December 1896, and as only five officers were on furlough the staff was sufficient. Compliance with the requirements of the Military Department reduced the nominal strength on September 30th, 1897, to 53, and the actual number of officers available to 37. In March 1898, when the military operations were at an end, the list had been further reduced, namely, to 52, while the number of officers available for duty stood at 38. Since then the strength has continued to decrease, having fallen to 50 in June 1898 and 48 in September 1898; the number of officers available for duty on the latter date was only 41. Looked at from another point of view, it will be found that, during the period in question, eleven officers have been struck off the Madras list either on retirement or on reversion to military duty, while only six have been added. Thus five officers have not been replaced at all: in the case of the other six a considerable interval has usually elapsed between the occurrence of the vacancy and the arrival of the officer sent to fill it.

5. The fact has not been overlooked that during part of the period referred to exceptional military requirements rendered it necessary to reduce the Civil Medical staff throughout India. Leaving out of consideration the period from June 1897 to March 1898 it will still be seen that the number of officers at the disposal of this Government has been kept considerably below what is necessary. At no time since March 1896 have there been more than seven officers on furlough, or about 12 per cent. of the whole cadre: little more than half the maximum number to whom leave can be granted. In the last quarter of 1896 and the first half of 1897, it was only by the reduction to a minimum of the grant of leave of all kinds that the number of officers was made sufficient to fill the sanctioned posts; and the same is the case now, when, of the six officers on furlough, five have had to take leave on medical grounds. The continued decrease in the strength of the Madras list during the year 1898 is viewed by His Excellency the Governor in Council with special apprehension. Whatever may have been the case at other periods during the last two years when the needs of other parts of India were of a pressing nature, the claims of this Government to at least its full complement can hardly be denied at the present time. The Government of India has however recently expressed its inability at present even to comply with the request of this Government for officers to take the place of others who have reverted to military duty.

6. It is no doubt true that at no time since the unification of the medical service was effected has the total number of officers on the Madras list actually fallen below the number of sanctioned posts, that is to say, there has always been a small reserve under the control of this Government to fill leave vacancies. To the existence of this reserve is to be attributed the fact that His Excellency the Governor in Council has been enabled to avoid, during the last two years, the total dislocation of the medical organization which would otherwise have resulted from the enforced grant of sick leave and the transfer of officers to military duty. But the advantage which this Government has enjoyed in the possession of even this small reserve is, His Excellency the Governor in Council understands, merely of a temporary and accidental nature. It is due to the fact that, when the medical services were amalgamated, no change was made in the conditions of service of officers of the Madras Medical service appointed before 1896, or in the sphere of their employment. The Civil Medical Department in this Presidency thus started, after the

amalgamation, with a considerable reserve. Subsequent retirements and transfers to military duty, either on promotion or otherwise, have so far trenched only upon this reserve, and have not yet reached the point where they will encroach upon the number of officers actually required to do duty in sanctioned posts. But the attainment of this latter position cannot, in the ordinary course, be long delayed, and His Excellency the Governor in Council regards with much apprehension the results which will then ensue. The departure of an officer on retirement or on sick leave, both causes beyond this Government's control, will leave a post vacant until such time as a substitute is supplied by the Government of India. Under the most favourable conditions such temporary vacancies cannot but cause inconvenience; if, on the other hand, the experience of the past two years may be taken as a guide, and vacancies thus occurring are either not filled at all or only after long delay, the result will be very serious disorganisation of medical arrangements in this Presidency. Further, the grant of ordinary leave, a matter which, as was pointed out in my letter No. 1301, Public, dated 27th October 1898, falls essentially within the province of the Government under which an officer is serving, will in practice then rest entirely in the hands of the Government of India. However desirable the grant of leave may be, His Excellency the Governor in Council will be powerless to sanction it, unless the Government of India approves and is prepared to supply an officer to fill the vacancy. This arrangement is one which is, His Excellency the Governor in Council considers, inconsistent with the position and responsibilities of this Government in regard to medical administration.

7. After full consideration His Excellency the Governor in Council is convinced that no arrangement for meeting the requirements of the Civil Medical Department in this Presidency is likely to prove satisfactory which does not place at the disposal of this Government not only an establishment of officers corresponding in number to the sanctioned posts, but also a sufficient reserve from which officers can be drawn to fill leave vacancies. The whole of the officers forming this staff should, this Government considers, be definitely set apart for service in the Civil Medical Department in this Presidency, and they should not be liable to be transferred to military duty, or to be removed for service elsewhere, without reference to this Government, or, in the case of permanent removal from the Presidency, until arrangements have been made for transferring instead to the Madras list the number of officers sufficient to raise it to its full strength. The whole of the officers forming this list should be under the orders of this Government alone, in regard to leave and duty. The individual officer returning from leave, or from temporary military duty for which his services had been lent, would, as of course, revert to the service of this Government. Subject to such general restrictions upon the grant of leave as the Government of India might from time to time have reason to impose in view of impending demands for war or other emergencies, all questions of leave should be for disposal by this Government. The grant of leave would depend upon the condition at the time of the local service, and it would be understood that no demand could be made upon the Government of India for extra officers to fill leave vacancies. As regards the officers who might from time to time be present in excess of the number required to fill class I appointments, His Excellency the Governor in Council would propose to employ them temporarily in sanctioned class II posts, meeting their cost from Provincial funds, so that no extra expense to the Government of India would be involved in the arrangement.

8. With regard to the number of officers who should thus be set apart for service in this Presidency, the Government considers that the strength should be such as to allow 20 per cent. of the officers to be absent at one time. This is the number to whom leave may be granted under article 341, Civil Service Regulations, and the records of the past five years lead His Excellency the Governor in Council to consider that no smaller provision would suffice. This reserve would provide officers to fill not only furlough, but also privilege leave vacancies, and to take the place of officers deputed on temporary special duty. Taking the number of sanctioned posts at 48, at which figure it will shortly stand, 60 officers will be required. For the present, however, and until medical officers are posted to the two further appointments in the Jail department for which they are eligible, the Government considers that it will suffice if 58 officers are placed upon its list. Eight more officers should therefore be added to the present strength, that is to say, three more than the number of officers removed from Madras since 1896 and not replaced.

9. In making these representations I am to explain that this Government has no desire to obtain for itself any undue advantage, or to evade the obligation, which it has always most readily and fully recognized, to assist the State in emergency even at the expense of its own administration. The power of the Government of India to obtain officers to meet special or urgent demands in other parts of India would be in no way diminished. The arrangements for meeting military requirements have already been definitely fixed and would require no modification. In the case of exceptional demands for medical officers for service of other kinds, this Government would in the Medical department, as hitherto in other branches of the administration, always be ready to reduce its staff to the utmost possible limit in order to assist other provinces by the loan of officers.

10. But while the proposal of this Government would thus prove in no way detrimental to the interests of the Government of India or of other Governments, its acceptance would be attended by results of the utmost importance to this Presidency. His Excellency the Governor in Council would have at his disposal a medical staff which would ordinarily be fixed and sufficient,

in place of one which is fluctuating and inadequate, and the maintenance of a definite policy in medical administration, which of late it has been found necessary to abandon in many important details, would be again possible.

11. The subject is one to which His Excellency the Governor in Council attaches much importance, and I am to express the earnest hope that the proposals now put forward will meet with the approval of the Government of India.

From A. H. L. FRASER, Esq., c.s.r., Officiating Secretary to the Government of India
(Home Department—Medical), to the Chief Secretary to the Government of Madras,
dated Simla, the 20th April 1899, No. 660.

I am directed to reply to your two letters noted in the margin on the subject of the administration of the Indian Medical Service in the Madras Presidency. In your first letter it is stated that inconvenience has been caused through the want of a distinct understanding on the subject of the position of the Director-General, Indian Medical Service, and his relations with the Surgeon-General with the Government of Madras, and certain instances are given to illustrate this statement. The Government of Madras request that, to avoid these inconveniences, the powers of the Director-General may be distinctly limited to those formerly enjoyed by the Surgeon-General with the Government of India as far as regards the Civil Medical Administration of the Madras Presidency, and officers of the Indian Medical Service serving under the orders of the Madras Government, and that, with the exception of correspondence which relates to professional matters, to statistics or to the operation of departmental rules or orders, all communications regarding the Civil Medical Department may in future be addressed by the Government of India to the Government of Madras and not by the Director-General to the Surgeon-General. In your second letter it is explained that the points discussed in the earlier letter only form a part of a much larger question, namely, the suitability of the arrangements now subsisting for providing officers to meet the requirements of the Civil Medical Administration in the Madras Presidency. In the opinion of the Government of Madras the present system, under which there is a single reserve for the whole of the Indian Medical Service, is not suitable, and the Governor in Council desires that a separate reserve of officers may be allotted to the Madras Presidency to be definitely set apart for service in the Civil Medical Department in that Presidency.

2. I am, in the first place, to convey the remarks of the Government of India on the general principles governing the administration of the Indian Medical Service, and afterwards to deal with the special points raised in your letter of the 27th October last. The Governor-General in Council regrets that he is unable to entertain the suggestion, which was considered and negatived before the orders for the amalgamation of the Indian Medical Service were issued, that a separate reserve of officers should be set apart for service in the Madras Presidency. It is not possible to treat the Madras Presidency differently from the rest of India in this matter, and to split up the reserve into small portions at the disposal of the different Local Governments would be inconsistent with the scheme of a unified medical service for military and civil duty throughout India. Not only would considerable extra expenditure be involved, but the proposal would lead to grave difficulty and inconvenience in the administration of the Indian Medical Service and in the supply of medical officers to meet military or civil emergencies. The Government of Madras base their request for a revision of the present arrangements on the ground that the difficulty they have experienced and still experience in obtaining a sufficient number of officers to fill the Civil Medical appointments in the Madras Presidency is due to the working of the unification scheme, and that but for that scheme there should, now that the acute stage of the frontier trouble is over, be no difficulty in satisfying the claims of the Local Government to at least its full complement of officers. This is, however, not the case. The present difficulty which is experienced throughout India in supplying the needs of the Civil Medical Administration is due to several causes which are unconnected with the unification of the Medical Service in the three Presidencies. The Indian Medical Service is at present below its full strength; there are still special military demands; a number of officers have been removed from ordinary civil work for plague duty, and many officers are on leave. There are 524 sanctioned military and civil appointments in the Indian Medical Service, and including the reserve of 25 per cent. the total number of officers should be 655. On the 15th February last the position was as follows:—The total number borne on the rolls was only 627, or 28 short of the full complements; the frontier troubles still make it necessary to maintain special field hospitals in the Tochi, Kuram, Khyber and Malakand, absorbing 28 officers who would otherwise be available for civil appointment; 32 officers were on special plague duty and unavailable for ordinary work; leave having been closed for a long period, it has during the past year been necessary to allow a number of officers to go home, and on the 15th February 108 Civil and Military Officers were on leave. With 627 officers on the rolls and 108 on leave or special duty, there were only 459 officers available to fill

the 524 sanctioned appointments, leaving a deficiency of 65. It will be seen from the following statement that the Government of Madras have not borne an unfair share of this deficiency :—

	Appoint- ments.	Present.	Deficiency.
Madras	46	41	5
Bombay	49	40	9
Bengal	57	47	10
North-Western Provinces and Oudh	48	39	9
Punjab	32	29	3
Burma	21	19	2
Central Provinces	16	13	3
Assam	9	9	0
Foreign Office	26	24	2
Government of India	16	12	4

The question of increasing the general reserve of the Indian Medical Service is at present under the consideration of the Government of India, and when arrears of leave are worked off and field hospitals are demobilized and the plague ceases, the strain on the reserve will cease and the service will return to its normal condition. The Government of Madras will then find no difficulty or delay in procuring the officers of the Indian Medical Service required to fill their civil appointment, for they will be able to indent on their full share of the reserve, and in addition four supernumerary officers will, under the rules contained in Home Department Resolution No. 14 Medical, dated the 12th December 1894, be at their disposal to step at once into short or unexpected vacancies. The Government of India see no reason to apprehend that under normal conditions difficulty or inconvenience, such as is mentioned in paragraph 6 of your letter of the 15th February, is likely to arise. In the meantime no system can protect the Government of Madras from bearing a share of the general deficiency.

3. The fact that a separate reserve for leave and casualties cannot be placed at the disposal of the Local Government renders necessary the rule in Article 935 of the Civil Service Regulations to which exception is taken in paragraph 5 of your letter of the 27th October. The Government of Madras do not appear to have apprehended quite correctly the intention and scope of the article, which in no sense places the Local Government in a position of subordination to the head of the Indian Medical Service. If the Director-General countersigns the application of leave unconditionally, he thereby signifies that he is prepared to supply a substitute. If he countersigns on the understanding that he cannot provide a substitute, it is open to the Local Government to grant the leave if they can make proper arrangements to carry on the work, and of this they, and not the Director-General, are the judge. If the Director-General cannot countersign the leave application, it means either that the service is so depleted that no more officers can be granted leave, or that a special demand for officers is about to arise. The Director-General is the only person who has complete information on the above points, and the system under which applications for leave pass before him for countersignature is therefore necessary, and in the opinion of the Governor-General in Council it is not open to objection.

4. The next general question which it is necessary to notice is the procedure to be followed in placing the services of officers of the Indian Medical Service temporarily or permanently at the disposal of the Government of Madras for civil duty. I am to forward, for the information of the Governor in Council, a copy of the Resolutions* of the Government of India in this Department noted in the margin containing the general orders on this subject, which are in

force in the Bengal Presidency. The Resolution of June 1884 directed that Local Governments and Administrations, when they desired the services of a Commissioned Medical Officer, should not apply for an officer by name, but should merely report the occurrence of the vacancy, leaving the selection of an officer to the Government of India. The Resolution of August 1884 laid down the rule that Local Governments should not confirm a temporary appointment until the Government of India had placed the services of the Commissioned Medical Officer permanently at their disposal. The amalgamation of the medical services of Bengal, Madras and Bombay into one service under the direct control of the Governor-General in Council makes it necessary that these general orders should regulate the system throughout India. The Governments of Madras and Bombay and their Surgeons-General have no longer the knowledge of the officers of the Indian Medical Service in military employ to enable them to select officers for civil duty. The Government of India are, however, willing that the Government of Madras should, when they please, nominate any officer for civil employ who served in the Madras Presidency before the 1st of April 1895.

5. There is one other general question which the Government of India desire to notice. It has become necessary to constitute certain separate departments in the Civil Medical Service owing to the necessity for certain special qualifications or technical training and experience. For instance, it was explained to Local Governments in this Department Circular No. 343-351, dated the 22nd June 1896, that it was necessary to provide for the technical instruction of

officers in the management of large central jails. Arrangements were therefore made for constituting a department of jail officers, and it was ordered that, when a Local Government required an officer for a central jail, there being at its disposal no accepted candidate for the Jail Department who was not already in charge of a central jail, application should be made to the Government of India. A similar necessity led to the issue of this Department Resolutions Nos. 159-169, dated the 11th February 1898, inaugurating what will become a department of Chemical Examiners. When the scheme for placing centralised lunatic asylums under the superintendence of trained medical officers is complete, a similar Imperial Department of special lists in lunacy will be required. It is likely that another specialised department will be formed when the suggestions that have been made for training bacteriologists and stimulating bacteriological inquiry are carried out. Whenever such a department is formed to meet special requirements by specially trained officers, it will be necessary to apply to appointments in that Department the rules of June 1896 which govern the appointment of officers to the Jail Department.

6. With regard to your letter of the 27th October, I am, in the first place, to say that the Government of India have, apart from the remarks regarding the appointment of and grant of leave to officers made in this letter, no wish to exercise any control over the Civil Medical Administration of the Government of Madras beyond the general control exercised in all matters by the Governor-General in Council. They do not think that there is anything in the position and functions of the Director-General of the Indian Medical Service inconsistent with this view, and they are quite willing to give effect to the wish of the Government of Madras that, with the exception of correspondence which relates to professional matters, to statistics, or to the operation of departmental rules or orders, all communications regarding the Civil Medical Department shall in future be addressed by the Government of India to the Government of Madras and not by the Director-General to the Surgeon-General. With regard to the first instance alluded to in your letter of the 27th October, I am to say that the Government of India agree with the Government of Madras that the first warning of the need of officers for military duty ought to have been sent to the Local Government. The orders which will now be issued will prevent the recurrence of such a case. The second instance to which you refer is that of Captain Bourke and the Chemical Examinership. The general question of the Chemical Examiner's Department has been noticed in paragraph 5 above, and a separate communication on the subject of the correspondence connected with Captain Bourke will be sent to the Government of Madras in reply to your letter No. 1545 (Public), dated the 22nd December 1898. It is not therefore necessary to discuss the matter further in this letter. The third instance mentioned in your letter is the countersignature by the Director-General of the Indian Medical Service of applications for leave. The reasons for the adoption of this procedure have been fully explained in paragraph 3 above, and I am to add that the attention of the Government of Madras was drawn to the revised Article 935 of the Civil Service Regulations in this Department, letter No. 1147, dated the 28th September 1897.

ENCLOSURE B.

From the Hon'ble Mr. A. T. ARUNDEL, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, No. 591, dated 25th April 1898.

I am directed to refer to the resolution of the Government of India, No. 157-169, dated 11th February 1898, and also to Mr. Nathan's letter, No. 173, dated 14th February 1898, and to your telegram No. 375, dated 26th of March 1898, on the subject of the posting of Surgeon-Captain Bourke to this Presidency.

2. In the resolution quoted above the Government of India communicates the proposals which have received the sanction of the Secretary of State, for the recruitment and training of Chemical Examiners. Under this scheme one of the junior officers of the Indian Medical Service will be attached to the laboratory of the Chemical Examiner at Calcutta, Madras or Bombay for training. The resolution, however, does not make it clear how and by whom the selection of officers is to be made. In the arrangements proposed by the Government of India in Mr. Lyall's letter, No. 331, dated 24th of May 1894, a special chemical department was contemplated, to be recruited from the three presidential medical services as vacancies arose in the Chemical Examinership of each province. Under the present scheme no special department is to be constituted and it is not explained whether the selection of probationers is to be made from each presidential list with reference to probable vacancies in the Chemical Examinership of that Presidency or from the general list of the Indian Medical Service with a view to supply the needs of any province in which a vacancy may occur. His Excellency the Governor in Council would demur to any scheme which would limit his power of selecting the most suitable probationer to be trained for employment as Chemical Examiner in this Presidency.

3. The proposal to create an Imperial Chemical Department having been abandoned, it would at first sight appear that the Government of India in its present resolution concurred with the opinion of this Government just expressed, and intended that each Presidency should make its own selection of officers to be trained in its own laboratory, subject only to the conditions as

Indi note on page 11

to the period of probation and salary now laid down by the Government of India. The wording of paragraph 2 (i) of the resolution however, "one of the junior officers of the Indian Medical Service will be attached to the laboratory of the Chemical Analyzer at Calcutta, Madras or Bombay" leaves it doubtful whether this is the intention of the Government of India, and this doubt is strengthened by Mr. Nathan's letter No. 173, referred to above, in which it was stated that the Government of India had decided to attach Surgeon-Captain Bourke to the laboratory of the Chemical Examiner at Madras as a probationer. Under these circumstances I am directed to state that this Government would view with concern the interference of the Government of India with this detail of the administration of the Presidency. His Excellency in Council is of opinion that centralization of control in such matters by the Supreme Government would be a retrograde step attended with undesirable results.

5. Turning to the question of Surgeon-Captain Bourke's posting to this Presidency I am to observe that in Mr. Nathan's letter, No. 173, of the 11th February 1898, it was stated that the Government of India had decided to attach Surgeon-Captain Bourke to the laboratory of the Chemical Examiner as a probationer. This decision was stated to be in pursuance of the scheme explained in the Home Department resolution already referred to, and this Government had therefore no objection to raise to the arrangement made by the Government of India. Subsequently however it came to notice that Surgeon-Captain Bourke's deputation to this Presidency was in consequence of certain communications between the Surgeon-General with this Government and the Director-General of the Indian Medical Service. From this correspondence, which was carried on without the knowledge or the authority of this Government, it appears likely that the Government of India was led to believe that no officer on the local list was available to act in the anticipated vacancy in the Chemical Examinership, and that this Government desired the deputation of an officer from another province for eventual appointment to that post. That this was the view adopted by the Government of India is rendered probable by your telegram No. 375, dated 23rd of March 1898, in which you enquired whether the Madras Government proposed to retain Surgeon-Captain Bourke.

6. I am directed to state for the information of the Government of India that His Excellency the Governor in Council has appointed to the vacant post of Chemical Examiner Surgeon-Major Sanjana, an officer who has already undergone six months' training in the local laboratory under a system established by this Government some years ago. The services of Surgeon-Captain Bourke will therefore not be required. This Government has, however, no objection to his remaining under training for any period which the Government of India may fix provided no charge is debited to Provincial Funds on this account. As he is attached to the laboratory by the direct orders of the Government of India and not for employment in this Presidency his pay will presumably be a charge on Imperial Funds.

7. Surgeon-Captain Bourke has brought to the notice of this Government that he is at present unable to draw his pay in the absence of a gazette notification attaching him to the Chemical Examiner's laboratory, and I am accordingly to suggest that the necessary orders with regard to this officer may be issued at an early date.

(Signed) A. T. ARUNDEL,
Chief Secretary.

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Medical), to the Chief Secretary to the Government of Madras, dated Simla, 3rd August 1898, No. 1041.

I am directed to acknowledge the receipt of your No. 591, dated the 25th April 1898, explaining the circumstances under which the Government of Madras selected Surgeon-Major Sanjana to act as Chemical Examiner in that Presidency, in preference to Surgeon-Captain Bourke who was then attached to the Laboratory of the Chemical Examiner, Madras, as a probationer, and expressing the opinion of the Governor in Council on the arrangements proposed by the Government of India for the training of probationers for the Chemical Examiner's department.

2. In reply, I am in the first place to say that the remarks contained in paragraphs 2 and 3 of your letter under reply appear to have been based on a misapprehension in so far as they imply that the proposal to create an Imperial Chemical department has been abandoned. It is true that the particular form in which the proposal was set forth in Home Department letter No. 331, dated 24th May 1894, was not adopted, but the Home Department Resolution No. 159—169, of the 11th February 1898, although it made no mention of an Imperial department, stated in effect the conditions on which that department would in future be recruited. The revised scale of salaries which would be drawn by Chemical Examiners under the new scheme was shown in it and provision made that a junior officer of the Indian Medical Service with a *lacte* ^{practical} knowledge of chemistry should be selected as a probationer with a view to his subsequent training at the Calcutta, Bombay or Madras Laboratories, and employment as a Chemical Examiner wherever his services might be required. Only one medical officer at a time was thus to be selected for training, and it was intended that he should be employed in any

of the provinces in which his services would be likely to be needed. Under these conditions the selection of the officer must necessarily devolve on the Government of India, and it appears to the Governor-General in Council that this procedure is the natural result of the orders reconstituting the Indian Medical Service, according to which all officers who entered that service on and after the 28th January 1897 have been placed on one cadre.

I am to add that the proposals above described are the result of much thought and discussion and have been sanctioned by the Secretary of State: they are being given effect to in other provinces and, in the opinion of the Government of India, it is essential that they should also be applied to the Madras Presidency.

3. In explanation of the circumstances under which Surgeon-Captain Bourke was deputed to the Madras Presidency, I am to say that, in accordance with the arrangements above described, to the Madras Presidency, I am to say that, in accordance with the arrangements above described, this officer, who had already taught chemistry in Dublin, was selected as the first probationer for the Chemical department. In November last, however, the Surgeon-General with the Government of Madras sent the Director-General of the Indian Medical Service a copy of the Proceedings of the Government of Madras noted in the margin relating to the contemplated departure on leave of Surgeon-Major VanGeyzel, and

No. 1200, dated the 14th September 1897.
" 1497 " the 17th November "

asked the Director-General to depute an officer to be trained at the Chemical Examiner's Laboratory at Madras. Surgeon-Captain Bourke was accordingly selected for this purpose; but, as he was then temporarily employed on plague duty, his services could not be spared at once, and he did not leave for Madras till the middle of March, by which time he was required not as a probationer but to act as Chemical Examiner. The orders of the Government of Madras, No. 1200, dated 14th September 1897, appear to the Government of India to have justified the reference by the Surgeon-General with the Government of Madras to the Director-General of the Indian Medical Service and the consequent action taken on it.

4. As the Governor in Council had appointed Surgeon-Major Sanjana to act as Chemical Examiner and intimated in your telegram, No. 190, of 22nd April last, that the services of Surgeon-Captain Bourke were not required, orders were issued for his transfer to the Bombay Presidency where he is now officiating as Chemical Analyser.

5. In paragraph 5 of your letter under reply it is said that presumably the pay of Surgeon-Captain Bourke will be an Imperial charge, as he was attached to the Laboratory at Madras by the direct orders of the Government of India, and not for employment in the Madras Presidency. I am to observe that the question of the incidence of Surgeon-Captain Bourke's pay must be decided in accordance with the principles laid down in the orders noted in the margin, and the charge should therefore be Provincial. Moreover, it will be seen from paragraph 49 of the Finance and Commerce Department letter No. 4420-A, dated the 15th October 1896, that the assignment made under the Provincial settlement with the Government of Madras expressly includes provision for ordinary inter-provincial charges, and the Government of India are of opinion that the expenses incidental to the attachment of Surgeon-Captain Bourke to the Chemical Examiner's Laboratory at Madras should be dealt with as thus provided for.

From the Hon^{ble} Mr. C. S. S. Chief Secretary to the Gov^t of Madras
Letter—No. 1545, Public, dated Fort St. George, 22nd December 1898, to the Secretary to the Government of India, Home Department.

I am directed to acknowledge the receipt of your letter No. 1041, Medical, dated 3rd August 1898, regarding the selection of an officer to officiate as Chemical Examiner in this Presidency.

2. The Government of India explains in paragraph 2 of the letter under reply that the arrangement approved in Home Department Resolution No. 159—169, dated 11th February 1898, for providing officers for employment as Chemical Examiners amounts in effect to the creation of an Imperial Chemical Department. It is stated that the selection of officers for service as probationers in that department must necessarily devolve upon the Government of India, that being the natural result of the amalgamation of the Presidential Medical departments into one Imperial Service. In the Home Department Resolution, and the letter under reply, as well as in the correspondence between the Government of India and the Secretary of State, no definite pronouncement appears as to the manner in which an officer is to be selected from the list of probationers when a vacancy occurs among the Chemical Examiners, but His Excellency the Governor in Council infers from the paper before him that the Government of India proposes to keep the selection in this case also in its own hands.

3. The Government of India refers to the proposals for the establishment of an Imperial Chemical Department put forward in Home Department letter, No. 331, Medical, dated 24th May 1894, and intimates that the arrangement then contemplated has not been abandoned, but that the present scheme is merely a modification of it. His Excellency the Governor in Council,

however, finds that the new proposals differ materially, in regard to their effect upon the position and functions of this Government, from those of 1894. The original scheme included a provision under which a vacancy occurring in the office of Chemical Examiner in this Presidency would be followed by the selection, to fill the consequent vacancy among the probationers, of an officer serving under this Government. It was further explicitly stated that an officer posted to a particular station would be under the orders of the Local Government concerned, which would be consulted before any posting was made. It is unnecessary at present to offer any opinion as to the merits of the scheme of 1894, of which this Government, as then constituted, approved. In the arrangement which has taken its place, the position of this Government and its claim to make and control appointments on its own establishment, appear to have been left altogether out of consideration. This radical departure from the original proposals, which has been decided upon without consulting this Government, has resulted in an arrangement which His Excellency the Governor in Council regrets that he cannot accept.

4. That the apprehensions of this Government, regarding the position to which it is proposed to relegate it under the new scheme, are not without foundation is evident from the procedure adopted in connection with the deputation of Captain Bourke to this Presidency early in the present year. In paragraph 3 of the letter under reply the Government of India remarks that when Captain Bourke was actually despatched to Madras in March last he was required not as a probationer but to act as Chemical Examiner. This is the first intimation which has reached this Government that the intention of the Government of India in deputing Captain Bourke to this Presidency went beyond the ostensible object referred to in Mr. Nathan's letter No. 173, dated 14th February 1898, namely, his attachment for training to the Chemical Examiner's Laboratory. As you are aware, the intention of the Government of India was not actually fulfilled, owing to the fact that this Government had already selected for employment as Chemical Examiner an officer with the requisite training. As far as the appointment of a successor to Dr. VanGeyzel is concerned, the matter may therefore be considered closed; the arrangements proposed for the future will be presently discussed. But before passing from this subject I am to say that His Excellency the Governor in Council has learnt with much concern that the Government of India had in contemplation a course which would have constituted an unprecedented encroachment on the functions of this Government. The Resolution of the Government of India had at the time barely been promulgated; Captain Bourke had not undergone the probation which forms the basis of the scheme, and was not therefore better qualified or entitled than many other officers of the Indian Medical Service to be provided with an appointment as Chemical Examiner; and His Excellency the Governor in Council is aware of no reason which would have justified the removal from his hands of the power to appoint an officer to fill a sanctioned post in the establishment of this Presidency.

5. Interpreting the resolution of the Government of India now under consideration in the light of the procedure adopted in Captain Bourke's case, I am to say that the present scheme is, in the opinion of His Excellency the Governor in Council, open to grave objections. As to the desirability of training such officers of the Indian Medical Service as are likely eventually to be entrusted with chemical work, there can be no doubt; and the arrangements for this purpose now sanctioned by the Government of India have, as has been already mentioned in the correspondence on this subject, been anticipated in this Presidency by the introduction some years ago of somewhat similar regulations regarding training. But of the large measure of centralisation which is involved in the scheme His Excellency the Governor in Council is unable to approve. It is not essential to the improvement in the arrangements for providing trained Chemical Examiners which it is desired to effect; on the other hand it leads to a result which will be at once anomalous, and in the highest degree inconvenient, in that it will remove from Presidential control an appointment the duties of which are entirely Presidential, and will absorb into an Imperial Department a post which is intimately connected with, and an essential part of, the Provincial Administration. It is argued in support of the view that the selection of officers for service as Chemical Examiners must rest with the Government of India, that that is the natural result of the unification of the Presidential Medical Services. This argument is, however, one which might with equal force be held to justify the assumption by the Government of India of the right to nominate an officer to any of the sanctioned medical appointments in this Presidency. Under existing conditions it is generally necessary for this Government when a medical officer retires or is granted leave to apply to the Government of India for an officer to bring the Provincial establishment up to its proper strength, but the selection of an officer to fill the particular appointment vacated rests with His Excellency the Governor in Council. I am to urge that the procedure in the case of Chemical Examiners should follow a similar course. The essential provisions of the present scheme for raising the professional qualifications of these officers would be equally well secured under the administration of the Madras Government. It is apparently intended by the Government of India to post a probationer for training in the laboratory of the Presidency in which his services are likely to be required. The possible occurrence of a vacancy through the retirement of, or grant of leave to, a Chemical Examiner is a matter regarding which the Local Government is likely to have the most accurate information. His Excellency the Governor in Council therefore considers that it should be left to this Government when a vacancy in the office of Chemical Examiner is anticipated, either to depute for training a junior officer serving in this Presidency, or, if none such is

available, to apply in the ordinary course to the Government of India for a suitable officer. The officer thus trained could, when not employed as Chemical Examiner, be lent for employment on Chemical work in other provinces, if his services should be required. This course, while it would secure the desired end, would obviate the excessive centralisation now contemplated, would leave the appointment and control of the Chemical Examiner in the hands of His Excellency the Governor in Council from which it cannot without grave inconvenience be removed, and would render unnecessary the intervention of the Government of India in the details of the Provincial Administration, an intervention which, except when circumstances render it unavoidable, is in the opinion of His Excellency the Governor in Council, open to grave objection, and earnestly to be deprecated. I am accordingly to request that the strong opinion of this Government on the subject may be laid before the Government of India, and that that Government may be moved to reconsider its scheme as far as regards the points above referred to.

6. Turning to the question dealt with in the concluding paragraph of the letter under reference I am to say that this Government is still of opinion that the charges incurred in connection with Captain Bourke's training should fall upon Imperial funds. The term "ordinary inter-provincial charges" can, I am to suggest, hardly be applied to a case in which a new Imperial Department is constituted after the settlement of the Government of India, Finance and Commerce, supported by paragraph 11 of the letter of the Government of India, dated 16th March 1897, in which Local Governments were warned that if they wish No. 1245 A., dated 16th March 1897, in which Local Governments were warned that if they wish to incur increased expenditure not contemplated at the time when the Provincial assignment is settled such increase must be met from increased revenue. It is a reasonable inference that increased expenditure on Imperial objects should be met from Imperial funds. The basis of the prohibition, as a general rule, of inter-provincial adjustments was doubtless the belief that charges incurred by one administration on behalf of others would ordinarily be counter-balanced by similar expenditure borne by other provinces on its behalf, but where, as in the present instance, no such reciprocity is possible, this principle appears inapplicable.

G. STOKES,
Chief Secretary.

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 Simla, the 4th May 1899, No. 756.

I am directed to reply to your letter, No. 1545, Public, dated the 22nd December 1898, stating the views of the Government of Madras on the subject of the selection of an officer to officiate as Chemical Examiner, and requesting a reconsideration of the scheme introduced by the Government of India for the training and selection of Chemical Examiners.

2. The scheme was prepared after careful deliberation, and, in the opinion of the Government of India, it has introduced a much needed reform. No Medical Officer is fit to be a Chemical Examiner unless he has a natural taste and liking for the work, and has paid special attention to chemical studies. His work is of the most responsible kind. On the medico-legal side it may involve issues of life and death, and on the commercial side results of the greatest importance to the mercantile interests. It is, therefore, essential that competent men should be appointed. The scheme recently introduced will help greatly to secure this end, whilst the alternative suggested in paragraph 5 of your letter is much less satisfactory and would amount practically to reverting to the condition of affairs which the Resolution reorganizing the staff of Chemical Examiners was intended to remedy.

3. Guided by these considerations the Government of India have already, in paragraph 5 of my letter No. 660, dated the 20th April 1899, issued general orders to the effect that the procedure for the selection of an officer for the post of Chemical Examiner will, in future, be the same as that laid down for the Jail Department in Home Department Circular No. 343-351, dated the 22nd June 1896. That is to say, a list of trained candidates for the Chemical Examiner's Department will be kept by the Director-General, Indian Medical Service, and communicated periodically to Local Governments. When a Local Government has need for the services of a Chemical Examiner, they will apply to the Government of India unless a selected candidate is at the time serving under them. The place of training will not necessarily be the place where the next vacancy is likely to occur as suggested in paragraph 5 of your letter. A fresh probationer will be trained every year, and the place of his training will be settled on general grounds of expediency. When the scheme has been in force for some years all the principal Local Governments will probably have trained candidates in their employ, and in such cases no reference to the Government of India will be required.

4. Paragraph 4 of your letter continues the discussion about the deputation of Captain Bourke, I.M.S., to Madras. With reference to the remarks in that paragraph, I am to say that this Department letter No. 173, dated the 14th February 1898, meant, as was stated in the letter that Captain Bourke would be sent to Madras as a probationer. The subsequent remark, in

paragraph 3 of this Department letter, No. 1041, dated the 3rd August 1898, that Captain Bourke was required as a Chemical Examiner when he went to Madras, was made with regard to the reference by the Surgeon-General with the Government of Madras to the Director-General, Indian Medical Service, and the action taken on it, and meant merely that Captain Bourke was sent to act as Chemical Examiner because it was understood that the Government of Madras desired his services in that capacity.

5. In paragraph 6 of your letter a further representation is made about the allocation of the charges on account of Captain Bourke's training. The deputation of officers to study for the appointment of Chemical Examiner is an integral part of the scheme of improving the Chemical Examiner's staff. The expenditure entailed by the training of these officers falls under a Provincial head and there are, in the opinion of the Governor-General in Council, no grounds for departing from the ordinary rule of classification and classing it as Imperial. His Excellency in Council must, therefore, adhere to the orders on this subject passed in paragraph 5 of Mr. Hewett's letter of the 3rd August.

No.

Copy forwarded to the Finance Department for information, in continuation of endorsement No. 1042, dated the 3rd August 1898.

No.

Copy forwarded to Director-General, Indian Medical Service.

By order,

R. NATHAM,

Under Secy. to the Govt. of India.

ENCLOSURE C.

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 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 McGaugh and Colonel Sinclair, both officers of the Madras Establishment. Colonel McGaugh 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.

From the Hon'ble Mr. G. STOKES, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, dated Ootacamund, 20th April 1899, No. 445.

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 qualifications no objections have been urged by the Government of India.

In these circumstances His Excellency the Governor in Council begs to re-iterate the request made in my letter No. 75, dated 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.

ENCLOSURE D.

(1)

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India (Home Department—Medical), to the Chief Secretary to the Government of Madras, dated Simla, 26th October 1897, No. 1312.

I am directed to invite a reference to the notification of the Government of India in the Military Department, No. 260, dated the 6th March 1896, on the subject of the reorganization and amalgamation of the Indian Medical Service, one of the effects of which is that eventually promotion to the offices of Surgeons-General with the Governments of Madras and Bombay will be open to Surgeons-Colonel on the three lists, and a reference to the Government of India will, therefore, be necessary for the filling of a vacancy in those appointments.

2. Pending the complete amalgamation of the services, which will not be effected until the officers appointed before the second examination of 1896 rise to the grade of Surgeon-Colonel, there is not strictly the same necessity for a reference to the Government of India since selection is limited to officers on the Madras cadre; but the selection involves also promotion to the rank of Surgeon-Major General, which has to be conferred by the Governor-General in Council; and since the Director-General, Indian Medical Service, has already been made the administrative head of the Indian Medical Service throughout India, and since it may happen that a Surgeon-Colonel, belonging to the Madras establishment, may be serving outside the Madras Presidency, it seems desirable that the procedure should be clearly laid down. It has been suggested that the following arrangement would, except in privilege leave vacancies when it will be open to the Governor in Council to grant the leave and select the officer to officiate, merely notifying to the Government of India the name of the officer selected in order that the rank of Surgeon-Major-General may be temporarily conferred on him, meet the wishes of the Governor in Council. On the occurrence of a vacancy in the post of Surgeon-General with the Government of Madras, the Governor in Council will nominate to the Government of India the officer whom His Excellency in Council thinks best qualified for the appointment. The Government of India will accept the recommendation unless there appear to be strong reasons against it and, if it is accepted, intimate the fact to the Government of Madras by whom the appointment will then be notified. After the appointment has been so notified, the Government of India will confer on the officer in question the rank of Surgeon-Major-General.

3. I am to request that, with the permission of the Governor in Council, the views of the Government of Madras on the procedure now proposed may be communicated to this department.

(2)

From the Hon'ble Mr. G. STOKES, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Home Department, dated Fort St. George, 26th November 1897, No. 1558.

I am directed to acknowledge the receipt of your letter, No. 1312, of the 26th ultimo, requesting the views of this Government on the procedure proposed to be adopted on the occurrence of a vacancy in the post of Surgeon-General with the Government of Madras.

2. In reply, I am to say that His Excellency the Governor in Council accepts the proposal of the Government of India, but considers that, in the unlikely event of strong reasons existing against the nominee recommended, His Excellency the Governor in Council should be invited by the Government of India to make a fresh nomination.

(3)

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India (Home Department—Medical), to the Chief Secretary to the Government of Madras, dated Calcutta, 22nd January 1898, No. 46.

With reference to your letter No. 1558, Public, dated the 26th November 1897, regarding the procedure to be adopted on the occurrence of a vacancy in the post of Surgeon-General with the Government of Madras, I am directed to say that the Governor-General in Council accepts the suggestion of the Government of Madras that, in the unlikely event of strong reasons existing against the nominee recommended, the Governor in Council should be invited by the Government of India to make a fresh nomination.

ENCLOSURE E.

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 Simla, the 5th May 1899, No. 769.

I am directed to reply to your letter No. 445 (Public), dated the 20th April last, regarding the nomination of an officer of the Indian Medical Service to fill the post of Surgeon-General with the Government of Madras on that office being vacated by Surgeon-General Sibthorpe.

2. I am, in the first place, to say that paragraphs 2 and 3 of your letter do not correctly interpret the intention of Mr. Hewett's letter No. 1312, dated the 26th October 1897. You followed in such cases was the fact that it may happen that a Colonel of the Indian Medical

Service belonging to the Madras Establishment may be serving outside the Madras Presidency. But, in assigning this reason, the Government of India did not merely desire to provide for the case where the officer whom the Local Government might wish to select is not at the time under their orders. They were influenced mainly by the consideration that it might be necessary to protect from supersession officers of the Madras Cadre who happened to be serving outside the Presidency, and the case of Colonel Sinclair was at the time cited as an instance in point.

3. The Government of India remain of the opinion that it would involve grave and unmerited injustice to Colonel Sinclair to supersede him for this appointment; and they do not regard the considerations set forth in paragraph 4 of your letter as of sufficient weight to justify this supersession. The Governor-General in Council, therefore, while greatly regretting, to be unable to meet the wishes of the Government of Madras in succession to Surgeon-Sinclair be appointed Surgeon-General with the Government of Madras in succession to Surgeon-General Sibthorpe. Colonel Sinclair is an officer of distinguished record and qualifications, and the Government of India have no doubt that he will speedily win the personal confidence of the Governor in Council.

4. The questions raised in your letter No. 1301, dated the 27th October 1898, have been discussed in the letter No. 660, dated the 20th April 1899, from this department.

ENCLOSURE F.

Proceedings of the Government of India, Military Department, dated Fort William, 24th September 1874, No. 1175.

Office Memorandum to the Military Department (Home Department—Judicial), dated Fort William, 17th September 1874.

The undersigned is directed to request that the Military Department will be good enough to ask the Government of Madras whether, with reference to General Order of the Government of India, Military Department, No. 732, dated 16th July 1874, there is any objection to the services of Dr. Sinclair being made over permanently to the Government of India in the Home Department.

(Signed) T. J. C. PLOWDER,
Offg. Under Secretary.

No. 1383.

Copy of the above forwarded to the Secretary to the Government of Fort St. George, Military Department, with a request that the Right Hon'ble the Governor in Council may be moved to state whether the services of Dr. Sinclair can be made available permanently.

(By Order.)

(Signed)

Dy. Secy. to the Govt. of India.

Letter from the Secretary to the Government of Fort St. George, Military Department, to the Secretary to the Government of India, Military Department, dated Ootacamund, 29th October 1874, No. 3547.

With reference to your office docket No. 1383, ^{Appointments} _{Transfer}, dated 24th September 1874, I am directed to state that the services of Surgeon D. Sinclair, M.B., are available for permanent civil employment under the Government of India.

Notification of the Government of India, No. 66, Judicial, dated 15th January 1875.

Surgeon D. Sinclair, M.B., Officiating Superintendent of the Moulmein Central Jail, is confirmed in that appointment.

ENCLOSURE G.

Notifications of the Government of India, Home, Revenue and Agricultural Department—Medical, dated Fort William, 15th March 1880, No. 150.

In continuation of G.G.O., No. 13, dated 2nd January 1880, issued in the Military Department, and subject to such modifications as may hereafter be deemed necessary, the Governor-General in Council is pleased, with the sanction of Her Majesty's Secretary of State, to issue the following orders regarding the administrative staff of the Indian Medical Department in the several provinces of India.

2. From the 31st March 1880 the following administrative appointments will be made:—

	Monthly salary. RS.
* * * * *	
One Surgeon-General for Civil Medical Administration in Madras ...	2,500
* * * * *	

4. Officers will be selected for the above-named administrative offices by the Government of India for the Bengal Presidency and by the Governments of Madras and Bombay for those Presidencies respectively. Selections will be made in each Presidency from the whole Indian Medical Service of that Presidency; and the principles of selection hitherto followed in making such appointments will be observed.

(Signed) C. BERNARD,
Offg. Secy. to the Govt. of India.

ENCLOSURE H.

Notification of the Government of India, Home Department (Medical), dated Simla, 30th July 1886, No. 361.

In continuation of G.O. No. 13, dated 2nd January 1880, and in modification of the orders marginally noted, the Governor-General in Council is pleased, with the sanction of Her Majesty's Secretary of State, to issue the following orders regarding the administrative staff of the Indian Medical Service in the several provinces of India.

2. The administrative appointments are the following:—

	Monthly salary. RS.
• • • • •	
One Surgeon-General with the Government of Madras ...	2,500
• • • • •	

4. Officers will be selected for the above-named administrative offices by the Government of India for the Bengal Presidency and by the Governments of Madras and Bombay for those Presidencies respectively. Selections will be made in each Presidency from the whole Indian Medical Service of that Presidency; and the principles of selection hitherto followed in all other respects in making such appointments will be observed.

(True Extract.)

(Signed) A. P. MACDONNELL,
Offg. Secy. to the Govt. of India.

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