

(1) Number of pages 10

(2) Date of repair 9-6-38

(3) Initials of the Referencer F

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	367	Press
		Mis.
Dated	16-7-	18 61.

40-41

6/6

Not to be folded or roughly handled

17

Proceedings of the Madras Government, Financial Department,
16th July 1861.

No. 40. Read the following letter from JOHN MILLER, Esq., Acting Government Solicitor Madras; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 3rd July 1861, No. 583.

Proceedings of Government in its Financial Department, dated 12th June 1861, No. 294. 1. I have the honor to acknowledge the Proceedings of Government noted in the margin.

2. I have submitted them with especial reference to paragraphs 4, 5 and 6 of the Order of Government above adverted to, for the consideration of the Advocate General, and now forward a copy of his opinion, in which I quite concur especially as any proceedings which Government choose to take might involve them in expense.

—
COPY—OPINION.

The rights of the Crown are in no way immediately concerned in the matter mentioned in paragraphs 4, 5, and 6 of the Order of Government of 12th June 1861, No. 294, Financial Department, therefore I cannot file an ex-officio information, even if grounds for doing so were before me, which is not the case. If any substantial party, able to be responsible to the representative of Streenivassa Pillay for costs, in the event of its appearing that he made a groundless charge, were to lay before me a case of malversation, or misappropriation of the Charity Funds, I should then consider it my duty to file an information at the relation of such party—the only proper and regular way of bringing such a matter before the Court.

At present, I have no grounds before me upon which to move at all in the matter, and though I hope the Supreme Court as at present constituted would act differently from what it did in 1853 in a charity case—*Annasawmy vers. Vadachella*—yet what then occurred is quite sufficient to prevent my interfering in such matters further than I am absolutely obliged to do. In that case Sir C. Rawlinson and Sir W. Burton, neither of whom ever had any experience in Equity till after they came to the Bench, refused to allow any costs to myself or the then Company's Solicitor, Mr. Dale, though we had saved a Charity Fund from being frittered away, and Mr. Dale had actually incurred considerable costs, in taking copies of papers from and paying Fees to the Master in Equity—and though, as well as I recollect, all other parties were given their costs out of the Fund. The costs in that case, which the Court thus refused to allow were as follows:—

	RS.	A.	P.
Fees marked, but not paid, to the Advocate General.....	717	8	0
Fees paid by the Honorable Company's Solicitor to the Registrar..	12	12	0
Fees paid by the Honorable Company's Solicitor to the Master....	1,207	12	0
Fees of the Honorable Company's Solicitor.....	1,361	8	0
	3,299	8	0

(Signed) T. SYDNEY SMYTH,
Advocate General.

1st July 1861.

(True Copy.)

(Signed) JOHN MILLER,
Acting Government Solicitor.

No. 41.

ORDER THEREON, 16th July 1861, No. 367.

To be recorded.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. T. O'Connor.

37
Copy Opinion

The rights of the Crown are in no way immediately concerned in the matter mentioned in Paras 4, 5, and 6 of the Order of Government of 12th June 1861 No 294, Financial Department therefore I cannot file an ex officio Information, even if grounds for doing so were before me, which is not the case. If any substantial party, able to be responsible to the Representative of the Stranvassia Pillay for Costs in the event of its appearing that he made a groundless charge, were to lay before me a Case of malversation, or misappropriation of the Charity Funds I should then consider it my duty to file an Information at the relation of such party - the only proper and regular way of bringing such a matter before the Court.

At present I have no grounds before me upon which to move at all in the matter, and though I hope the Supreme Court as at present constituted would act differently from what it did in 1853 in a Charity Case - Anasawmy vs Vadachella - yet what then occurred is quite sufficient to prevent my interfering in such matters further than I am absolutely obliged to do. In that Case Sir F. Rawlinson and Sir W.

W. Burton, neither of whom ever had any experience in Equity till after they came to the Bench, refused to allow any costs to myself or the then Company's Solicitor Mr. Dale, though we had saved a Charity Fund from being frittered away, and Mr. Dale had actually incurred considerable costs, in taking Copies of Papers from and paying Fees to the Master in Equity — and though, as well as I recollect, all other parties were giving their costs out of the Fund. The costs in that case, which the Court thus refused to allow were as follows

Fees marked, but not paid, to the Advocate General —	717. 8. —
Fees paid by the Honorable Company's Solicitor to the Registrar —	12. 12. —
Fees paid by the Honorable Company's Solicitor to the Master —	1207. 12. —
Fees of the Honorable Company's Solicitor —	1361. 8. —
	<u>3299. 8. —</u>

Signed / J. Sydney Smyth
Advo. Gen.

July 1st 1861.

True Copy /
John Miller
Actg. Gov. Solr

N^o 583.

42

Madras, July 3rd 1861.

From John Miller Esq^{re}
Actg. Government Solicitor - Madras

To J. Pycroft Esq^{re}
Chief Secretary to Government - Madras.
Sir,

Proceedings of Government
in its Financial Depart-
ment dated 12th June 1861.
N^o 294.

1. I have the honor to ac-
knowledge the Proceedings of
Government noted in the margin.
2. I have submitted them with a
special reference to paras 4, 5 and 6 of the
Order of Government above adverted to for
the consideration of the Advocate General
and now forward a Copy of his Opinion, in
which I quite concur especially as any
proceedings which Government choose to
take might involve them in expense.

I have the honor to be,

Sir,

Your most Obedient Servant,
John Miller
Actg. Gov. Sol^r

The Honorable Company
of the Advocate General
Madras

Copied.
Advocate General's Opinion
N^o 583.

Shown
The Actg. Secy to Govt
To the Chief Secy to Govt
Madras.
Dated July 3rd 1861.

72/1/18
N^o 369

No. 12 June/61 No. 31 D 33.

Tril 1861. Sep 15
Have
The Act for abolishing
the Chief Magistrate
to be put in force
in the
provisions

Dated 3rd July
No. 1
No. 583.
No. 369

Forwarded with reference to
proceedings of Government
in the
12th June 1861 No. 294.
Copy advocate General's
opinion on the proceedings
to be taken in the Court.
C. P. Advocate General
at the Honorable Court.

Mr. 29-367-10th July 1861.
To be received
at the

10th July
1861

40041