M.R.O. 14—5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 66 Press ~~Mis.~~

6—8

Dated 20—1— 1857.

Not to be folded or roughly handled

No. 6. Read the following letter from C. M. TEED, Esq., Administrator General ; to T. PYCROFT, Esq., Chief Secretary to Government, dated 12th December 1856, No. 1732.

SIR,

With reference to the Extract from the Minutes of Consultation, dated 13th Ultimo, and para : 11 of the Extract from a letter from the Secretary to the Government of India, dated 22nd October 1856, I have the honor to state for the information of the Right Honorable the Governor in Council, that I do not think the Commission from Estates will on an average of the next two years realize Rupees 1210 monthly, Rupees 710 being the amount calculated by the Auditors on a revised scale as sufficient for the expences of the Establishment, and Rupees 500 being considered as the net profit of the Commission after deducting such expences.

2. From the time I assumed charge of the Office of the Administrator General up to the present, being twenty-two months, I have only in nine separate months realized any thing beyond paying the Establishment, and the largest amount realised was in September last, which was consequent upon the final disposal of an Estate formerly in the custody of the Government Agents and which has since been transferred to Government as an escheat. I annex a return of the Commission and Fees received monthly from 1st February 1855 to 30th November last, as also the expence incurred in the Office, from which it will appear that the Commission received has not been sufficient to pay the expences of the Office, and that a portion of the sum of Company's Rupees 700 lately allowed by Government to the Administrator General is taken for such deficiency.

3. With reference to the para : 13 being an objection to my holding the Office of Administrator General, and that of Master of the Supreme Court, I have the honor to state, that should there be any such Suit as is supposed, as Administrator General, I consider myself liable as a Trustee, and all proceedings in the Office of Master are, on objection by parties concerned, subject to be reviewed by the Judges of the Supreme Court. The same remark is applicable to my taxing Costs.

4. There is not any Estate now under Administration in which could arise a Suit for the Administration of Assets. Any question to arise in distribution, would be a question of Law, and which would be decided by the Judges of the Supreme Court on a special case without Suit, or a reference to the Master. In an Estate where Administration was obtained by a former Registrar, stating Rosa Taynton to be a British Subject, it was on the application for distribution by a party, believing himself interested, discovered that she was a native born (her father and mother being natives of India) and she illegitimate, and died leaving three illegitimate Children : the Party claiming a portion of the Estate agreed upon a special case, which was argued and decided in the Supreme Court, and on the Decree or Order of Court, the distribution is about being made. My interference as Master extended no further than taxing one Bill of the Plaintiff's Solicitor at Rupees 369-14-0, and another at Rupees 178-14-0, whilst my own fee for taxing one Bill amounted to Rupees 10, and the other Rupees 5.

5. The only other Case where proceedings have been taken against myself as Administrator General, is in the Case of Jourdan, who died in 1784, leaving a Will, which was proved by one Executor, and who, on leaving India in the year 1812 or 13, appointed Mr. Ricketts, the then Registrar of the Court, his Attorney or Agent for the Administration of the Estate. Mr. Ricketts obtained sums of money on account of this Estate, paid some persons as Judgment Creditors, and set apart sums as dividends, entered the Creditors in his Accounts "Judgment Creditors." Notwithstanding Mr. Ricketts was acting only as the Agent of the Executor, the Government, under Act I, William IV, Cap. LXXV, paid the amount to which he was proved a Defaulter on this Estate.

6. In 1833 Mr. Cator, administered to this Estate, and obtained from Government the amount awarded, from which he paid further dividends to Creditors, and set aside other sums of money as further dividends for other Creditors.

7. I have been called upon by the representatives of Creditors who have not been paid in full, to make payments to them from the sums so set apart for other Creditors. The questions here involved, are questions of Law ; which, when decided, will enable me to close the Estate without

2. The first point

further interference of the Court. The sums were set apart from the Estate for each Creditor separately, and so it appears by the Accountant General's Book, and was in fact separated from the Estate. It being doubtful if the sums of money so set apart as dividends to admitted Creditors, and not having been claimed, now form a part of the Estate for distribution among other Creditors, I thought this a proper question for the decision of the Supreme Court.

The Suit is not against myself personally, and I have no further interest than in protecting the Estate and myself against several Claims. During the time of my performing the duties of Administrator General, I have not considered it necessary to incur any legal expences for advice, and whilst the Auditors perform their duties, they would of course report to Government any thing which they considered objectionable in the manner in which the duties of the Administrator General's Office are conducted.

AMOUNT *of* COMMISSION *received from* 1*st February* 1855 *to* 30*th November* 1856, *and the amount of Expenses incurred during the same period.*

1855.										
Feby.	Commission received.....	172	11	9	...Amount of expenses..... ...			756	4	0
March	Commission and fees received.	542	12	3	... do			755	12	0
April	Commission received.....	408	15	9	... do			755	12	0
May	Do.	1,053	15	6	... do			741	6	7
June	Do.	1,195	0	3	... do			771	15	2
		3,373	7	6						
	Deduct Commission refunded on Audit.....	2	2	9						
		3,371	4	9				3,781	1	9
July	Commission received.....	364	6	0	... ...	do.	772 0 1			
Augt.	Do.	1,065	0	7	... ...	do.	755 12 0			
Sept.	Do.	853	7	4	... ...	do.	834 5 8			
Octr.	Do.	492	10	4	... ...	do.	804 13 0			
Novr.	Do.	628	8	5	... ...	do.	808 9 1			
Decr.	Do.	893	4	1	... ...	do.	779 7 8			
					4,297 4 9			4,754	15	6
1856.										
Jany.	Commission and fees received.....	907	3	7	... ...	do.	812 13 10			
Feby.	Commission received.....	927	11	3	... ...	do.	789 12 0			
March	Do.	1,103	4	4	... ...	do.	816 1 5			
April	Do.	498	9	2	... ...	do.	800 8 0			
May	Do.	671	11	3	... ...	do.	820 2 9			
June	Do.	523	1	3	... ...	do.	779 11 2			
		4,631	8	10						
	Deduct Commission refunded on Audit.....	37	2	10						
					4,594 6 0			4,819	1	2
July	Commission received.....	221	10	7	... ...	do.	813 15 5			
Augt.	Do.	612	12	10	... ...	do.	889 14 4			
Septr.	Do.	2,031	6	10	... ...	do.	820 5 3			
Octr.	Do.	601	12	3	... ...	do.	793 6 0			
Novr.	Commission and fees received....	284	2	9	... ...	do.	802 9 0			
					3,751 13 3					
					16,014 12 9			4,120	2	2
	Loss.....				1,460 7 8					
					17,475 4 5			17,475	4	5

No. 7. Ordered that the following letter be despatched.

No. 8. From T. PYCROFT, Esq., Chief Secretary to the Government of Fort St. George; to the Secretary to the Government of India, Home Department, dated 15th January 1857, No. 66.

SIR,

I am directed by the Right Honorable the Governor in Council to acknowledge the receipt of your letter of the 22nd October last, in review of the previous correspondence that has passed on the status of the Office of Administrator General at Madras. The Right Honorable the Governor General in Council thinks it objectionable that the appointment of Administrator General and Master in Equity of Her Majesty's Supreme Court should be held by the same person, but requests certain information before passing final orders on the subject.

2. The first point on which explanation has been required, viz. as to the amount at which the Government of Madras have fixed the allowances of the Administrator General will have been already learnt from my letter of 7th October last, in which it was stated that this Government had fixed the amount at 700 Rupees per mensem. This is the complement necessary to raise the new emoluments of the Office to Rupees 1200 per mensem, calculating the Commission on the average of the three years 1853-4-5, but inasmuch as the Commission does not at present equal that average, and indeed barely covers the charges, this amount of Rupees 700 monthly does in fact at present constitute the sole remuneration of the Office. In my letter of 26th April last, it was however suggested that such an arrangement as is above described should be subject to revision at the expiration of three years in reference to the improvement that might be expected to occur in the amount of the Commission, and his Lordship in Council thinks that this should still be done.

Vide Statement appended to Mr. Teed's letter of 12th December 1856.

3. With respect to the further enquiries contained in your letter, I am instructed to state, that the Madras Government are desirous that Mr. Teed should hold both Offices of Administrator General and Master in the Supreme Court permanently, and that they did understand the orders of the Government of India, dated 6th June 1856, as authorizing the arrangement. In my letter of 26th April, para: 11, the continuance of Mr. Teed as Administrator was proposed, it being distinctly premised in the beginning of that para: that he was Master in Equity and that the Judges of Her Majesty's Supreme Court saw no objection to the union of the two Offices. This was recited in para: 2 of Mr. Officiating Under-Secretary Chapman's letter* without, as appeared to this Government, any exception being taken to it. It is true that the salary assigned to the Administrator General in the same letter, or Rupees 1200 per mensem, clear, was more than the Government of Fort Saint George deemed sufficient for the appointment if held *in commendam* with another, but as already explained the manner in which that allowance was calculated did in fact, for the present at least, reduce it very greatly below its nominal amount.

* 6th June 1856.

4. With respect to the questions whether during the time he has held the two Offices together, Mr. Teed has received the full allowances as Administrator General as well as the amount of compensation authorized to be made to him as Master by the Resolution of the Government of India, 31st May last, Mr. Teed has, I am instructed to state, received Rupees 700 as Administrator from the commencement of the present year, as reported in my letter of the 4th August 1856. He has also received, under the sanction of the Government of India above noted, Rupees 8275, arrears of compensation for his losses under Act II of 1850 for the 5 years ending 1st April last. The allowance of Rupees 1545 per annum sanctioned in the same order is not payable until the 1st April next, and inasmuch as the emoluments of any other Office which Mr. Teed may hold together with that of Master are to be applied in reduction or satisfaction of this annual compensation, such compensation in the opinion of this Government will not be payable to him if he be in receipt of an allowance from the Public Treasury as Administrator General.

5. With regard to the Extract of a Despatch from the Honorable Court of Directors which formed an enclosure in your letter, I am desired respectfully to remark, that this Despatch, bears date 19th November 1851, whereas Act VIII of 1855, Section VI, appears to leave it to the

discretion of the Local Government, which Act II of 1850 did not do, to permit the union of the Administrator Generalship with any other Office save that of Ecclesiastical Registrar.

6. His Lordship the Governor General in Council has remarked that there is no good reason for supposing that with the salary fixed upon the basis authorized by the Supreme Government, the emoluments of the Office of Administrator General will not realize Rupees 1200 a month clear, as Act VII of 1855 would not materially affect the amount of Commission after the first year. Conceding that the diminution in the Commission, so far as it has been caused by the operation of the recent Act, will be but temporary, I am nevertheless directed to submit that the Act has now been in operation for nearly two years, but as will be seen from the enclosed Statement submitted by Mr. Teed, the Commission is far from having reached the standard,† on which the compensation sanctioned under date 16th June 1856, was calculated.

‡ 14506 per annum or 1209 per mensem.

7. The Madras Government are not insensible to the objections alluded to in para : 13 of your letter as incident to the union of the Offices of Master and Administrator General. It will however be seen from the annexed letter from Mr. Teed, to whom the Government have referred on the subject, that the occasions to which these objections are likely practically to attach will be rare, and not without remedy.

8. With these observations the Madras Government await the further orders of the Government of India on the question. They deem it however proper to state that they will experience much embarrassment in getting the Office efficiently filled unless by some such arrangement as that which now subsists. It is in their opinion very desirable that the Administrator Generalship should be held by a Lawyer, but in the present state of the profession at Madras, the Government would have much difficulty in finding a Barrister or Solicitor in whom they could have confidence and who would accept the appointment at the present proposed remuneration, if debarred either from holding Office in the Supreme Court or of practising in it. At any rate it would be necessary that the emoluments should be put on such a footing as at once to yield a net income equal to the standard fixed by the Supreme Government, or Rupees 1200 per mensem, and that this should not be left contingent on any future improvement in the Commission.

Rupees 1200 per mensem clear.

9. I am directed to take this opportunity of correcting an error in the marginal note of para : 3 of my letter of the 7th October. The sum of Rupees 158599 being the proceeds of Estates which the Administrator General hoped to make over to the Treasury under Clause LI of the Act was exclusive as the Government have since learnt from Mr. Teed, not inclusive of that (Rupees 115964) already so transferred. Thus the total amount transferred by the close of the year may be expected to be about Rupees 274563.

Jan. P. 17.

Judicial Dep.

No. 66

To

The Secy to the Govt of India

Home Dept.

Sir,

I am directed by the Right Honorable the Governor in Council to acknowledge the receipt of your letter of the 22d October last in reversal of the previous correspondence that has passed on the Status of the Office of Administrator General at Madras. The Right Honorable the Governor General in Council thinks it objectionable that the appointments of Administrator General and Master in Equity of Her Majesty's Supreme Court should be held by the same person but requests certain information before passing final orders on the subject.

2. The first point

on

on which explanation has been required - viz. as to the amount at which the Govt of Madras have fixed the allowances of the Administrator General will have been already learnt from my letter of 7th October last, in which it was stated that this Govt had fixed the amount at 700 Rs per mensem. This is the Compliment necessary to raise the new emoluments of the Office to Rs 1200 per mensem, calculating the Commission on the average of the three years 1853-4-5- but inasmuch as the Commission does not at present equal that average, and indeed barely covers the charges, this amount of Rs 700 monthly does in fact at present constitute the sole remuneration of the Office. In my letter of 26th April last it was however suggested that such an arrangement as is above described should be subject to revision at the expiration of three years in reference to the impronement that might be expected to occur in the amount of the Commission, and his Lordship in Council thinks that this should still be done.

Vide Statement appended to Mr Peel's letter of 12 Dec/56.

3. With respect to the further enquiries contained in your letter, I am instructed to state, that the Madras Govt are desirous that Mr Peel should hold both Offices of Administrator General and Master in the Supreme Court permanently, and that they did under stand the Orders of the Govt of India dated 6th June 1856 as authorizing the arrangements. In my letter of 26th April - para 11 - the continuance of Mr Peel as Administrator, was proposed, it being distinctly premised in the beginning of that para, that he was Master in Equity

and

and that the Judges of Her Majesty's Supreme Court saw no objection to the union of the two Offices. This was recited in para 2 of Mr Off's Under Secretary Chapman's letter* without, as appeared to this Govt, any exception being taken to it. It is true that the salary assigned to the Administrator General in the same letter or Rs 1200 per mensem clear was more than the Govt of Fort St. George deemed sufficient for the appointment if held in commendam with another but as already explained the manner in which that allowance was calculated did in fact, for the present at least, reduce it very greatly below its nominal amount.

4. With respect to the question whether during the time he has held the two Offices together, Mr Sled has received the full allowances

*6th June 1855.

allowances as Administrator General as well as the amount of compensation authorized to be made to him as Master by the Resolution of the Govt of India 31st March last - Mr Sled has, I am instructed to state, received Rs 700 as Administrator from the commencement of the present year as reported in my letter of 11th August 1856. He has also received under the sanction of the Govt of India above noted Rs 8,275 arrears of compensation for his losses under under Act II. 1850 for the 5 years ending 1st April last. The allowance of Rupees 545 per annum sanctioned in the same order is not payable until the 1st April next - and inasmuch as the emoluments of any other Office which Mr Sled may hold together with that of Master are to be applied in reduction or satisfaction of this annual compensation. Such compensation

pensation in the opinion of this Govt will not be payable to him if he be in receipt of an allowance from the Public Treasury as Administrator General.—

5 With regard to the extract of a Despatch from the Honorable Court of Directors which formed an enclosure in your letter, I am desired respectfully to remark, that this Despatch bears date 19th Nov 1851, whereas Act VIII 1855. Sec VI appears to leave it to the discretion of the Local Govt which Act II. 1850 did not so to permit the union of the Administrator Generalship with any other Office save that of Ecclesiastical Registrar.—

6 His Lordship the Governor General in Council has remarked that there is no good reason for supposing that with the salary fixed upon the basis

+ Conceding that the ~~reduction~~ diminution in the Commission, so far as it has been caused by the operation of the recent Act will be but temporary passed 17 Feby 1855

Rs 500 per mensem or 200 per mensem.—

basis authorized by the Supreme Govt the emoluments of the Office of Administrator General will not realize Rs 1200 a month clear as Act VII of 1855 would not materially affect the amount of Commission after the first year. + I am directed to submit that ~~the Council of Administration~~ ~~Government have thought proper to~~ ~~appoint a Commission~~ ~~before the passing of the~~ ~~Act~~ the Act has now been in operation for nearly two years, but as will be seen from the enclosed Statement submitted by Mr Reed the Commission is far from having reached the Standard on which the Compensation sanctioned under date 6th June 1850 was calculated. ~~It will be~~ ~~seen by reference to the~~ ~~Statement that the Commissioner~~ ~~has received~~ as shown in the margin

allowed

~~address a notice accompanied~~
~~by a statement of the Salaries~~
~~Emoluments & Fees attached to~~
~~the several Offices to be~~
~~abolished.~~

7 The Madras Govt are not insensible to the objections alluded to in para 13 of your letter as incident to the union of the Offices of Master and Administration General. It will however be seen from the annexed Extract of a letter from Mr Ted to whom the Govt have referred on the subject, that the occasions to which these objections are likely practically to attach will be rare, and not without remedy.—

8 With these observations the Madras Govt await the further orders of the Govt of India on the question. They deem it however proper to state that they will experience much embarrassment in getting the Office efficiently filled unless by some such arrangement as that which now subsists. It is in their opinion very desirable that the Administrator Generalship should be held by a Lawyer but in the present state of the profession at Madras the Govt would have much difficulty in finding a Barrister or Solicitor in whom they could have confidence and who would accept the appointment on ~~a~~ the present proposed remuneration - if debarred either from holding Office in the Supreme Court or of practising in it. At any rate it would be necessary that the emoluments should be put on such a footing as at once to yield a net income equal to the Standard fixed by the Supreme Govt or Rs 1200 per mensem and that this should not be left contingent on any future improveme

Rs 1200 per mensem clear

improvement of the
Commission. —

9. I am directed to take
this opportunity of cor-
recting an error in the
marginal note of para 3
of my letter of the 7th Oct.
The sum of Rs 158,599
being the proceeds of
estates which the Domini-
-strator General hoped to
make over to the Treasury
under Clause II of the Act
was exclusive as the
Govt have since learnt
from Mr Tod- not inclusive
of that - Rs 115,964 already
so transferred. Thus the
total amount transferred
by the close of the year
may be expected to be
about Rs 274,563. —

Fort St George
15th January 1857

I have &c

Ind Dpt Copy 20 January
Judicial 1857 Depart

No 66

To The Secy: Govt of
India

Ind Dpt to Govt of India
No 26 of 1857
Para 45.-
Respecting Act 5 of 1855 P. 37

R/ 15th Jany/57.
Rep. Cuddo 19th Feb 8/57
Rep. 394 of 17: Mem. Jan 57 - 4:37 1/2
Ex. 223.

45/46