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REPORT OF THE INSPECTION AND EXAMINATION  
OF THE SYSTEM OF JUDICIAL ADMINISTRATION  
IN THE KOLHAPUR STATE WITH  
SUGGESTIONS FOR ITS IMPROVEMENT

BY

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JUDGE,

SUPREME COURT, KOLHAPUR.



Volume I

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VOLUME I

PART I

**Extract from Regency Council Resolution, G. R. G. D. No. 60A,  
dated 15th September 1942.**

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“The Regency Council of Kolhapur has, by Resolution No. 60, dated the 15th September 1942 unanimously accepted all the observations and recommendations in this report as they affect what is called the State proper, subject, of course, to such minor modifications of detail as may be found necessary in working out the reforms. So far as the observations and recommendations affect the Jaghirs, the Council will only be able to express its opinion or pass its orders after it has received and considered the views which it is now calling upon the Jaghirdars to furnish.”

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LAXMIVILAS PALACE,  
Kolhapur, 31st August 1942.

FROM:

SIR GOVINDRAO MADGAVKAR, I. C. S. (Retd.),  
Judge, Supreme Court, Kolhapur.

TO

THE PRIME MINISTER,  
Kolhapur.

SIR,

I have the honour to submit my report of the inspection and examination of the system of judicial administration in the State with suggestions for its improvement.

(2) Out of the period of six months, one half was spent in inspection of the Courts and the other half in disposing of Supreme Court appeals. All the Courts of the Subordinate Judges, First Class and Second Class Magistrates, Honorary Magistrates, District Magistrates and District and Sessions Judges, both State and Feudatory, and the High Court, Original and Appellate Side, were inspected. The Mamlatdar and Second Class Magistrate of Budhargad was, however, called to Radhanagari and there was also a cursory inspection of the Court of the Mamlatdar and Second Class Magistrate at Shirol. The total number of Courts inspected was, State 30 and Feudatory 32. The inspection of each court was, therefore, necessarily more hurried and more cursory than I should have wished it to be.

(3) While the racing triumphs of the Kolhapur stables were known to me, as to the rest of India, in regard to the judicial administration of the State, my mind was not merely open but, in fact, a blank. With the rest of Maharashtra, I share the reverence due to the memory of Shri Shivaji Chhatrapati.



And with the community of caste and language between Ruler and ruled, I had every hope of finding an administration, fitted to the needs of the people, efficient and progressive. Sentiment is out of place in a correct diagnosis. As in the Courts, I may be permitted to speak without fear or favour.

(4) I regret I have been greatly disappointed. "Quantity without quality", with inefficiency and probable corruption, due only in part to meagre salaries, would best sum up my diagnosis of the judicial administration. Lack of system in laws, interminable delays in the Courts, attention concentrated on the amount of revenue derived from the judicial administration without a proper appreciation of the necessity of justice, clean, prompt and efficient, in a well governed State,—these are the characteristics of the present judicial administration. The highest Courts are not the best but in some respects such as delay, the worst. I share the pain which Her Highness the Regent, the Council and every well-wisher of the State will feel on reading these remarks. It is no pleasure to me to pen them. But the interests of the State leave me no choice.

(5) The point of view and the test throughout this report are the welfare of the people of the State. Politics as such I shall eschew, beyond the basic assumption that a sound judicial administration is a primary necessity for the people and an elementary duty of Government. But where judicial administration and politics impinge to such an extent as to render complete separation difficult, I have not hesitated to touch on the political aspect as well. The Council expects me not merely to point out defects but also to suggest remedies. This is impossible without analysing the causes which may be in part political. The Courts are concerned with laws, which again are in one sense politics. An analysis of causes necessary for the suggestion of remedies may at some points involve politics.

(6) I propose to divide my report into four parts. The present first part is a broad survey of the judicial administration and its main defects, with an analysis of the causes and the suggested remedies for improvement. The second necessarily confidential is a short summary of personal conclusions in

regard to some officers. The third is a detailed and technical list of the defects found, the law or rules contravened, with a salient instance, one from the State civil courts and the other from the Feudatory, civil courts with Notes on accounts, Records and Registers. The fourth, and last, is a similar resume of the defects in the criminal courts. The first two parts may be regarded as confidential and the other two may be circulated to the Civil and Criminal courts respectively and to the Bar Association.

(7) The point of view from which the judicial administration is to be tested is all important. Regarded from the point of view of hereditary privilege, whether of the Ruler or of the Feudatories or of the minor landlords and, particularly, in the light of the hereditary transmission of these powers, the logical conclusion would be that "whatever is best", so ~~fast~~ no progress is really possible. At the most, one could but attempt a solution, and a partial solution at that, and a solution in words rather than in reality by attempting formulæ to try and reconcile irreconcilables. Whatever might or might not be the case with the body politic, with the body judicial itself a solution is, in my opinion, inadmissible. Laws, whether they are made by a despotic ruler or by a democratic assembly, should be enacted and can only be tested according as they prejudice or advance the welfare of the State and the people. They exist for the convenience of the people and not vice versa. Similarly with the administration of the laws and the constitution of the Courts. To be efficient, they must face realities in the present, not be built on the phantoms of the past, if they are not to be a dead weight and a log to progress. What compensation, if any, might be given to vested interests to reconcile them to a change is a different question. It can and indeed should, if necessary, be considered. But this should not alter the point of view and the test. So much may, nay must, be said for an understanding of the remarks which follow. But I speak without the least disrespect to any individual or class from the Ruler downwards.

(8) I may assume, therefore, without further prelude that just laws, administered by an upright, independent and able judiciary, with the assistance

of an upright and able bar, are indispensable to any State with a pretence to that name as distinguished from an estate. And as the Council is composed for the most part of lay-men and not of lawyers, I propose in this part of my report to set forth only the broad grounds and to avoid technicalities and legal details which are more properly summarised in parts 3 and 4.

(9) The State of Kolhapur is situated geographically between two British districts of the Bombay Presidency, Satara to the north and Belgaum to the south, with an area less than either of these districts. The northern half of the State has a preponderant Maratha population as in Satara and the southern half, as with the northern half of Belgaum, also a preponderantly Maratha population but with a larger mixture of Jains and Lingayats. On the latest figures available to me, according to the Census Report of 1940, the population of Satara district was 13,27,249 and of Belgaum was 12,25,428. The corresponding figures for the State and the Feudatories are respectively 7,92,750 and 2,99,296 = 10,92,046. The number of Sessions cases during the year 1940 for the districts of Satara and Belgaum is 62 and 71 respectively. The corresponding figure of Sessions cases in 1940 in Kolhapur State is: Feudatories 12, + State 20 = 32 Sessions cases. The population of the whole State is, therefore, less in number and is also less criminal. Similarly with the civil work, which is less in quantity and in complexity than in the neighbouring British districts.

(10) The normal arrangement in the Bombay Presidency for each district is as follows: One district and Sessions Judge, one District Magistrate with a Sub-Divisional Magistrate of the F. C. for each sub-division with a Huzur Deputy Collector, who is also F. C. Magistrate for the city which is the Head Quarters of the District and one Mamlatdar and Second Class Magistrate (some Mamlatdars of experience being F. C. Magistrates) for each Taluka

and a Mahalkari in charge of a Mahal, being a Second Class Magistrate. The comparative figures for Satara, Belgaum and the Kolhapur State are as follows:—

	Sessions Judge.	Assistant Sessions Judge.	D. M.	Sub-Div. Magistrates.	I. Class Magistrates.	II. Class Magistrates.	III. Class Magistrates.
Satara.	1	1	1	2	10	9	13
Belgaum.	1	1	2	2	15	9	11
Kolhapur State.							
State.	1 } 4	...	2 } 11	2	12 } 21	15 } 23	7 } 12
Feudatories	3 }	6	9 }	...	9 }	8 }	5 }

Even with the combination of civil and criminal powers and counting as one each court of a Second Class Subordinate Judge and First Class Magistrate, the total number of courts as shown in the list at the end of this part is 77, made up as follows: State 36, Inamdars 6 and Feudatory 35 = 77.

(11) The nine Feudatories under article 8 of the Agreement of 1862 enjoy the following hereditary powers granted by the Agreement: Assistant Sessions Judge, District Magistrate and First Class Subordinate Judge. The three Jahagirdars of Ichalkaranji, Vishalgad and Bayda have, in addition been invested by notification with the powers of a Sessions Judge. It follows that they can all try cases of offences punishable upto 7 years rigorous imprisonment and the last three can try any offence punishable upto death.

(12) In regard to appeals and applications in revision, civil and criminal, the Paramount Power has held, notwithstanding the protests of the Jahagirdars, that these lie to the High Court; but it has also been held that in as much as the appeals from the Jahagirs previously went up to the Ruler and to His Court, the High Court enjoys no powers of superintendence or control and

cannot *suo motu*, send for the record and proceedings of any case (except perhaps to satisfy itself on the point of jurisdiction) and cannot call for monthly returns of work done. All these powers nominally vest in the Ruler alone. Other than the High Court he has no judicial machinery for the normal exercise of these powers. The only exercise of them in practice has been that of monthly returns of the criminal work done sent by the Jahagirdar to His Highness. This, however, appears, to be a formal matter since I have not been able to trace any action taken on such returns beyond merely filing them in the Prime Minister's office. At the most, an occasional warning to the Jahagirdar to speed up disposals is the only justification for the returns.

(13) The hereditary powers, strictly speaking, should be exercised by the Jahagirdar himself; it has been so laid down by Government. The practice however, is quite different. With the single exception of the son-of-the-Jahagirdar of Vishalgad, no major Jahagirdar exercises these powers in person or does any judicial work. He is allowed to exercise them by officers whom he appoints, the appointment being however subject to the sanction of His Highness. The minor Feudatories are supposed to exercise these powers. In practice, they do so with the assistance of a paid officer, who is usually Karbhari; Second Class Subordinate Judge and First Class Magistrate, all rolled into one. The appointment of this last officer does not need the sanction of the Darbar. For reasons of ill-health, the Jahagirdar of Kapshti has been permitted to employ a pleader of the Kolhapur Bar to exercise his powers. Further details will be found in the note of Mr. Phansalkar, Political Secretary to the Prime Minister, furnished to me.

(14) Before 1930, there were three kinds of Courts: The Sadar Amin corresponding to the Munsiff and subordinate judge; the Sar Nyayadhis corresponding to the District and Sessions Judge and His Highness' Court corresponding to the present High Court and the Supreme Court both in one. In 1930, a High Court consisting of the Chief Justice and two judges was established in Kolhapur; His Highness' Court remained as the Supreme Court

for appeals from the High Court. Appeals or applications in revision from the District and Sessions Courts of the Feudatories also came up before the High Court, but not without a struggle on the part of the Feudatories. Their position was that in virtue of hereditary rights granted to their ancestors by previous Rulers and guaranteed by the British Government in the agreement of 1862 and re-affirmed in their THALIS of investiture, the High Court had no jurisdiction, appellate or revisional, in the case of their Courts. They admitted, however, that His Highness possessed such jurisdiction, civil and criminal. The matter went up before the Government of India and it finally held that while the appeals and applications in revision, civil and criminal, could be entertained by the High Court, the latter had no powers of superintendence and control and could not call for monthly returns or explanations.

(15) This then is the present position. These Feudatory Courts submit no monthly civil returns, the High Court cannot of its own motion call for the papers of any particular case and in practice His Highness has never been able or willing to exercise the powers of supervision, nominally vesting in him. The practical result, therefore, is that the Feudatory Courts are not under supervision at all except perhaps that of the Jahagirdar himself, which is more imaginary than real. From the point of view of judicial administration, this is a great weakness. And it is borne out by my inspection. From the purely legal point of view, the work of the three District and Sessions Courts of the major Feudatories is even worse than that of the District and Sessions Court of the State.

(16) If the present judicial administration from the highest court to the lowest is clearly framed and worked not at all from the point of view of public convenience set forth above but rather from the archaic and the feudal point of view. In a proper judicial administration, the number of judicial officers should be limited to the minimum necessary, the courts being located at the centres most convenient for the public and for likely litigants and judicial powers, (along with the right to plead) being entrusted to persons, properly qualified by training, by general attainments and character to dispense pure justice and also to command public confidence. In this State, not merely the

Feudatories with treaty rights and Thailis of investiture but numerous other courts have been even recently created on quite a different principle. That principle appears to be to create a Court and to invest with judicial powers any and all whom the Ruler or those in power behind the Ruler delight to honour, quite irrespective of the necessity of that Court or their qualifications or of the public convenience. Numerous inamdars, in no way qualified, are given civil and criminal judicial powers without any necessity whatsoever and purely as a mark of honour. I may point out as an instance the late Registrar of the High Court, Mr. V. G. Shirgurkar, who remained a First Class Magistrate possibly because he was an Inamdar. But at least in his case he had been a subordinate judge and a first class magistrate before he became Registrar though there was no necessity to continue these magisterial powers when he became Registrar. That is a paid non-judicial post with duties purely administrative and not judicial and which should have occupied all his time; and there was no need to continue these powers merely because he was an Inamdar. Another instance is of His Holiness the Kshatra Jagatguru. He himself lives almost the whole year round in Kolhapur. His duties are, on the face of them and as his title indicates, spiritual and religious. To invest him with magisterial powers because an Inam is conferred upon him is, I venture to say, incongruous and a startling departure from tradition. Other Jagatgurus also enjoy inams; but none is a magistrate and a subordinate judge. In this particular case, his five inam villages are 35 to 40 miles distant from Kolhapur. He is a Subordinate Judge and a First Class Magistrate for all these villages and for the village of Pargaon equally distant. Litigants and witnesses have necessarily to travel all the way to Kolhapur even in cases of petty offences, at what cost and inconvenience, it need hardly be said. He has no legal qualifications whatever and is not a graduate. Yet he is a magistrate of the First Class and a subordinate judge of the Second Class.

(17) The position in regard to the people and the Courts in the four major Jahagirs is even more anomalous. These Jahagirdars are the descendants of ancestors who rendered great service to the State in former times when the

condition of the country was disturbed and when their assistance as soldiers and councillors was felt to be a source of strength. The original founders had armies and were given power of justice, high and low, as was probably necessary in those days. But it does not follow, as is at present assumed, that their descendants are competent themselves to discharge the duties of a District and an Assistant Sessions Judge, which mean the power to pass sentences upto seven years and to try civil cases up to any pecuniary limit. Even apart from the legal fiction of adoption, which destroys any possible physiological basis of inheritance of genius, this assumption is belied by the fact that in all these cases the Jahagirdars have to apply for the sanction of the Ruler to delegate these powers to officers paid by them. In the majority of cases, these officers have graduated in law. But there the qualifications not merely begin but also too often end. The question of adequate pay and promotion, difficult enough in the State of Kolhapur, is practically insoluble for the Feudatories. Promotion and prospects there are none. With the restricted income of the Jahagir, the District and Sessions Judge and his colleague the District Magistrate have in addition to discharge other duties, such as Secretary or *factotum*. This is also the case with the Subordinate Judges in the Feudatory Courts. One Subordinate Judge during the vacation acts as Inspector of schools. In regard to public inconvenience similarly, two instances will suffice. The populous village of Mahagaon, six miles from the Subordinate State Court of Gadhinglaj, forms part of the Vishalgad Jahagir, eighty miles to the north-west. There are no other villages appertaining to that Jahagir in the vicinity of Mahagaon where disputes often occur, ending in assaults and criminal cases. The Jahagirdar can only afford to keep a third class Magistrate in the village. The people of Mahagaon must, therefore, seek all civil and criminal justice at Malkapur, 80 miles away by road. Similarly with the Feudatory Court of the Jahagirdar of Ichalkaranji situated between Gadhinglaj and Ambaghat. But with this difference that Ichalkaranji is 70 miles away from Ajra, in the neighbourhood of Ajra there are several other villages of the Jahagir and there is a Subordinate Judge of the Second Class with first class magisterial powers at Ajra.



(18) Even the laws obtaining in the Feudatory Courts are not identical with the laws in the State proper. The Code of Criminal Procedure of 1908 does not obtain in some Feudatory Courts, but the old Criminal Procedure Code of 1898. The Jahagirdar apparently decides what laws he thinks should prevail and then applies to the Prime Minister for sanction to introduce these laws. That sanction, usually delayed, may sometimes be given and may sometimes be withheld. Occasionally, as in the case of motor-car laws, the question of revenue may be involved. The Jahagirs and the villages are, at least in political theory, parts of the State. In any case, geographically, they are mixed with the rest of the State and the people within the Jahagirs have frequent suits with the people outside the Jahagirs. One Limitation act may prevail in the State and another in the Jahagir. The procedure that a summons from a State to a Feudatory party or witness or *vice versa* can only be served through the Prime Minister leads to very great delays not only in civil but also in criminal cases. In criminal cases this is peculiarly unfortunate by reason of the Feudatories engaging their own police, who consider themselves a separate body in no sense bound to co operate with the State Police and Magistrates.

(19) On these facts and figures the clear conclusion is that Kolhapur suffers from a plethora of judicial officers and particularly of criminal courts and that in the main, as shown by the examples above, these courts, so far from adding to the convenience of people and of litigants, put them, on the contrary, to great inconvenience if they seek to obtain justice.

(20) In regard to the quality of these courts, the less said the better. Every sound maxim of judicial administration is not merely neglected but is reversed.

(21) The same wrong principle holds good in regard to the Bar. Notwithstanding a Law College at Kolhapur and the increasing number of law graduates more than sufficient for litigation, civil and criminal, both the State and the Feudatories can and do grant annual sanads to practice to unqualified persons, whose only merit would appear to consist in the favour of the authority.

whether Prime Minister or Chief Secretary to His Highness in the State and the Jahagirdar and his Secretary in the Feudatory Court. The inevitable result is a great lowering in the conduct of legal business and the standards of the judgments of the Courts: And apart from an income to the State or the Feudatory, the system has no merit.

(22) I am constrained to the conclusion that at present in both classes of courts, the welfare of the people is the last thing regarded. The first regard appears to be paid to the question how far the Courts produce revenue and the last regard is paid to the convenience of the public or the quality of the judiciary and of the Bar.

(23) In regard to the four major Feudatories and their Courts, the real question which has to be faced and which must be answered one way or the other, is whether each major Feudatory Jahagir is a State within a State, with a Jahagirdar Ruler of its own, other than the Ruler of the State and only nominally subordinate to the latter and whether the people within the Jahagirs are subjects of the Ruler or whether they are subjects of the Feudatory Jahagirdars. That question has to be faced and faced ultimately by the Paramount Power. It is largely no doubt a political question. All that I need say is that if the welfare and convenience of the people in the Jahagir is to be the final test, then the answer, once for all, should be that the people within the Jahagir are as much subjects of the State as the people without and in view of the geographical and social conditions, from the point of view of judicial administration of the Courts and, if necessary, the police within the Jahagirs, must be as much courts and, if necessary, police of the State as outside the Jahagir. The scattered Feudatory police, apart from friction with the State police, cannot be as efficient as if they were a part of the State police. Similarly, with the Courts.

(24) The present situation is a tussle between the Ruler and the major Feudatories in which the people suffer and the Paramount Power pleases neither side and exposes itself to the reproach that even at the sacrifice of the welfare of the people, it preserves an archaic and outworn system. From every point

of view it is desirable that there should be a final permanent and real solution by the Paramount Power. The discussion of rights and of treaties has gone on and would go on for years. The only possible meeting ground as between the Feudatories, the Ruler and the Paramount Power is the welfare of the people, not merely professed in words but actually translated into practice.

(25) It is outside my province to enter into the detailed financial arrangements which the solution I have suggested would necessitate. The transfer of Courts, even without the police and much more with the police, would appreciably add to the net income of the Jahagirs. Whether the State can and should bear this charge, the contributions, if any, the Feudatories should make and similar questions must be matters for the Council and the Jahagirdars concerned with the advice, wherever necessary, of the Paramount Power.

(26) The same remarks apply to the Courts of the minor Feudatories. Their income is less. Instead of two officers, as in the case of the three major Feudatories, one District and Sessions Judge and the other a District Magistrate, the minor Feudatories possess one officer who is District Magistrate. But the condition of their Courts is, if anything, worse than in the case of the major Feudatories. Their courts should, therefore, be abolished and be taken over by the State.

(27) In their working, the courts, both State and Feudatory, appear never to have heard of elementary propositions such as that "Justice delayed is justice denied." Not to multiply instances, a suit of 1911 to set aside a decree of 1907 came up before me in 1942 in Supreme Court appeal No. 5 of 1941 (Dattatraya Atmaram Kardhone v. Abbas Hasan Mulla, both of Kolhapur), in which I tendered my opinion on the 8th of July 1942. But in as much as the Trial Court had not recorded findings on all the issues, there was no other course left in law but to remand the suit for evidence, trial and disposal on the remaining issues. My opinion in this appeal is available to the Council. I content myself here with quoting the last paragraph of the opinion.

" 19. This suit was instituted in 1911 and is still not finally decided even in the Trial Court. All the Courts from the highest to the

lowest, must share the responsibility for this inordinate delay. The transfer to Shirol to a Court without jurisdiction, the review granted by the Huzur, the delay of the High Court Judge in not recording their opinions for more than three years after they heard arguments and, last but not least, the failure of the Trial Court to record evidence and findings on all issues, thus necessitating a remand even today, all these particularly the last, are weaknesses, to use no stronger term, in the procedure of the Courts in this State to which I have invited attention in previous appeals. At the request of both sides, I can but express a hope that the suit will now be decided as early as possible after hearing all sides and observing the procedure laid down by law."

"In the case of Jagannath Rao Dani v. Ram Bharosa (1932-33), 60 I. A. P. 33, Their Lordships of the Privy Council observed "It has been repeatedly pointed out by this Board that it is the duty of the Courts below to pronounce their opinion on all the important points in an appealable case, and that a failure to do so not infrequently necessitates a remand with the consequence of heavy and additional costs. The observance of this rule is, Their Lordships think, of special importance where the decision of other points depends, as it well may in the present case, upon the shifting of a mass of oral evidence or upon the proper significance of the language employed in a vernacular document."

(28) Probably some of the parties and many of the witnesses may be dead and the end of the litigation is not yet in sight. In addition to my life-long experience of the Courts in British India, I can claim a fairly intimate acquaintance with the judicial administration of two Indian States, Indore and Baroda. In no State have I seen a more inefficient judiciary than I have in Kolhapur. They do not keep a firm grasp on cases but allow them to meander. They muddle and protract. They neglect even the letter of law. Much less do they grasp its spirit.

(29) The law is meant, if possible, to prevent disputes and, in any case, to settle them as speedily and as finally as possible, subject only to the maxim "Audi Alteram Partem" (hear all sides). The whole procedure is so designed

as to clarify and concentrate on the issues and ensure prompt findings and judgment on the real matters in dispute. The procedure contains definite rules as to pleadings, issues, the production of documentary evidence and so on. The Kolhapur Courts habitually neglect mandatory provisions of the law. For instance, Order XIII, Rule 1 of the Code of Civil Procedure directs that "The parties shall produce at the first hearing of the suit all the documentary evidence of every description in their possession or power on which they intend to rely." In Supreme Court appeal No. 36 of 1942, in which my opinion was tendered on 16th July 1942, both sides were allowed in the trial court to put in documents on five occasions, including the day of arguments. I may be permitted to quote paragraph 11 of the opinion:—

"I have already referred to the total neglect by the pleaders and by the Trial Court of Order VI and XI of the Code of Civil Procedure in regard to the pleadings and the production of documents. As there is no reference to this neglect in the Judgment of the District Court or even of the High Court, it is all the more necessary for this Court to impress on the Bar and on the Bench the necessity of observing the law of procedure from the outset, when particularly as here, the provisions of the law are mandatory and leave no room for what is termed leniency but is, in actual fact, laxity."

(30) I conclude on this point with another quotation from my opinion in appeal No. 6 of 1942 delivered on 15th May 1942, after referring to the curious practice prevailing in the courts, of parties producing documents in sealed envelopes so that they cannot be inspected by the opposite party until the witnesses have proved them:—

"The prevailing practice of producing documents, such as Exh. 30, in sealed envelopes is not countenanced by law. Ordinarily, there are two stages when documents can and should be produced; and each document when produced must be open to inspection by the opposite party. The documents on which the suit itself is based must be produced along with the plaint and must be so open to inspection. The only other occasion when documents can be produced by either party is within a reasonable time after the issues have been

framed as documentary evidence on these issues in support of its respective case. The court should at the time of framing of issues expressly state a reasonable time for the parties to produce documentary evidence and to give in the list of witnesses whose oral evidence each party seeks to produce. A party cannot ordinarily refuse to allow the opposite party to see the document produced merely for fear that his witnesses may be tampered with. And it is only in exceptional circumstances and after hearing both sides and for reasons stated in writing that the court should permit a sealed document to be put in."

(31) The number of adjournments granted and the length of trials even in simple cases in all the courts is amazing. Adjournments are to be had for the asking provided a written application with a stamp is furnished. Of the witnesses who attend and who have to go back and who have to reattend, there is no thought. Details will be found in the inspection notes of every court, State and Feudatory, which I have inspected. In one suit No. 86 of 1934 of the Second Class Subordinate Court of Kolhapur, there were no fewer than 120 hearings and the suit was still pending for arguments. In suit No. 219 of 1939 in the Feudatory Court of Himmat Bahadur, there were over 110 hearings and the suit was not disposed of. Suit No. 25 of 1890, in the Court of the Second Class Subordinate Judge, Kolhapur, was disposed of in 1895 but was taken back on the file in 1930 by order in special application No. 18 of 1898. The case then went through various stages; arguments were heard in 1934; but the Judge who heard the arguments did not deliver judgment and left it to his successor. His successor heard arguments and delivered judgment in 1941 after 60 adjournments. The judgment consisted of one page and the suit was dismissed on a preliminary point.

(32) Instead of one adjournment, sufficiently long to serve its purpose, a number of short adjournments, insufficient for the purpose, are usually given, thus increasing ultimately and not curtailing the delay in the trial and disposal. The only insistence is that a written application for adjournment should be properly stamped. As will be realised from the extract, paragraph 19 from Supreme Court appeal No. 5 of 1941, referred to above, the Courts, instead of

recording evidence and findings on all the issues, prefer to dispose of the suit on a few issues with the result that in first or second appeal, if the superior courts come to a different conclusion; the suit has to be remanded for trial after some years have elapsed.

(33) It was represented to me in my inspection that for much of this delay the Bar and not the Bench was responsible. This cannot be pleaded for the delay between the hearing of arguments and the pronouncement of judgment. Here all the courts are at fault, the highest courts are the worst; judges leave the court on transfer without writing judgments in cases in which arguments have been concluded and no reason is forthcoming beyond the incorrect reason of pressure of work which the figures do not bear out. I found cases often in the High Court and of course in the subordinate Courts where more than a year had elapsed between arguments and judgment. The judge, even if he has not been transferred, must have dealt with hundreds of cases in the interval. It is a mental impossibility for him to remember even the arguments, much less the evidence, if he was the trial judge. The judgment has evidently to be written from the record and the notes of arguments. In the High Courts in British India, it is the rule, with very few exceptions, that judgments are pronounced in court immediately after arguments. In District and Subordinate Courts, where a stenographer is not available, a few days may elapse before the judgment has to be written and pronounced in Court. But the delay of months and even of years is unheard of. In Kolhapur, it is not uncommon even in the Supreme Court of His Highness, which is the final Court of Appeal. Appeal No. 5 of 1941, referred to above, is a good instance in point. There the suit was transferred by the Court of the Sar Nyayadish, corresponding to the District Court, to a subordinate court without the necessary jurisdiction on the face of it, thus causing a delay of about four years. Later on, one of the three brothers (defendants) being a minor and being represented by one of the brothers, defendant 2, the two major brothers wished to compromise the suit. Order XXXII, Rule 7, of the Code of Civil Procedure is imperative and enacts,—

"(1) No next friend or guardian for the suit shall, without the leave of the Court, expressly recorded in the proceedings, enter into any agreement or compromise on behalf of a minor with reference to the suit in which he acts, as next friend or guardian."

Nevertheless, no such leave was asked for or recorded. By the time the case came up for decision, which it did after some years, the minor had become a major and so informed the Court. It was the Court's plain duty under the law to set aside the appointment of the elder brother as guardian-ad-litem and to allow the defendant, hitherto minor and now major, to raise any defence he chose and, above all, to accept or to reject the compromise. Nothing of the kind was done by the Court. The Court passed a decree in terms of the compromise merely remarking "..... defendant 2 has not given the compromise for the prejudice of the minor because if it were prejudicial to him it was prejudicial to his brothers as well." The matter went up on appeal to the High Court and subsequently to the Supreme Court, which set aside the decree. The unsuccessful plaintiff then put in, what is the common course in the High Court here—an application for review so called. The law only allows applications for review either on the discovery of new or important matter or for an error apparent on the face of the record. In the Courts of Kolhapur, including the Supreme Court and the High Court an error naturally and invariably apparent to the unsuccessful party, (who is bound to think the judgment against him wrong) is evidently treated as an error apparent on the face of the record and such applications for review are freely admitted. In this particular case, this application for review was admitted *after three years* by the Supreme Court and was referred for opinion to a Bench consisting of Savant C. J. and Bhonsle J. They recorded their opinions *more than three years* after they heard arguments. On this opinion nothing further was done and no judgment with decree was passed. I had to rehear the matter in July 1942. I understand that some 30 such appeals are pending judgment.

(34) Another instance of the manner in which the High Court allows time to be wasted will suffice. In Supreme Court appeal No. 35 of 1942,



there was a question of mesne profits between uncle and nephew in a joint Hindu family in regard to certain lands. The question could have easily been settled by a Commissioner. But the Commissioner appointed by the Subordinate Court, without notice to one of the parties, fixed a certain amount as mesne profits. The result was that instead of merely hearing objections to the Commissioner's report, the Subordinate Court had to record evidence itself to decide the mesne profits. It decided that instead of Rs. 2,073-10-3 recommended by the Commissioner, Rs. 1,864-14-7 were due. The High Court, in appeal, fixed the amount at Rs. 2,235-3-5. On an application for review, the High Court reduced it to Rs. 1,753-6-9. The plaintiff in turn appealed to the inherent powers of the High Court and was allowed to reopen the matter and succeeded in raising the amount, to Rs. 2,147-7-0. In appeal to the Supreme Court, I fixed the basis and ordered the amount to be worked out by both sides who finally arrived at an agreement as to the amount due. The parties had to spend some years and a good deal more than the amount of difference of two or three hundred rupees between them to achieve this result.

✓ (35) Details of habitual neglect by the Courts of the provisions of the law will be found in my inspection notes with seventy-five instances in part 3 of this report. My plain conclusion is that the Courts here act as though they were masters and not servants of the law and of the public, each officer being more or less a Ruler within his own sphere and above the law, or at least a law unto himself.

✓ (36) The State is almost entirely agricultural. From 60 to 70 per cent of the suits are suits on accounts, bonds or promissory notes in which there is little or no contest and which could easily be disposed of, if not in three months, at least in six months. They actually take years even in the Trial Court. In cases of a more complicated character where it is necessary to define the real issues of fact and of law, the Courts habitually tie themselves up into needless knots by going into all manner of side issues, which do not arise and are irrelevant. Thus in the very first appeal which I took up, Supreme Court appeal No. 4 of 1941, the High Court wasted nearly a week

discussing a question of "privity of contract" with a person, not a party, which did not really arise, as I have stated in paragraphs 5 and 6 of my opinion in this appeal, on 5th May 1942. It is but fair to the High Court to state that in the appeals which I heard in the Supreme Court, the cases in which I recommended a reversal or modification of their judgments were the exception and not the rule. But the remarks above as to the quality of the work must stand.

(36A) Second appeals and applications for criminal revision are not, as they should be, confined to points of law. The High Court never saves time by recourse to summary dismissals under Order XLI, Rule 11 of the Code of Civil Procedure. All appeals are admitted. At the other end, the judgments of the High Court in appeals, even in cases of sentences of death are sketchy and do not, as they should, recite the facts but usually refer to the facts, "The facts are stated in the judgment of the lower court". Criminal trials are delayed by numerous applications pending disposal.

(37) The Council will, therefore, perhaps agree that taking the population of the State as a whole, the number of courts is needlessly large and the quality of their work is poor. There is no superintendence over the Jahagir courts. The language of the Courts is Marathi, Modi script in the Jahagirs of Ichalkaranji, Bavda and Vishalgad where the Jahagirdars are all Brahmins and Balbodh, which is very nearly Nagari, in the other Jahagirs and in the State. Similarly, the personnel, not only of the judicial officers but even of the establishment, in these three Jahagirs is practically all Brahmin while in the other three Jahagirs and the State itself, they are almost all non-Brahmins and preponderantly like the Ruler, Marathas. But in all of them, State or Feudatory, while the outward forms of the law are kept, in none of them is there a comprehension of the proper functions of the courts or the principles of law and justice. And in addition to inefficiency and its usual complement, self-complacency, I have little doubt that corruption also prevails certainly in the establishment and, I fear, in some of the judiciary.

(38). Corruption in any particular case cannot be discovered by ordinary inspection. A Judge may take a bribe even to deliver a correct judgment; and an incorruptible judge may deliver a wrong judgment. Similarly, the establishment may take bribes before they take the right steps necessary in law in a particular proceeding. If, then, it is asked how I deduce corruption, the reply would be that my opinion is based on the impossibility of purity on an average earning of Rs. 2/- or Rs. 3/- per mensem. In the normal establishment in the Subordinate Courts and even higher the rule is to have at least twice as many candidates, if not more, as there are paid clerks. The average legitimate earnings of these candidates so called, who do the greater part of the work of the establishment, are not more than 2 or 3 rupees per mensem. While I could not charge any particular member of the establishment with corruption, I think general corruption in the clerks or candidates working in the courts is the inevitable and legitimate conclusion, even if some of these candidates belong to families with lands and houses in the head quarters or its vicinity.

(39) Petition-writers are not, as in British India, licensed by the judge. Anybody can write a petition. I recommend that the British Indian system of licensed petition writers sitting in the vicinity of the court should be introduced. Some of the present candidates, if competent, could be given licenses.

✓(40). The pay of the judicial Officers is extremely low. They begin with Rs. 100/- and usually rise to Rs. 125/-. But there they stop and most of them are likely to stop for the rest of their lives. Any addition to their pay would be a matter of favour from the Ruler or those in power behind the Ruler, exactly as their appointment. As regards corruption in the judiciary, the services of the First Class Subordinate Judge of Kolhapur as well as the two Mamlatdars and Second Class Magistrates were terminated by the Council shortly before I came to Kolhapur. The Council has also dealt with cases of corruption in Departments such as the Forest and the Police; *Ex uno disce omnes*: (from one learn of all). It would be strange if the judicial department were the one exception. The probabilities rather are that all Departments are tarred with the same brush.

(41). A District and Sessions Judge draws Rs. 300/-. Of the two Puisne Judges of the High Court one draws Rs. 500/- and the other Rs. 475/-, the Chief Justice Rs. 750. Particularly in the feudatory courts, the pay of the District and Sessions Judge with his other duties is seldom above Rs. 200/- even in the courts of the three major Feudatories. In those of the minor Feudatories the pay of the judicial officer is even less, very little over Rs. 150/-.

(42). It is for these reasons, while I admit that corruption in any particular case cannot be discovered from inspection or from appeals, that corruption does exist even in the judiciary I have no moral doubt. The interval between arguments and judgments to be found in all the courts has never been properly explained by the officers concerned to my satisfaction. In one case, instead of the explanation in writing for which I asked, the judicial officer came to see me and informed me orally that the reason was pressure from another officer high in supposed influence, not concerned with the judicial department at all. I declined to accept the explanation unless he was willing to put it down in writing which he was not willing to do. Similarly, I have heard complaints both from the public and from others about this general corruption. To the anonymous applications received by me, I attach no weight. In any case, I am bound to record my conclusion that not even the Supreme Court, nor the High Court (as at present constituted) commands public confidence. Admissions in the Supreme Court were for many years made by the Chief Secretary on a mere endorsement "By order of His Highness" and similarly, with the judgments, even when they were not in accordance with the opinion of the lawyers or judicial officers to whom they were referred. This gentleman had no legal qualifications and, as his services have been dispensed with, I need not refer to the absence of other qualifications. But the final order of His Highness in the Supreme Court was sometimes delayed for years. To the delay between arguments and judgment in the High Court, I have already referred. Obviously the highest Courts in the State could not well impress on the lower Courts the necessity of expediting the course of justice when such expedition was conspicuous by its absence in the highest courts themselves.

(43). In application No. 1 of 1942, on which I gave my opinion on 19th May 1942, I observed in para 6 in regard to the Chief Secretary as follows:

“ . . . In fact, I may be permitted to express a doubt if he (i. e. the Chief Secretary) properly understood or was qualified to criticize the careful opinion of the Supreme Court delivered on 4th March by Mr. Panditrao and Mr. Jadhav, both lawyers, who had held high office in this State. As the gentleman, Mr. Bhonsle, no longer occupies the place of Chief Secretary, I need only add an expression of my hope that any applications for review of the opinions of this Court will only be admitted by a properly qualified lawyer, and not by gentlemen with the qualifications of Mr. Bhonsle.”

(44). After the present Council came into existence, there has been a sudden awakening. The Chief Justice sent out circulars impressing on Subordinate courts the necessity of speedy disposals and early judgments. But it is difficult for institutions as for men to change their habits in a day. The probable effect of such circulars is that the officers will go to the other extreme and in order to display speed in their monthly returns, will refuse adjournments indiscriminately and will be slipshod and summary but not thorough.

(45). Interference by the executive is one of the excuses made for this lamentable condition of the courts. This is to a certain extent borne out by one or two instances of executive interference which came to my notice. Thus in Supreme Court appeal No. 4 of 1941 which was a dispute between two marwadis, each claiming to be the pawnee for Rs. 1,500/- of certain ornaments belonging to a Jahagirdar, the then Prime Minister ordered the production of these ornaments and had them sold and the proceeds deposited in a Bank. In para 16 of the opinion tendered on 5th May 1942, I observed:—

“ There is no explanation on the record as to why or under what law the Prime Minister ordered the production and sale of the ornaments. Such executive interference with legal rights is not desirable.”

(46) A second instance is in the case of Supreme Court Application No. 5 of 1941 in which the Daftardar dispossessed the decree-holder who had obtained possession of lands through the Courts under a decree. The judgment-debtor, it appears, had borrowed Rs. 2,000/- from the State and owed it to the State. On the application of the judgment debtor himself, the Daftardar ejected the decree-holder and took possession of the lands. Suits against Government or Government officers are not allowed and are unknown in the State. If they were allowed today, the courts would probably be flooded with such suits. I have heard serious complaints about the working of several other acts of the State such as heirship inquiries, ownership inquiries as to titles to land ( **बादमस्त** ) and even of the Court of Wards and of Ilakha Panchayat and Debt Conciliation. In Supreme Court Appeal No. 12 of 1942 dated 23rd July 1942 certain land had been handed over by a Tribunal constituted under the Recruiting Board Act during the last war. It was impossible for the pleaders or for me to discover what the act was and how the land had been handed over. I refer to the matter because they are all concerned with questions which should in the last instance be decided by the civil courts. The present Council will agree that, if civil courts are not to have the last word in rights as to property but are subject to executive interference without redress, such action is calculated prejudicially to affect both the utility and the prestige of the courts.

(47) Similarly, in regard to the Bar. Few laymen realise to how great an extent the quality of judicial work depends not merely on the judge but even more on the Bar. From the pleadings, which are the foundations of the case up to the arguments, it is the Bar which always remains the main instrument for efficiency, the judge guiding without interfering, following and keeping an open mind until he concludes the trial with his judgment. I recommend, firstly that the entire system of granting sanads to persons who have not graduated in law should be abolished. Secondly, that sanads should be, not as at present annual, but for life, on good behaviour, being only subject to suspension or discontinuation for professional or other misconduct, if so adjudicated by the High Courts. The fee should be raised to Rs. 300/- paid once for all.

And thirdly the numbers allowed to practice in each court should be restricted to the number fixed on the recommendation of the High Court and liable to modification on its recommendation, preference being given to persons belonging to the State.

(48) The court buildings, as a rule, are not well adapted for the purpose either in Kolhapur itself or outside. At Jaysingpore, the building is held in a house rented from the Bank of Kolhapur. At Hatkanangle where the court was suddenly established without sufficient consideration or notice to the interests concerned, a few rooms in the Mamlatdar's Office are being utilised. In Kolhapur itself, the High Court is extremely dark and the chambers of the judges are equally unsuitable. There is no separate library for the judges. The Court of the Second Class Subordinate Judge and that of the City Magistrate which are busy courts are bad enough most of the year and in the rains even worse. It is clear that the judicial department has been in all these matters neglected and things allowed to drift.

(49) Law libraries are necessary in every court. The salaries even of the highest judicial officers in Kolhapur do not permit their own independent subscriptions. At present, the State with comparatively small contributions from the Bar, provides libraries. The Bar library in Kolhapur itself is quite adequate as far the Indian Law Reports and case law go. The judges of the High Court have a separate library consisting only of Indian Law Reports. Financial considerations prevent me from recommending English law reports even for Kolhapur particularly during the war. The arrangement of books and almirahs leaves something to be desired. In regard to the subordinate courts, there is room for great improvement. If the Indian Law Reports are found to be too expensive to be supplied to each court, for the use of the judicial officer and the Bar, at least the Bombay Law Reporter and comprehensive publications such as Indian Cases or All India Reporters should be furnished to each subordinate court for the use of the officer and the Bar, a committee being framed with the subordinate judge as president and two pleaders of the local Bar, who will be responsible for the arrangement and custody of the

library. If funds permit, authoritative text books on important laws, such as the Codes of Civil and Criminal Procedure, Hindu Law, the Law of Limitation, etc., should be made available. There is no library at the newly created Court at Hatkanangle; or at the Mahalkari's Courts at Raibag and Shahuwadi. There is a universal protest by the Bar against the curtailment of the Government grant to law libraries.

(49A) The tattered and dirty condition of the records when a case comes up in appeal is a great handicap. Another is the absence of paper books or of printed books of the appeal record. For the benefit of the layman I may be permitted to explain the system followed in every up to date appellate court. When an appeal is not dismissed under Order XLI, Rule 11 of the Code of Civil Procedure, but is admitted and notices on the respondents are ordered to issue, the appellant or his pleader chooses the portion of the record to which he proposes to refer and to invite the attention of the appellate Bench when the appeal is to be argued. The opposite party or his pleader does the same. The record so chosen by both sides is then typed or printed and the pages, paragraphs and the lines of each page are numbered. Of this typed or printed book, the appellate judge or judges are furnished with a copy as well as the pleader for each party. In arguing the case it is then easy to refer to the page and the line so that all can follow without difficulty.

(49B) The system is followed even in the District Court in British India and in the High Courts and Supreme Courts of States, such as Baroda. In Kolhapur, no copy is made. The original record alone exists. The result is that if reference is made to a document or to any deposition by one side, neither the appellate bench nor the other side can verify it or can follow. If they desire to do so, the document has to be passed round, wasting a great deal of time and causing needless interruption in the arguments. I placed the matter before the Bar Association. They were of opinion that the poverty of clients in Kolhapur did not permit the adoption of this system here. The argument did not carry conviction to my mind. When clients in Satara and Belgaum are not too poor to have such books in the District Courts, it is diffi-



cult to see why the poverty of Kolhapur clients, which does not prevent them from second appeals in the High Court and third appeals in the Supreme Court, should prevent them from the comparatively trifling outlay on paper books consisting of documents properly chosen. In fact, in some heavy appeals in which lawyers from Bombay and outside appeared before me, the appellant had furnished paper books, of which they were good enough to give me a copy and thus save a good deal of time to all concerned. The initial cost of the paper book is paid by the appellant and is included in the costs ultimately awarded by the court to the successful litigant. I recommend the adoption of paper books in appeals admitted in the High Court and in the Supreme Court.

(49C) Before I took up appeals in the Supreme Court, the Bar Association had some fears on several points, such as the wearing of bands and gowns and arguments in English. On the former point, I was able to reassure them. On the latter point also in part. I gave the Bar to understand that as Marathi was my mother tongue as much as it was theirs, I would be agreeable to arguments in Marathi, apart from legal terms untranslatable from English into Marathi. But I was not prepared to allow arguments in the slipshod mixture of languages, English and Marathi, which apparently prevails in the Courts here. For practical purposes, all the arguments before me were in English. But the absence of paper books in most of the appeals wasted a good deal of time. I was also 'unable to sit' in the Irwin Museum as designed but had to sit in the High Court in order to have at hand the Law Library with the text books and reports referred to in arguments so that the judge can immediately refer to any authorities. The distance of the Irwin Museum, the small number of spare copies of law reports and other authorities available and the impossibility of transporting them to and back between the Law Library and the Irwin Museum — all these causes compelled me to accede to the representation of the Bar Association and to sit in the High Court, in the morning even after the hot weather, with serious strain on the sight, redoubled after the cessation of the electric light in the morning owing to the exigencies of the war.

(50) I would deprecate sudden alterations in the Courts without adequate provision as in the case of the newly created Hatkanangle Court to which the Joint Subordinate Judge from Jaysingpore has been recently brought over. The only reason for the change was the convenience of certain villages, particularly in the north of Hatkanangle Peta and the more central position of Hatkanangle in the Peta itself. But Jaysingpore is the next station to the east on the Railway. The fare from Hatkanangle to Jaysingpore is a few pice. Without adequate provision for a proper building or a law library, a Court was suddenly created at Hatkanangle and the Joint Subordinate Judge, an inexperienced officer, placed in charge. I may be permitted to doubt the wisdom, if not of the creation of the Court itself, at least of its haste. It should be observed that the creation of the Court means also additional expense in the shape of staff. The Court was originally at Shirol and was then transferred to Jaysingpore.

(51) A properly qualified staff is needed for an inspection like mine. As in other departments such as Finance, and Education, a subordinate competent in his own work has to be trained for inspection. A good teacher is not necessarily a good inspector of schools. I would crave permission briefly to point out the difficulties in my inspection, not so much in excuse of deficiencies in this report but for the information of the Council, useful perhaps in the future. When the High Court of Bombay deems inspection advisable, the procedure is shortly as follows:—The High Court about a year before the inspection asks the Government of Bombay to make the necessary budget provision for the pay of the inspecting Judge and his staff on inspection which consists of a selected Subordinate Judge of the Second Class and about half a dozen clerks including the stenographer. On Government consenting and making the necessary provision in their budget on the 1st of April, the inspecting judge usually the Administrative i. c. s. Judge, as he is called, is informed before the summer vacation. In the light of his experience on the Appellate Side and as Administrative Judge, to whom the Registrar brings the returns from the Courts, which call for any special notice or remarks, the inspecting-Judge-designate calls for any further information he may wish from the Dis-

trict and Subordinate Courts. He also selects the inspecting staff from the subordinate judge downwards. I myself chose half my staff and allowed the Subordinate Judge to select the other half. With this preparation for nearly four months before the cold weather he has to complete his inspection of 17 districts in about 4 months and submit his report before or during the summer vacation. His period of deputation is never more than  $4\frac{1}{2}$  months.

(52) When I informally accepted the work in Kolhapur in November 1941, I assumed from the area and population of the State, both less than the adjoining districts of Satara and Belgaum, and from the fact that barely a year had elapsed since the demise of His Highness Rajaram Maharaj, that the inspection would occupy about 6 weeks and the appeals about the same time, leaving a month for the report and discussion. I also assumed that the State would have a competent staff, to carry out the details of the inspection under my supervision. In all these respects I found I was mistaken. Somewhat to my surprise, I was asked to engage and to pay my own inspecting staff. In the light of my inspection and the calibre of the judiciary and the subordinate staff in the State, however, I find that the Judicial Minister was entirely in the right when he informed me that the necessary competent staff was not available with the State and I should engage, bring down and pay my own staff. The local staff would have been worse than useless. The inspection notes of the local courts are called "Audit Notes." They only consist of 80 or 100 items of cases where applications have been taken without adequate court fees. They have evidently been compiled by meticulous examination by clerks. The Chief Justice's part is only visible in the signature. Another factor was my ignorance of the existence of the Feudatory Courts and of the Courts of the special magistrates mostly inamdars and the like. As it happened, their existence was first revealed to me in the Administrative Reports for the last five years which I had, sent out to me in Poona. My own desire was to take up appeals first and then to inspect. The reason is that each appeal enables me to see in detail how that particular suit has been disposed of in the trial court and in first appeal before the District Court and in second appeal before the High Court. This detailed working out of the suit is not possible in inspection for which

not more than 2 or 3 days are as a rule available for each court. The inspection only gives the inspecting judge a general idea of the quantity of work and a rough idea of the quality, unlike the details available when an appeal is taken up. Finally when I arrived on 19th January 1942, I found that notices had not been returned served in many appeals so that few were ripe for hearing. I had, therefore, to reverse the order and begin with the inspection of courts of which I did not know the strong points and the weak points, as appeals make it possible to perceive. Further, the Feudatories were still in the process of making up their minds about their own right whether to permit or to refuse inspection. In the end, all of them gracefully accepted the inspection more or less as a matter of favour and out of compliment to myself. It was difficult under these circumstances to work out a programme to save time and trouble. The permission to inspect the Ichalkaranji court at Ajra was received by me when I was nearly at the end of my inspection of the Courts at Gadhinglaj and I had to inspect the Court at Ajra on a Sunday and in a hurry. I was able to cover all the 17 districts of the Bombay Province by a well thought out programme with due notice to the courts concerned within little more than  $4\frac{1}{2}$  months. The effort to finish the Kolhapur inspection in time made it more cursory than I should have wished. I was also hampered by the absence of a Subordinate Judge to assist me. Like the inspecting subordinate staff I had engaged one at my own expense. But he was unexpectedly re-employed by the Government of Bombay and no substitute was available. Such establishment as I could engage I have engaged and done the best I could. But the absence of a properly trained establishment with a knowledge of the working of the courts of the State has been a great handicap, has compelled me to go myself into details and has added to my labours and the pressure on my time. Other circumstances not necessary to detail have decided me not to delay the submission of this report any longer, even though a substantial number of appeals have still to be heard.

(53). If the Council agrees with me and accepts my opinion, that at present the judicial administration suffers from excess of quantity and lack of quality, the remedy is obviously to reduce the quantity and raise the quality

within the financial means of the State. To begin with the lowest courts, my suggestions are:—

(1) To abolish the Courts of the inamdars so called and take away their powers civil and criminal. Scattered as they are and small as the work in the individual courts, this need not of itself entail any additional courts or cost to the State.

(2) Similarly, in regard to the 5 minor Feudatory courts, there is no necessity for their courts and other powers. The jurisdiction should be transferred to the nearest courts. In suitable cases where the feudatories or their heirs have graduated in law and are otherwise in the opinion of Government capable and qualified, they may be invested, at first with second class magisterial powers and later on if proved capable of dispensing justice, with first class magisterial powers either singly (as in the case of the grandson of the present Jahagirdar of Vishalgad) or as one of a bench in the city of Kolhapur, where the minor Feudatories normally reside and where the bench should include a retired judicial officer of probity and experience.

(3) The question of the major Feudatories is rendered more difficult by reason of the agreement of 1862 and the assurances of the Paramount Power. But hereditary capacity to work as District and Sessions Judges is, I submit, a false assumption. It has been allowed to be translated into a right to nominate a poorly paid officer to discharge judicial duties for the Jahagirdar, but even this right is admittedly subject to the sanction of the Darbar and can, therefore, be taken away, if the Darbar with the consent of the Paramount Power so wishes. They cost each major Feudatory an appreciable amount every year. Therefore, if that right ceases, pecuniarily he will gain and not lose. It follows that no case for compensation to the Jahagirdar is made out; but on the contrary, a case, if any, for contribution by the Feudatory. The same remarks hold good in regard to the District Magistrates and Subordinate Judges appointed by the Feudatories. The matter in no way prejudices the pecuniary interests or the income of the Jahagirdar. The police are so essential a part of the criminal judicial administration that it would be better for the

State to take over the police as well. Whether the Mamlatdar as such should continue to be appointed by the Feudatories is a question outside my purview and on which I offer no opinion. That would presumably depend upon whether the Feudatory would or would not find it convenient to raise his revenue without appointing such a Mamlatdar of his own. But if the Feudatories are continued in their right to appoint their own Mamlatdars, the latter may at the most be invested with second class or third class magisterial powers. Their appeals must come to the District Magistrate at Kolhapur and they must be subject to the supervision and control of the High Court.

(54). If the State took over the functions of administering justice in the Jahagirs of the major Feudatories, this would necessitate in each Jahagir the appointment of a judicial officer who has the powers of a second class subordinate judge and of a first class magistrate. There will be no necessity for a second District and Sessions Judge at Kolhapur but at the most an Assistant Judge, invested if necessary, with the powers of an additional judge. Financial adjustments are a matter between the Darbar and the Feudatories. But as in any case the pay comes in the last resort out of the pockets of the people, these pockets ought to gain by the substitution of one Sessions Judge for four.

(55). As regards the language of the Courts, Marathi might continue to be the language of the subordinate courts and of the magistrates. For some reason not clear to me, the judgments of the Sessions Judges are in English while his judgments as District Judge are in Marathi. The judgments of the High Court are in Marathi. The last is a great disadvantage even at present. Many legal terms in common use such as for instance 'estoppel', 'conclusive', etc. are difficult to translate into Marathi. The case law is all in English. I would suggest that while Marathi remains the language of the subordinate courts and of magistrates, English should be the language at least of the judgments of the High Court and of the arguments, while both languages might be allowed in the District and Sessions Court.

(56). As regards the Courts at Kolhapur, the first class and the second class subordinate courts must remain as also the courts of the City Magistrate

and the Additional City Magistrate. The District Magistrate is also the Remembrancer of Legal Affairs. The District Magistrate has not much work as such and though this combination of appointments is open to certain objections in theory, it saves money and may, therefore, continue if the Council and particularly the Judicial Minister find that it works well enough in practice. But I would observe that the Remembrancer of Legal Affairs is the legal advisor of Government in all legal matters upto the drafting of laws. He might with the consent of the Government of Bombay be sent for training to the Legal Department of the Secretariate for a period of three months.

(57). The Court of the District and Sessions Judge as stated above will probably need to be fortified by an Assistant Judge with the powers at least of an Assistant Judge, if not of an additional Sessions Judge. I found on inspecting the District Court that in all miscellaneous cases evidence was recorded and even the orders were written by the clerk of the Court, the District Judge merely appending his signature, though he was not even present when the evidence was taken. The witness was asked if the evidence as recorded by the clerk was correct. His answer being in the affirmative, the evidence was signed by the Judge. All this is wrong both in law and in practice and is obviously capable of grave abuse. It is a matter for surprise that the High Court being in the same compound and just opposite the District Judge's Court a few yards away, the practice should have gone on unchecked so long.

(58). In regard to the High Court the practice is for one of the Puisne Judges to sit for a year on the Original Side while his colleague sits with the Chief Justice on the Appellate Side, the colleague sitting the next year on the Original Side and the other Puisne Judge taking his turn with the Chief Justice on the Appellate Side. Actually there is not sufficient work for the Puisne Judge on the Original Side. His work could well be done by the First Class Subordinate Judge as regards suits and as regards miscellaneous applications, by the District Judge and the Assistant Judge. The only real use of the second Puisne Judge would be in cases of difference of opinion between the Chief Justice and his colleague on the Appellate Side. But I have not come across a single case of such difference

of opinion and I conclude that the Chief Justice and one Puisne Judge would suffice for the High Court. But even so, they will not be heavily worked, if only less time were wasted in arguments often beside the mark and not to the point and if they discouraged interlocutory appeals and review applications. Order XLI. R. 11 of the Code of Civil Procedure, which allows Courts to hear an appeal ex-parte and unless convinced that there is a substantial point of law, to dismiss the second appeal without notice to the trying court or to the opposite party is never used by the High Court. In other words, every appeal is admitted as a matter of course when many of them could be summarily dismissed. In case of difference of opinion between the two judges in the High Court and in order to avoid reference to a third judge, the law could provide that in case of such difference either (i) the original decree should stand or (ii) the opinion of the Chief Justice should prevail. (i) is probably better.

(59). The present inspections of the Chief Justice with the District Judge of each Subordinate Court by turns every alternate year are a farce. The District Judge should not inspect. The Chief Justice and his colleague should take up the inspection for about a month or less simultaneously.

(60). The saving on the pay of the Puisne Judge no longer wanted, would go towards the pay of the Assistant Judge and the balance on increase in pay of the Chief Justice and his colleague. On the question of scales of pay I append at the end a suggested statement which the Council will doubtless consider in the light of the entire State budget.

(61). The High Court must be competent and inspire confidence in the public. In the public I include Jahagirdars. Such confidence is essential and is a necessary condition if the State is to take over the courts of the Jahagirdars. Till the Jahagirdars feel such confidence, I do not recommend any reduction of their own *personal* rights in cases to which they are themselves parties which are conducted before the Resident and one of the High Court Judges. The people from the Jahagirdars downwards must feel assured that the Supreme Court or the High Court will not be engines of oppression in the hands of the



Ruler. A wise selection of the judges of the High Court and a convention that they should not be lightly removed so as to obviate the intervention of the Paramount Power would perhaps achieve the object. Probably the Assembly shortly to be convened in the State will bring the healthy light of public criticism to bear on the Courts and will help in the same direction.

(62). Given such a High Court, there is no necessity for a Supreme Court. This Supreme Court, however, exists in most States including Baroda. This existence appears to be due to two causes.

- (i) The existence of the Privy Council in British India, imitation being the sincerest flattery; and
- (ii) the Ruler desires to preserve his prerogative as the fountain of justice and the ultimate authority.

The former reason has no validity in the conditions of Kolhapur. British India has 8 High Courts. These High Courts sometimes differ on important questions of law including Hindu Law, and the Privy Council is useful to settle these points of difference between the High Courts. The second reason is more difficult to remove. In any case, the Supreme Court is not a permanent body and during the period of transition which I estimate at from 3 to 5 years a retired Judge of experience might be useful in some ways, if he is brought over once or twice a year for this special purpose. He could decide the cases, if any, in which the Chief Justice and his colleague differ; he could also decide questions of law submitted to him or appeals of particular importance referred to by Government. He could also supervise the introduction of such reforms as are sanctioned and see that they do not remain reforms on paper but are steadily, even if slowly, being carried out in practice and the whole tone and the working of the courts improves. There are sufficient retired judges of experience available to give the Council a fairly large choice if they decide to keep the Supreme Court even fitfully alive. But I see no sufficient reason for allowing the appeals to the Supreme Court as a matter of right even in suits over a value of Rs. 10,000/-. There is no magic in a name whether Supreme Court or High Court or even Court. The Inquisition and the Star Chamber

also called themselves Courts. Unless the influence of the Ruler and of his favourites and of the executive can be eliminated and proper judges selected to man the Courts, these will be not a blessing but a curse.

(63). This brings me to the question of establishment. In all these years, the Supreme Court has had no establishment. I have had to engage and to pay my own inspecting staff and have only had nominal assistance in the shape of a Registrar, who works under the Judicial Minister. Even if a judge of the Supreme Court is engaged, for a month or two, provision should be made by the State for a Registrar and the necessary staff for the period that he is working including a stenographer and a typewriter.

(64). The quality of the present regular establishment in all the courts is deplorable. They are chosen without regard to educational attainments or to competence. Their number is small and they are illpaid. In the same manner that a Subordinate Judge begins and may even end on Rs. 100/- per mensem, a clerk may begin and end on Rs. 20/- per mensem. Their number is re-inforced by so called candidates earning Rs. 2/- to Rs. 3/- a month, twice or thrice as numerous as the regular establishment and in all probability corrupt. The paid establishment will have to be increased and the candidates in each court restricted to the minimum number necessary as sectioners earning not less than about Rs. 15/- to Rs. 20/- per mensem on an average from fees. Competent candidates could be licenced petition-writers. If not immediately, then later proper department examinations should be instituted.

(65) To one feature of the judicial administration it is necessary to refer because it pervades the administration and cannot, therefore, be ignored, even though the matter is somewhat delicate and, therefore, difficult of treatment without misunderstanding. I refer to the caste composition of the judiciary and of the establishment. In para 37 above, I have already referred to what I noticed in inspection that, speaking as a whole, in regard to the personnel both of officers and of establishment as in the Patwardhan States, Brahmins predominate, practically monopolising the Courts of the Feudatories who are Brahmins while in the Courts of the Maratha Feudatories and the State

the composition is essentially non-Brahmin and predominantly Maratha in caste. Formerly, I am given to understand, and particularly before the Vedokta controversy, Brahmins predominated every where. That controversy began about 40 years ago a few years after His Highness the late Shahu Chhatrapati Maharaja took the reins. The strong Ruler decided—and I think it will be held, rightly—that this caste monopoly should once for all end. And since that time for all practical purposes and with a very few exceptions, the rule in this State has been that no Brahmin need apply. Seeing that not only in the State proper but also in the Feudatory Jahagirs the population which pays the revenue is predominantly Maratha, there can be no question to my mind that the subjects of the State and predominantly the Marathas should have the first claim on employment in the State. I would go further and say that by employment in the State I include employment in the Feudatory Jahagirs including the Jahagirs where the Jahagirdars are Brahmins. But to this proposition, I would add an essential proviso, readily intelligible to any administrator of experience. That proviso is that the officer or the clerk should be able to discharge the duties for which he is selected and to discharge them, not mechanically but intelligently, so that with experience, he can be promoted to more responsible work. This essential proviso has, I fear, been lost sight of in the State. It is this neglect which is to some extent responsible for the present deplorable condition of the judicial administration. From this proviso, it follows that the higher the post, the higher the necessary qualification and qualities, and the lesser the room for a strict and literal application of the principle of caste in selection. All the peons and, if they can read and write Marathi all the Bailiffs can easily be Marathas or Brahmins or for the matter of that any other caste—without any great prejudice to the administration. But even in the case of clerks a certain amount of application to work, which is routine and somewhat monotonous, is necessary. The average Maratha is essentially a yeoman farmer and a soldier to whom the desk duties of a clerk may be irksome. And particularly in cases such as the keeping of accounts, it is a common experience outside the State that non-brahmin Sardars and Sowakars

prefer to employ Brahmin clerks in preference to clerks of their own caste. Similarly, with the higher establishment. The establishment in the Courts is, as a rule, indolent, lax and ignorant. Coupled with the archaic system of accounts still obtaining in the State Courts, the result is extreme confusion in the accounts of courts and loss to the State or to the parties to whom are due moneys to the extent of thousands in each Court and in the total lacs of rupees. In part III of the Report, I append a note with suggestions for proper registers including registers of accounts. Here I content myself with noting that, unless the clerks are intelligent enough to understand the system and dependable enough carefully to adhere to it in regard to every item of judicial moneys, the mere innovation of such registers will be useless. For instance, the register of suits which is maintained in the Courts has been rightly taken over from the registers in use in the subordinate courts in the neighbouring British districts. But in many cases, I found that several important columns in this register were not filled in. Similarly in regard to the filing and destruction of records which are here allowed to accumulate. Both as regards accounts and as regards records, the State cannot do better than adopt the well tried system in use in the British Indian Courts, it being always understood that the responsible clerk is sufficiently painstaking and intelligent to carry out the system.

(66) Several reasons have compelled me to refer to this matter at some length. I must regard this gulf between Brahmins and Marathas as a source, not of strength but of weakness to the State. A caste monopoly tends to be self-complacent and unprogressive. In Kolhapur, it is content to appeal to the memory of His Highness the late Shahu Maharaj and to rest satisfied with having displaced the previous Brahmin monopoly. Even from the point of view of Marathas as a caste I am unable, I confess, to see the logic or the reason of the right it claims to be indolent, inefficient and in some cases even corrupt, forgetting not only the harm it does to the name of Marathas as a whole but even the injury caused by its inefficiency to the Marathas who form the largest portion of the population of the State. The solution must come from both sides from the Jahagirdars downwards. Instead of each arrogating to

itself a monopoly of all the virtues and despising the other for its weaknesses, it might be better for both to extend their horizon, realise their duty to the State and to the Ruler and so live and work as to compel the other side to acknowledge its merit. The late Mr. Justice Ranade always did justice to the sturdy character of the Maratha yeoman farmer, who produced in peace and fought in war and was thus the backbone of Maharashtra, as he is of Kolhapur. Indeed, Mr. Ranade went to the extent of calling himself a "glorified clerk" even when he was elevated to the High Court. Merely literate Brahmins might do worse than follow Mr. Ranade's example particularly in the present times. Work for the State, paid or unpaid, co-operation between castes and mutual confidence by straightforward dealing may perhaps be useful as a solvent for the communal spirit. For myself, I have for many years come to the conclusion that caste today is a fetter and a grave weakness and handicap to Hindus of all castes and to India and that it is the duty of each one of us to try and rid ourselves of the spirit of caste and to encourage inter-marriage among castes. It is easy for me, therefore, to acknowledge to the Chitpavan that I am not a Brahmin and to the Maratha that I am. But this apart, boasting as I do of friends in both camps, I hope that my remarks will be taken in the friendly spirit in which they are meant as the suggestions of a well-wisher of the State and of the Ruling Family and of its people of all castes. A sensible patient prefers to call in the doctor of any caste who will cure him quickest rather than confine himself to a doctor of his own caste. I would plead for similar common-sense in administration.

(67) In regard to the judiciary I am happy to note that all the officers who enjoy the powers of a second class subordinate judge and first class magistrate are graduates in law. But this does not suffice. Some of them are raw graduates with little or no experience at the Bar. A degree is only an initial test. Practice and experience at the Bar, a fair open and balanced mind, knowledge of human nature and judgment, at least to some extent mature, to say nothing of patience combined with firmness are indispensable to the judge, if he is to inspire confidence. If the Bar finds confused thinking in the Judge, and possible success in irrelevancy and red herrings across the trail, then they

will be drawn with the result that there will be great waste of time, even if they do not actually lead to injustice. As far as I can judge, small regard has been paid to these considerations in the selection of judicial officers. Wire-pulling rather than selection has been the process.

(68) Like courage and discipline in the soldier, and not merely in the ranks but also higher up, the profession of the law implies certain ideals, and the qualities following from these ideals, whether in the Bar or in the Bench. I see no signs of them in Kolhapur, but a more or less mechanical performance of work and a desire to do as little work as possible, along with self-complacency without a real will for improvement or even a feeling that improvement is possible.

(69) If this State could engage a capable subordinate judge from the British service, for choice one who has exercised magisterial powers and one moreover who has just retired and is capable of good and hard work, it would be worth while engaging his services for a period of not less than 6 months and not more than a year, during which time it would be his duty to go and spend about a month or less in each subordinate court, actually working himself for a week or two with the local subordinate judge and magistrate by his side and spending another week or two by the side of the subordinate judge and magistrate while the latter does his work, correcting him and giving him hints while the work is going on. This operation is analogous to that of a surgeon teaching a neophyte how to perform a surgical operation. Similarly, in regard to the establishment, the services of a retired nazir of the District Court who has a long experience in the Subordinate Courts before he became the nazir in the District Court could be engaged to train the subordinate staff. Here again, I would retain the present subordinate establishment except in extreme cases of the kind referred to above in the case of subordinate judges, viz., corruption or incurable incompetence. In both cases, with proper supervision, there is no reason why surely if slowly, the work of the Courts including that of the establishment should not gradually improve and come up to the mark. I need hardly add that if there are competent Maratha retired

subordinate judges or nazirs, they should by all means be given preference. With the consent of the Government of Bombay, Subordinate Judges could spend a month in the subordinate courts of Belgaum and Satara with advantage to master the methods there. They could also usefully visit the High Court when they happen to be in Bombay.

(70) The main motive power for the improvement of the judicial administration will have to proceed from the High Court and especially from the Chief Justice. I recommend that the State should import for a period of 3 to 5 years a competent retired judge, if possible a retired High Court Judge; otherwise a retired District and Sessions Judge, who is still good for work and can be depended upon to carry through the improvement of the Courts, on such lines as may commend themselves to the Council. By that time, his colleague in the High Court if he shows himself competent, could be promoted to be the Chief Justice. There could be no objection to electing a retired Maratha Officer, provided he is competent and has sufficient interest and energy to devote to the task of reforms and improvement in the Judicial Department.

(71) As regards inspection, as stated above, the Chief Justice and his colleague could each go out on inspection at the same time for about a month to six weeks and could yet have sufficient time to dispose of the current work of the High Court. It is not necessary to utilise the District Judge for inspection unless the High Court, looking to the state of the District Judge's file, orders him to inspect any particular court. The Chief Justice should not, in my opinion, be a member of the Council. But he should be freely open for consultation and opinion whenever the Council so desires. The Chief Justice and the Judicial Minister must co-operate if results are to be achieved.

(72) Not merely for the improvement of the present courts in the State but even for the taking over of the Feudatory Courts, an efficient and incorruptible High Court able to inspire confidence in the people from the Feudatories downwards is absolutely essential. In my inspection of the 17 districts of the Bombay Province in 1926-27, I observed that as in the Revenue Depart-

ment; the Collector so in the Judicial Department the District and Sessions Judge was the fulcrum of the judicial administration on whom the tone and efficiency of the department depend. In the Bombay Province, the High Court is distant. It can supervise but has no time to inspect. Moreover, inspection by a High Court Judge is a costly process. The State of Kolhapur in area, population and revenue approximates more to a district. Here the role and the responsibility must fall on the High Court. Given such a High Court, much of the administrative work of the department could either be made over by the Judicial Minister to the High Court or the opinion of the High Court obtained before selection, promotion or appointment of the judiciary or the establishment. In any case, the Judicial Minister and the Chief Justice must work together. The pay of the Chief Justice should be the same as the pay of a Minister. And except on the unanimous recommendation of the Council, he should not be removed. All these theoretical safeguards, however, can only be in conjunction with the practical choice of a capable Chief Justice. The tone of the administration cannot change in a day. Reforms, even when initiated, need time to take root. If for the next 10 or 15 years the Chief Justice and his colleague are determined on improvement, improvement is perfectly practicable and will follow and as in States, such as Baroda, will be maintained. What I have termed 'tone and spirit of the administration' is as difficult to define as it is easy to feel. They are intangible yet real. In this connection provided the Bar shows the necessary improvement and can furnish among its lawyers a man of necessary calibre, the posts of Chief Justice and High Court Judge may be open to the Bar. Left free from executive interference or pressure, the courts and the judiciary will be a source of strength to the State.

(73) The finances of the State necessarily limit the scope of promotion and pay and will be below the standard of British India. But the initial pay of judicial officers particularly in these days of rising prices and costly living should be in my opinion not very much less. Subordinate Judges, with magisterial powers, might begin on Rs. 150/- being kept on probation for two years and confirmed or otherwise according to their work during that period. For



training he should work for one month with the First Class and Second Class Subordinate Judge and for another with the City Magistrate. Thereafter, the only feasible method of promotion is by the system of increments. As there will only be one District Judge and one Assistant Judge, and the average length of service cannot be much more than 25 years, 55 being the age of retirement, the increase might be biannual increments of Rs. 10/- each so that even an officer who retires as a Subordinate Judge would retire on a pay of Rs. 250/- with a proportionate pension. The posts of First Class Subordinate Judge, Assistant Judge, and District Judge and, of course, the High Court Judge should be by selection. The pay of the First Class Subordinate Judge and the Assistant Judge should be Rs. 300/- per mensem but the District Judge should get Rs. 350-500/- and the High Court Judge Rs. 600-800/-.

(74) In regard to the number of Subordinate Judges it has to be remembered that every Subordinate Judge of the Second Class is also a magistrate of the First Class and does the greater part of the magisterial work of the Peta. Given a more efficient Bar and Judiciary, much time could be saved and a reduction of one or two at the most of the Subordinate Judges might be possible. But I doubt if this is feasible at the present stage. The matter may be borne in mind and decided after about 3 to 5 years. On paper, the Court at Gadhinglaj should be able to take over not only Mahagaon in the Vishalgad Jaghir but also the Ajra Court in the Ichalkaranji Jaghir in addition to its present jurisdiction without increase of officers. Similarly, the Courts at Hatkanangale and Jaisingpur could perhaps later on be managed by one Judge, particularly with some re-adjustment of boundaries, giving the eastern half of the Hatkanangale Peta to Jaisingpore and the rest to the Kolhapur Court. A reduction in the number of magistrates at Kolhapur is perfectly feasible. Instead of three magistrates at present, two should be ample, the Record Keeper being relieved of his judicial duties. The Courts at Panhala and Radhanagri are linked courts with one subordinate judge and no reduction is possible though the work in each court is light. The system of linked courts does not as a rule work so well in practice as the system of a permanent judge and magistrate throughout the year. In the civil courts the time spent in writing

and arguing out applications for adjournments would suffice to dispose of a number of suits. In the magisterial courts there is a similar waste of time due to the absence of the police prosecutor or the complainant or the accused. In small matters, as in great, time and a vigilant eye will be needed to effect improvement. But, once a beginning is made, the improvement should be, though gradual, certain.

(75) I am not acquainted with the work of the Mamlatdars in this State. Their magisterial work is small. Whether a reduction of Mamlatdars is feasible by reason of their magisterial work being small in comparison with such work in British Indian Districts is a matter for the Revenue Department.

(76) The two Sub-divisional Magistrates have very little criminal work. They could easily be utilised by the District Magistrate, I imagine, during the rains to help in the criminal work of Kolhapur city. Into these matters of detail I had no time to enquire and they can well be left to a more efficient High Court to consider.

(77) The last important point to which I would invite the attention of the Council is the confusion in regard to the laws applying in the State. The present system is as follows:— Most of the important British Indian Acts are made applicable to the State by notification in the Kolhapur Government Gazette. So are some of the Bombay Acts. The Hindu Law prevailing in the State is codified in a Marathi publication which is, in the main, taken from Sir Dinshaw Mulla's well-known book on Hindu Law. Not many Acts are passed by the Kolhapur Government as such. When they are passed, they are not always subsequently or at least easily available. An instance in point is a Recruiting Board Act passed during the last war, under which a person furnishing a recruit or paying Rs. 500/- towards one was entitled to obtain possession of ancestral lands which had passed out of his possession, apparently without regard to limitation. In Supreme Court Appeal No. 12 of 1942 (opinion, dated 23rd July 1942) I was unable to discover the Act or its exact ambit.

(78) Orders, having the force of law, called Wat Hukums are published from time to time in the Kolhapur Government Gazette. Unfortunately, the term "Wat Hukum," originally meant perhaps to be confined to orders of the Ruler, is now extended till it comprises even orders of different officers. In a proper legal system, the term 'law' is confined to enactments, civil, criminal or revenue, binding on the State and its subjects and regulating the relations between subjects and between the State and the subject. The Rules made by a proper rule-making authority (under that law or others) and having the force of law may be included in the term "laws of the State". But Rules or circular orders made by Government for the guidance of officers are not laws or rules having the force of law. This distinction is not appreciated in this State. There is no publication, authoritative or otherwise, where the public, the Bar and the Judiciary can discover the laws extant in the State. There is indeed a publication, called "मुल्की वट हुकुम" ( Mulki or Revenue Wat Hukums ) in two volumes edited by Rao Bahadur Indulkar. But even in this publication the distinction above has not been observed. These two volumes comprise in the main revenue orders passed from time to time by or under the authority of His Highness. But they also include orders by officers such as Sar Subhas and even Sub-divisional Officers. Most of them are really in the nature of directions by superior revenue officers to subordinate revenue officers of the peta, mahal and village but they are not laws in the proper sense of the term. In one appeal before me, one side plausibly argued that all Wat Hukums had the force of law, the other that none of them had such force.

(79) The result is complete confusion as to what the law of the State really is even on some important points. To illustrate:—

The Annual Administration Report for 1939-40 contains as Appendix II, consecutive enclosure No. 2, a "List of Laws, Rules, and Regulations in force in the Kolhapur State". On pages 38-39 of the Kolhapur Administrative Report for 1939-40 against entry No. 13, the Hereditary Offices Act in the last column marked "Extent and remarks if any", is the following

sentence:- "This Act is followed in spirit only and is formally notified in 1888 amended by Wat No. 52 of 9th March 1896 and so on". No lawyer can understand how an Act is followed in spirit only unless it is applied in the letter, through which alone its spirit can be known to mortals. In my opinion in Supreme Appeal No. 1 of 1940, delivered on 11th May 1942, I observed:—

"In answer to a question from the court it appears that in regard to the wilderness of these Vat Hukums prevalent in the State, while the revenue Vat Hukums are at least published, in regard to other Vat Hukums, which have the force of law, in the absence of a publication, the public and the Bar have no means of ascertaining them. The learned pleader for the respondent informs me that the present practice of the Bar is, if they hear or have reason to believe in the existence of any such Vat Hukums, to apply in writing to the Court, stating their belief and asking the Court to find out the necessary Vat Hukum. The Court thereupon consults its own files or has recourse to the file of the Prime Minister and may or may not succeed in discovering the Vat Hukums in question or its existence. I am constrained to express my opinion that whether for the public or for the Bar or for the judiciary, this is a most unsatisfactory state of affairs. The responsible authorities should either publish in a handy form, properly arranged and indexed, all the Vat Hukums, which have the force of law; or they should enact a law that no Vat Hukums should have the force of law.

(80). The present system is unfair and impracticable. Neither the Bar nor the Courts can be expected to wade through the Government Gazette from the time they were issued till now in a hunt for relevant Vat Hukums. Moreover, the term 'Vat Hukum' is not confined to orders by or on the authority of His Highness direct. They further embrace orders issued even by the Chief Justice, as quoted above, and by the Sarsubha, as in the published volumes of the Revenue Vat. Hukums. And in this latter are to be found the so-called Vat Hukums issued even by Sub-Divisional Officers. It would be preferable to confine the word Vat Hukum to an order having the force of law and to call the others orders issued by that particular Officer".

81. The same difficulty occurred in Supreme Court appeal Nos. 3 and 10 of 1942. In the opinion I delivered on 6th June 1942, I observed in para 10:—

Finally, in this connection, in regard to the Watan Act, in the Kolhapur Administration Report for 1939-40, Appendix II, Schedule No. 2, p. 19, item No. 13, runs as follows:—“Huzur order.....Bombay Act III of 1874” and in the column ‘Extent..... etc.’, “This act is followed in spirit only and formally notified in 1888”. With the best desire on the part of the Courts to carry out the wishes of the Legislature, not only in the letter but also in the spirit, I am quite unable, to my regret, to construe the phrase “in the spirit” and indeed to understand how the Act can be applied in the spirit unless it is applied in the letter. Either an Act in any or all of its sections applies or it does not. To apply it in the spirit but not in the letter is beyond the power of the courts. Nor have the learned counsel on both sides been able to clear up this difficulty and my perplexity. In reply to a question from the Court, the Court is informed that the use of words such as ‘spirit’ in the present case, enables the State to apply the Act or not as it suits the interest of the State in each particular case. Such misconstruction of the intentions of the Legislature would be avoided by using clear words intelligible to the average mind.”

(82). It is difficult enough to decide what laws should be framed and their substance. Drafting is by no means a simple matter. Draftsmanship is highly technical work which needs special training. In the provinces it is done by the Remembrancer of Legal Affairs. The State cannot afford such an officer with special qualifications and training; and his duties are, therefore, entrusted to the District Magistrate. Under these circumstances, the State is right in resisting the temptation to which many States succumb. They attempt to have special Acts of their own, even elaborate Acts such as the Code of Civil Procedure. I have found states each with its own Code of Civil Procedure differing very little in essential respect from the British Indian Code of Civil Procedure. This small difference, however, causes a renumbering of the

sections and confusion in references and in arguments. Similarly, with the Indian Penal Code. Kolhapur, I think, is wise in not attempting this delicate task but in being content to take Acts wholly from British India and from Bombay as it does. But where it decides to subtract certain sections they should be expressly stated not to apply in the State; and if there are additions, they should be carefully drafted and added so as to leave no loop-holes and room for doubt or ambiguity.

(83). The Remembrancer of Legal Affairs, the High Court and the Judicial Minister between them must be vigilant to keep themselves in touch with the latest amendments, laws or rules and decide if they should or should not be brought into force in the State. There is at present small care or co-operation in this respect. For instance, the administrative orders for the smooth working of the mechanism of the Courts are contained in the High Court Civil Manuals which have been amended in 1940. In this State, the High Court Manual of 1925 still applies.

84. The broad lines on which my conclusions and my recommendations are based must now be clear. Before I summarise them, the Council will understand that some of them such as for instance that the State should take over the Feudatory Courts and the Police have caused me a great deal of anxious consideration. Without entering more deeply than is necessary into politics, I might state that I have studied the legal position in this as in other questions. Legally, the present judicial administration in the feudatory States is based on Article 8 of the Revised Agreement between the State and the British Government, dated 20th October 1862, together with the Kolhapur State High Court Regulations, dated 31st May 1931, and notifications Nos. 21 and 22 in the Legislative Department of the Prime Minister's office, dated 17th August 1938. That article runs as follows:—

“Article 8. That certain of the higher Jahagirdars, such as the Pratinidhi of Vishalgad, the Pant Amatya of Bowra, the Chiefs of Kagal, Inchalkaranjee, Kapsee, Torgal, the Sarlashkar, Narayan Rao of Kagal, Rama Bai Walwa, Himmat Bahdoor, should be considered as still in some degree

under the supervision of the Political Agent who should act, as far as circumstances will permit, in co-operation with the Rajah's Government; and that all criminal cases within the jurisdiction of these Sirdars, involving death or imprisonment beyond 7 years, should be forwarded for trial before the Political Agent, for submission to Government. The supervision proposed to be retained over these Sirdars, and the guardianship of such of them as may be minors, by the British Government acting in concert with the Rajah, are not intended in any way to infringe the signorial rights of the Rajah, but merely to secure good Government, and to prevent those disputes which in old days were frequently the cause of disturbance and bloodshed."

Eighty years have since elapsed. The rights of each Jahagirdar are derived from the Thali at an investiture from the Ruler at each succession. My recommendations above are expressly made "to secure good Government and to prevent disputes". I do not see that Article 8 necessitates the permanence of the present Feudatory courts or even of the Feudatory police. Under the existing system there is really no control or system. While the High Court has perhaps powers to dispose of appeals and applications in revision from the Feudatory courts, it has no powers of superintendence, control or inspection. The system of serving each summons from the Feudatories to the State Courts or *vice Versè* through the Prime Minister and the Karbhari leads to a great deal of unnecessary delay and corresponding waste of time and energy. Except from the point of view of sanctity, that is permanence of the existing rights, in other words, powers of Jahagirdars, without the corresponding duties which can be enforced, there is nothing to recommend in the present system. The problem, of itself difficult enough, of providing a State with the area of a district with a complete judicial administration upto a High Court, is rendered still more difficult of solution by the alienation of large tracts with large revenues and a separate judiciary and police of their own. The provision of the necessary jails with the separate suitable staff is also impossible for Feudatories, particularly in the light of the tendency of modern penology that criminal sentences should be not only deterrent, but also as far as possible, reformatory. The State will find this difficult. For the Feudatories, it is impossible to have proper jails and jailors.

(85) As a further anomaly, the High Court has no power to transfer suits from the Feudatoris. On the application to His Highness suits may be stayed and inordinately delayed. For instance, according to the Jahagirdar of Ichalkaranji 25 cases from the subordinate courts of Ajra were stayed on application for transfer in the year 1910 and were not set up for the trial till 1931. Similarly, 6 civil suits were stayed in 1930 and are still pending decision. A criminal case of 1931 was called for in 1932 and was not returned for re-trial till 1937. No further instances are necessary to show how adversely litigants are affected by this tussle between the Darbar and the Jahagirdars.

(86) Suits against Government and against officers are not allowed and are unknown in the State. The sooner they are allowed, the better for the State, the administration and the people. They would be the best preventive of unlawful executive interference in civil rights. Two safeguards might, however, be imposed. The first is that no suit shall lie against certain persons such as the Ruler and his lineal descendants and perhaps Feudatories, major and minor, without the sanction of the Council. If it is feared that the Courts would be over-flooded with such suits by reason of frequent executive interference, a period of limitation between three years and twelve years might be fixed as a second safe-guard. In the case of the Feudatories, the right of trial in the Court of the Political Agent might remain, if it is so desired. The Council and the Feudatories might be able to suggest other safe-guards.

(87) I may now sum up. There is great room for improvement in Bar, Bench and establishment. As between the two extreme courses of allowing things to remain or of indiscriminate and general dismissals with fresh appointments of properly qualified persons, I have tried to steer and to recommend a middle course. In regard to establishment, for instance, even, though incompetence is the rule and though the paid establishment puts most of the work on to the shoulders of the so-called candidates, it is difficult for Government to throw adrift a large number of these clerks and to replace them from inside or from outside the State. It is the system which is essentially vicious; to appoint incompetent persons and then to supplement them by a



large number of candidates even worse paid and mostly corrupt and in the result to try and get the work done by incompetent quantity rather than by competent quality. The best practical solution I can suggest is:—

(1) to weed out only the hopelessly incompetent, particularly if there is strong suspicion of corruption;

(2) particularly in the case of the heads of the subordinate establishment, such as the clerk of the court, who is in charge of the judicial work proper, the nazir who is in charge of the accounts and the deputy nazir who is in charge of the minors' estates, to replace them at the earliest opportunity by competent persons, if possible from the State, if not from freshly retired subordinates from British India whose task it must be to train up juniors to take their place after 3-4 years when the imported officers will retire;

(3) To impose a minimum educational qualification such as the matriculation examination for all new entrants; and to institute proper departmental examinations;

(4) to reduce the number of candidates to the minimum necessary for the work till the whole system of candidates is abolished; and

(5) Some candidates could be immediately appointed section-writers and others as licenced petition-writers, only the most senior and the most competent candidates being kept on till they retire.

The process will be definitely more slow than summary dismissals and replacements in large numbers which would, however, dislocate the administration and impose a great deal of hardship on a large number of poor persons and their families.

(88) As for the subordinate judiciary, most of them are young and, therefore, I hope, capable of improvement under proper training and guidance. Unless, therefore, there are strong grounds to suspect corruption, I do not recommend dismissals. On the other hand, where there are such grounds, dismissals are, in my opinion, not merely advisable but also imperative if the

tone of the judiciary is to improve. Except in the grossest cases and where corruption can be proved in a court of law, I do not recommend prosecution. These charges are difficult to prove in a court of law particularly as the person who gives bribes is held, in law, to be an accomplice. On the judicial aspect of the question, the Council will permit me to refer to two reported cases:— (a) Emp. V. G. B. Laghate (1916) 18 Bom. L. R. 266; and (b) Emp. V. J. A. Cama (1927) 29 Bom. L. R. 996. In the former case, I was concerned as the District Judge responsible for detecting the corruption and initiating the prosecution of a senior first class subordinate judge in the Bombay Presidency. In the latter case, I was concerned as a Judge in the High Court in enhancing the sentence on a corrupt Deputy Collector. I only refer to these cases to show on the one hand the difficulty of proving corruption in a court of a law and on the other, that if the evidence is such that it can stand in a court of law, then — *pour encourager les autres* — officers should not escape prosecution.

(89) In my desire to make it as thorough and exhaustive as possible this report is longer than I should have liked it to be. But my task is not merely one of diagnosis and of remedies but also includes explanations and reasons which will, on reflection, carry conviction to the Council and to the Government of India, if need be. Given a decision that a sound judicial administration is necessary and the will to achieve it by steady attention, proper selection and increased pay, there is no reason why Kolhapur should not take its place with States such as Mysore and Baroda in regard to its judicial administration. In regard to the increase of pay, I have again tried to steer clear of extremes as between the present scales of pay in the State and the scale that British India can afford and have made my recommendations after obtaining the necessary figures from other States such as, for instance, Baroda, Indore and lastly, Bhopal, in respect of which last State Sir Joseph Bhore has very kindly supplied me with the necessary particulars and which has about the same revenue as Kolhapur.

(90) The following statement shows the scales of pay of the Bhopal judiciary, civil and criminals:—

	Grade of pay.
1. Judicial Officer, Second Class Munsiffs and Magistrates.	Rs. 150—250
2. Judicial Officers, First Class (Subordinate Judges and Sub-divisional Magistrates)	Rs. 250—300.
3. District Magistrates.	Rs. 300—450.
4. District and Sessions Judge.	Rs. 350—500.
5. Puisne Judges of the High Court.	Rs. 600—800.
6. Chief Justice of the High Court.	Rs. 1,000—1,200.

(91) For Kolhapur, I propose the following scales of pay:—

1. 5 Second Class Subordinate Judges and First Class Magistrates (7) and two City Magistrates.	Rs. 150-10/2-250 Efficiency Bar at Rs. 200/-.
2. Subordinate Judge, First Class, Assistant Judge (and 2 Sub-Divisional Magistrates,) all to be promoted by selection (2)	Rs. 250-10/300.
3. 1 District Magistrate, by Selection (1)	Rs. 300-10-450.
4. District & Sessions Judge, by selection. (1)	Rs. 350-10-500.
5. Puisne Judge of the High Court (1)	Rs. 600-20-800.
6. Chief Justice of the High Court (1)	Rs. 1,000/-.

(92) For the establishment, in the Subordinate courts I propose the following scales:—

Graduates... ..	Rs. 35-2-55-E. B.-55-2-65.
Matriculates ... ..	Rs. 25-2-55-E. B.-55-2-65.
Non-qualified ... ..	Rs. 20-1-30-E. B.-30-½-40.

The Nazir and the Clerk of the Court each in the grade of Rs. 55-5/2-85. The Record keeper and the Deputy Nazir in the grade of Rs. 45-5/2-65. The Registrar, High Court, should be graded with Subordinate Judges and should be taken from their cadre every three or five years. The Nazir, Head Clerk

and the Record keepers in the High Court should be paid from Rs. 10/- to Rs. 20/- more than in the subordinate courts. The pay of bailiffs might be Rs. 15-1/2-20-E. B.-22-1-30, preference being given to those who have passed the Vernacular Final Examination.

(93) My main conclusions and recommendations, summarised, are as follows:—

(1) The State should take over the Feudatory Courts and police, the former to be under the High Court and the latter under the Inspector General of Police with a few necessary changes of jurisdiction, such as for instance, to place the village of Mahagaon and Ajra petha under the jurisdiction of the Subordinate Court at Gadhinglaj.

(2) The Original Side of the High Court and the Puisne Judge on that Side should be abolished.

(3) The scales of pay of the Judiciary and the establishment should be raised as above.

(4) The system of candidates should be gradually abolished leaving (a) the paid establishment, (b) section-writers paid by fees according to the sanctioned scales and (c) licenced petitioner-writers.

(5) The imposition of an educational test such as the matriculation examination for appointments to the establishment and of graduation for officers.

(6) The system of promotions should be by increments, annual or biennial, with an efficiency bar and promotion by selection to the three main posts of the clerk of the court, the Nazir and the Deputy Nazir, in the subordinate courts.

(7) The people of the State should have the first claim on appointments, subject to fitness.

(8) Appointments to the establishment should be as far as possible according to the numbers of the caste in the population of the State. At the

same time, a complete caste monopoly of any one caste is undesirable and some appointments should also be given to the castes in a minority.

(9) These remarks, (7) and (8), above should also hold good in regard to the appointment of the subordinate judiciary.

(10) But where the posts are to be by selection, the principle of caste should not be observed, particularly in the highest offices such as the Chief Justice; if there is a competent Chief Justice to be had within the State and if he is a Maratha, all the better; but ability, not caste, must be the guiding principle and the decisive factor in the choice.

(11) The rules for the preservation and destruction of judicial records prevailing in the Province of Bombay, along with the relevant Act, should be made applicable to the State.

(12) Instead of the present antiquated system of accounts in the courts consisting of day-books and ledgers, the system of accounts and monthly returns to the Accountant General in British India should be adopted so as to enable the public to obtain a refund of deposits due to them.

(13) The adoption of modern forms and returns and registers with insistence on all the columns being filled up.

(14) Importation for a year of a competent subordinate judge and a competent Nazir to sit in each subordinate court and teach the present incumbents the correct method of work. A month's training in British Indian Subordinate Courts would also be useful.

(15) Sanads are at present looked upon partly as a source of revenue and partly as a matter of favour by the State and by the Feudatories and granted to the persons unqualified by attainments or even by character. Each Feudatory grants a Sanad for his particular courts, the Sanad granted by the State or by other Feudatories having no validity in any other courts. The result is that a pleader desiring to practice in all the courts, States and Feudatory, has to take out 10 sanads and to pay an annual fee of Rs. 25/- on each sanad. I recommend that (a) the State alone should have the power to

grant sanads valid for all the Courts including Feudatory Courts, (b) these sanads should be granted only to persons of approved character who have graduated in law, (c) the sanad should be granted for life and during good conduct and should only be liable to be set aside by the High Court for misconduct, (d) the fee, paid once for all, should be Rs. 300/- and (e) the number of sanads to practice in each subordinate court should be limited to the mean between the minimum necessary for the work and the maximum desirable for healthy competition.

(16) Punctuality in attendance, systematic division of work, criminal and civil, in regard to civil work, further sub-division of civil work into (a) uncontested, (b) nominally contested as in suits on bonds and promissory notes which are admitted but time and instalments only are sought for by the defendant, (c) seriously contested suits and lastly (d) execution work, and disposal of work on days set aside for one class or more of work. In short, the value of time, system and method in work by Bar and Bench.

(17) This division into four classes should be shown in the monthly civil returns of disposals of the subordinate courts.

(18) The courts must pay more attention to the convenience of litigants and witnesses by allowing a sufficient number of days for the various stages of litigation sufficient for the necessary purpose such as service and attendance of witnesses so as to avoid the necessity of further adjournments save for exceptional and unavoidable causes.

(19) Prompt and systematic disposal of cases with strict observance of the provisions of the law. Judgment should be delivered within one or two weeks of the arguments. No judge should leave charge of a court unless he has written judgments in all cases in which he has heard arguments.

(20) A harmonious and upto date system of laws applicable to the State, including rules having the force of law as distinguished from Government orders and rules not having such force, in a compact list or form easily available to the public, the Bar and the judiciary.

(21) Abolition of Vat Hukums. In case it is deemed necessary to continue them, the name must be confined to orders issued by the Ruler direct and not by any other officer.

(22) The laws and the High Court circulars to be modernised and a uniform system of laws to be in force for all the Courts, State and Feudatory. At present, though the latest Limitation Act is in force in the State, some of the amendments after 1927 are not yet in force. In some of the Feudatory Courts even the latest Limitation Act or Code of Criminal Procedure is not in force, but the older Act. Similarly, as regards the enforcement of the most recent High Court Manual and Rules under the Code of Civil Procedure made by the High Court. The system of laws must be vigilantly watched and be kept upto date by a body consisting of the Judicial Minister, the Chief Justice and the Remembrancer of Legal Affairs.

(23) The son of the Jahagirdar of Vishalgad who works as a District and Sessions Judge in the Jahagir is the only judge who has small cause powers upto Rs. 5001-. The Subordinate-judges after 3 years might be given small cause powers upto Rs. 50/- to begin with, to be gradually raised according to experience and ability. I hardly think it necessary to have a separate court of small causes for Kolhapur City until the tone of the judiciary has been raised. The important difference is that there is no appeal against a small cause court decree but only a revision for errors of law or judisdiction. At present, only the First Class Subordinate Judge is invested with small cause powers upto Rs. 200/-.

(24) I understand that instead of the former system of all appointments of the establishment by the Prime Minister, a kind of public services commission, consisting of three officers, has just been established in the State. There appears no objection to this commission selecting entrants in the judicial establishment. It would, however, be well to have either the Judicial Minister or the Chief Justice as a Member of the Board for appointment in the judicial establishment. The entrants should be on probation, for 1 year in the case of the establishment and for 2 years of the judiciary, the period to count

for service and pension if confirmed. The judicial officers under whom an establishment works must, however, be able and willing to discriminate without bias between the members of his establishment according to their work and should submit confidential annual reports to the Judicial Minister through the High Court.

(25) Affidavits sworn before the clerk of the court are not at present known but merely verifications, the difference being that no criminal prosecutions lie on the latter as would be the case with affidavits. This might be introduced as in British India.

(26) Executive interference in individual cases must cease and above all the Supreme Court, if it is to continue at all, must not be a synonym for the interference of the Ruler in any particular case. For instance, in Order dated 26th January 1926, published on page 18, Part I, of the Kolhapur Government Gazette, dated 30th January 1926, a creditor, Rao Saheb Ramchandra Raghunath Sabnis, represented to His Highness that he was unable to file suits against his debtors in time and His Highness accordingly ordered that he should be given an extension for three months to file such suits. The notification is signed by the Chief Justice. A similar case of interference in a suit is to be found in the notification on page 17 just before the notification referred to above. It is needless to multiply other instances such as in regular suit No. 6 of 1941 in the First Class Subordinate Judge's Court in which the Prime Minister extended the period of limitation by six months.

(27) Suits against Government and against public officers by the subject in respect of acts performed in their official capacity, the legality of which is sought to be questioned, should be allowed as in British India with such period of limitation as the Council thinks proper. At present, the legal position is not very clear. Sections 79 to 82 of the Code of civil Procedure and order 27 of the Code of Civil Procedure are not in force in the State. But when the Executive desire to take possession of private lands, the Sarsubha is authorised under Legislative Department Notification No. 5 (L. D.), dated 22nd July 1936, to take possession of "lands in respect of which the Khat-



dar has died without making a will, or without *well-known* heirs." There is a proviso for claimants for filing a suit against the Sarsapha within 90 days. The procedure appears to be open to abuse.

(28) The abolition of the Supreme Court on the indispensable condition that the High Court is what it should be. This condition is equally essential for all the the suggestions above including the taking over of the Feudatory Courts.

(29) Law libraries in the subordinate courts must be improved.

(30) There should be a building programme to be carried out in some years according to finances for the provision of suitable buildings for the Courts.

(31) There should be a similar programme for inspection bungalows available to all departments.

(32) The language of the subordinate courts should be Marathi, of the District and Sessions Court both Marathi and English and of the High Court and Supreme Court English only. The last will be to some extent a prudent provision in case of federation among the Southern Maratha States and appeals to the Federal Court.

(33) Whatever the local self-complacence and opposition, which are perfectly intelligible, the temporary importation of officers from British India for the training of the officers in the State is necessary for three or four years. It should be clearly understood that resort to such importation should only be had in cases of absolute necessity and for the shortest possible period necessary. *Ceteris paribus*, preference should be given to Marathas in the narrow as well as the wide sense of Ramdas "मराठा विदुषा मेळनावा।" i. e. persons whose mother tongue is Marathi.

(94) Whatever the view and the action the Council takes, they will agree, I hope, that this report is penned with anxious and careful thought for the interests of the State as a whole and without political or communal bias.

Broad and farsighted statesmanship realises that it is better to set one's house in order and meet just discontents in regard to existing institutions, however hoary, and that at all times and above all, in these critical days, a house divided against itself is dangerous not less than that fatal self-complacency, which is inevitably too late in the matter of reforms. In conclusion, I would emphasize the importance of men as well as of measures.

(95) If, before the conclusion of my judicial work in the Supreme Court, the Council desires any further light or assistance in the subject matter of the report, I need hardly add that I am entirely at the service of Her Highness the Regent and of the Council.

Sd/-G. D. Madgavkar.

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## APPENDIX.

### PART I.

#### LIST OF COURTS IN THE KOLHAPUR STATE.

##### *State Courts.*

- 1 Supreme Court.
- 2 The High Court, Appellate Side.
- 3 The High Court, Original Side.
- 4 The District and Sessions Judge's Court.
- 5 The Court of the First Class Sub-Judge, Assistant Judge and Small Cause Judge. (All these three courts are presided over by the same officer).
- 6 The District Magistrate (He is also the Remembrancer of Legal Affairs).
- 7 The Sub-Divisional Magistrate, N. D.
- 8 The Sub-Divisional Magistrate, S. D.
- 9 The Court of the City Magistrate.
- 10 The First Class Magistrate, Peta Karvir (Honorary).
- 11 The Special City and Peta Magistrate, Karveer.
- 12 The Second Class Sub-Judge's Court.
- 13 The Second Class Magistrate's Court, (Mamlatdar) Peta Karveer.
- 14 The Special Second Class Magistrate's Court, Peta Karveer (Huzur Record Keeper).
- 15 The Third Class Magistrate, Peta Karveer.
- 16 The First Class Magistrate and Additional District Magistrate (Khasgi Karbhari).
- 17 The Second Class Sub-Judge and First Class Magistrate's Court, Gadhinglaj.
- 18 The Second Class Magistrate's Court, Gadhinglaj (Mamlatdar).
- 19 The Third Class Magistrate's Court, Gadhinglaj.
- 20 The Second Class Sub-Judge and First Class Magistrate's Court, Radhanagari.
- 21 The Second Class Magistrate's Court, Radhanagari (Mamlatdar).
- 22 The Third Class Magistrate's Court, Radhanagari.
- 23 The Second Class Sub-Judge and First Class Magistrate's Court, Panhala.
- 24 The Second Class Magistrate's Court, Panhala (Mamlatdar).

- 25 The Third Class Magistrate's Court, Panhala.
- 26 The Second Class Sub-Judge and First Class Magistrate's Court, Shirol.
- 27 The Second Class Magistrate's Court, Shirol ( Mamlatdar ).
- 28 The Third Class Magistrate's Court, Shirol.
- 29 The Second Class Sub-Judge and First Class Magistrate's Court, Hatkanangale.
- 30 The Second Class Magistrate's Court, Hatkanangale ( Mamlatdar ).
- 31 The Third Class Magistrate's Court, Hatkanangale.
- 32 The Second Class Magistrate's Court, Bhudargad ( Mamlatdar ).
- 33 The Third Class Magistrate's Court, Bhudargad.
- 34 The Second Class Sub-Judge and Second Class Magistrate's Court, Raibag ( Mahalkari ).
- 35 The Second Class Sub-Judge and Second Class Magistrate's Court, Katkol ( Mahalkari ).
- 36 The Second Class Sub-Judge and Second Class Magistrate's Court, Shahuwadi ( Mahalkari ).

*Inamdar's Courts.*

- 37 Second Class Sub-Judge and Second Class Magistrate's Court, Gaikwad ( at Karveer ).
- 38 Second Class Sub-Judge and Second Class Magistrate's Court, Chavrekar, ( at Karveer ).
- 39 Second Class Sub-Judge and First Class Magistrate's Court, Kshatra Jagatguru. ( He is also Hon. I Class Magistrate, Shahupuri ).
- 40 Second Class Magistrate, Swami Jagatguru, ( at Karveer ).
- 41 Second Class Sub-Judge and First Class Magistrate's Court, Patankar.
- 42 Second Class Sub-Judge and Second Class Magistrate's Court, Chinchlikar ( at Chinchli ).

*Feudatory Courts.*

- 43 District and Sessions Court, Vishalgad.
- 44 District Magistrate's Court, Vishalgad.
- 45 Second Class Sub-Judge and First Class Magistrate's Court, Vishalgad..
- 46 Third Class Magistrate's Court, Vishalgad.
- 47 Small Causes Court, Mahagaon.
- 48 District and Session's Court, Bavda.
- 49 District Magistrate's Court, Bavda.
- 50 Second Class Sub-Judge and First Class Magistrate's Court, Bavda.
- 51 Second Class Magistrate's Court, Bavda.
- 52 Third Class Magistrate's Court, Bavda.

- 53 District and Assistant Sessions Judge's Court, Kagal Senior.
- 54 District Magistrate's Court, Kagal Senior.
- 55 Second-Class Sub-Judge and First Class Magistrate's Court, Kagal Senior.
- 56 Third Class Magistrate's Court, Kagal Senior.
- 57 District and Sessions Judge's Court, Ichalkaranji.
- 58 District Magistrate's Court, Ichalkaranji.
- 59 Second Class Sub-Judge and First Class Magistrate's Court, Ichalkaranji
60. Second Class Magistrate's Court, Ichalkaranji.
- 61 Third Class Magistrate's Court, Ichalkaranji.
- 62 Second Class Sub-Judge and Second Class Magistrate's Court, Ajra.
- 63 Third Class Magistrate's Court, Ajra.
- 64 First Class Sub-Judge, Assistant Sessions Judge and District Magistrate's Court, Kapshi.
- 65 Second Class Sub-Judge and First Class Magistrate's Court Kapshi.
- 66 First Class Sub-Judge, Assistant Sessions Judge and District Magistrate Torgal.
- 67 First Class Magistrate's Court, Torgal.
- 68 Second Class Sub-Judge's Court, Torgal.
- 69 Second Class Magistrate's Court, Torgal.
- 70 District Judge and Assistant Sessions Judge and District Magistrate's Court Kagal Junior.
- 71 Second Class Sub-Judge and First Class Magistrate's Court, Kagal Junior.
- 72 Second Class Magistrate's Court, Kagal Junior.
- 73 First Class Sub-Judge and Assistant Sessions Judge's Court, Himmat Bahadur. ( He is also District Magistrate ).
- 74 First Class Magistrate and Second Class Sub-Judge, Himmat Bahadur.
- 75 Second Class Magistrate's Court, Himmat Bahadur.
- 76 First Class Sub-Judge, Assistant Sessions Judge and District Magistrate's Court, Sarlashkar Bahadur.
- 77 Second Class Sub-Judge and First Class, Magistrate's Court, Sarlashkar Bahadur.
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