

## MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

|                                                       |                 |
|-------------------------------------------------------|-----------------|
| G.O. No. <i>162</i>                                   | Press           |
| <i>31-32</i>                                          | <del>Mis.</del> |
| Dated <i>2</i> - <i>2</i> - <del>11</del> <i>1888</i> |                 |

Not to be folded or roughly handled

*Fort St. George, Judicial Consultation, 2nd February 1858.*

No. 31. Read the following Extract from the Proceedings of the Right Honorable the Governor General of India in Council, in the Financial Department, under date the 24th November 1857, No. 5186.

Extract from a Despatch from the Honorable the Court of Directors, addressed to the Government of India in the Financial Department, No. 67 of 1857, dated the 16th September.

Letter from in Judicial Department dated 9th February 1857 No. 6.  
Paras. 30 to 34. Mr. Serle Registrar and Prothonotary of the Supreme Court at Madras, having memorialised, complaining of the reduction of his emoluments (which were derived entirely from fees) in consequence of the operation of certain Acts of the Legislature Nos. IX of 1850, VI of 1854 and VII of 1855 and praying first for compensation for past losses and secondly to be placed on the same footing as the Registrar and Prothonotary of the Calcutta Supreme Court who receives a fixed salary, it was observed that there was no information before the Government to show the conditions upon which Mr. Serle received his appointment, but that if the Government of Madras after enquiry should consider that Mr. Serle was entitled to compensation, he should be called upon for a detailed estimate of his losses. As regards Mr. Serle's second request, if the Government of Madras would submit such a scheme for payment by fixed salary, as would not occasion loss to the State, prompt effect would be given to it.

Para: 5. If Mr. Serle substantiates his claim to the satisfaction of the Government of Madras, we are prepared to authorize the grant to him of compensation computed on the principle which has

been recently applied in the cases of Mr. Orme, Examiner in Equity, and Mr. Teed, Master of the Supreme Court at Madras.

6. We concur in opinion that it would be desirable to remunerate the Registrar of the Supreme Court at Madras by a fixed salary, provided this can be effected without entailing a charge upon the Government.

ORDER.—Ordered that a copy of the above paras: be forwarded to the Home Department with reference to the paras: of the Despatch from that Department in the Judicial branch to which they refer.

(A true Extract.)

(Signed) C. HUGH LUSHINGTON,  
*Secretary to the Government of India.*

No. 3023.

Copy of the foregoing forwarded to the Government of Fort St. George with reference to their letter No. 651, dated the 19th June 1856.

By order.

Fort William, Home Department, }  
The 18th December 1857. }

(Signed) J. W. DALRYMPLE,  
*Under Secy. to the Govt. of India.*

No. 32. ORDER THEREON, No. 162; dated 2nd February 1858.

1. With the above communication, the Government of India forward copy of an Extract from a Despatch from the Honorable the Court of Directors, stating, in reply to the Memorial from Mr. Serle, Registrar and Prothonotary of the Supreme Court, that they are prepared to authorize the grant to him of compensation for losses under the operation of Acts IX of 1850, VI of 1854 and VII of 1855, on the same principle as that applied to the cases of Mr. Orme, the Examiner in Equity and Mr. Teed, the Master, if he substantiates his claim, to the satisfaction of this Government. The Court also think it desirable to remunerate the Registrar by a fixed salary, provided it can be effected without entailing a charge on Government.

Letter from Chief Justice, 6th  
November 1856.

2. In reply to the reference made to him on the point, his Honor the Chief Justice has stated that he does not think that Mr. Serle was appointed to the Offices of Registrar and Prothonotary on the contingency of his being subjected to such losses as those complained of in his Memorial, but only as Sir C. Rawlinson is informed to such changes as might be made in the distribution of the Officers of the Supreme Court, and to his being paid an adequate salary in the event of the system of the remuneration by fees being abolished. Under these circumstances, the Right Honorable the Governor in Council is of opinion that Mr. Serle is entitled to compensation on account of his losses.

3. From the statements submitted with his letter of 2nd March 1857, it is observed, that Mr. Serle's net income for the five years preceding the passing of Act IX of 1850 averaged, in round numbers, Rupees 20,649 per annum, and for the subsequent five years Rupees 12,477. The yearly average of loss is Rupees 8,172, and the compensation to be paid him annually on this account, according to the principle laid down by the Honorable Court, is Rupees 4,036 per

*Crammer*

*Fort St. George, Judicial Consultation, 2nd February 1858.*

annum, or Rupees 340-8 per mensem, being a moiety of the former sum. This will be disbursed to him from the commencement of the current year.

4. As only four years have elapsed since the passing of Act VI of 1854, His Lordship in Council considers it sufficient to accept as the basis of the compensation to be awarded Mr. Serle, for his losses under this Act, the average of his emoluments for that period. He will be accordingly called upon to furnish a statement of his net income for the year ending January 1858, a return for the three preceding years having been furnished with his letter of 2nd March last.

5. Mr. Serle has not submitted a statement of his net income prior to the introduction of the changes in practice occasioned by Act VII of 1855, and he stated that he was unable to furnish any analogous return of the losses incurred since the Act was passed. "Indeed," he remarked in his letter to the Chief Justice which accompanied his letter to Government of 2nd March 1857, "I only referred to this Act for the sake of shewing that the Legislature was so continually passing Acts which had a direct tendency to injure me in my emoluments as Registrar and Prothonotary, that in time such offices would become perfectly untenable, by any one compensated alone by fees." It is presumed therefore that Mr. Serle is not in a condition to establish by returns of losses his claim to compensation under the operation of this Act.

6. The annual compensation to be awarded to Mr. Serle will, it is to be clearly understood, be subject, as was that granted to Messrs. Orme and Teed, to three conditions. It is to be paid (1) so long only as Mr. Serle remains in India, (2) holds his present office of Registrar and Prothonotary in the Supreme Court, and (3) the emoluments of any other office that he may hold together with those of Registrar and Prothonotary are to be applied in reduction or satisfaction of it.

7. Adverting to para. 6 of the Court's Despatch, it is remarked that the views of this Government on the remuneration of the Registrar of the Supreme Court by fixed salary instead of fees were submitted to the Government of India in a letter dated 18th March, and that the subject was reported to the Honorable Court by the Government in their Judicial Despatch 9th July 1857, No. 16, paras. 32, 33.

(Signed) T. PYCROFT,  
Chief Secretary.

*Memo.*

*The extract from the Court's despatch —*  
*sent to this for by the Govt of India in*  
*reference to our letter of 19 June 1856 w<sup>h</sup>*  
*transmitted Mr. Serle's original*  
*claim — says, that if Mr. Serle*  
*states his claim to the satisfaction of*  
*the spirit of the Act, the Court are prepa<sup>re</sup>*  
*— and to authorize the payment to him*  
*of compensation computed on the*  
*principle recently adopted in the*  
*cases of Mr. Teed & Mr. Orme —*  
*I conclude that from the tenor*

of this extent and the way in which  
it has been sent to us by the Supreme

for that if we are satisfied that  
Mr. S. has made good his claim we  
may grant the compensation at once  
prospectively and that no further  
reference to the Court is necessary -

I say prospectively because  
it will be seen from the Court's Despatches  
11 March, & 14 July 1857  
that they objected to the payment of such  
compensation retrospectively (on what  
principle it is not easy to say that will  
not equally apply to its prospective payment)

and have assumed this for paying  
to Mr. S. his arrears, at the order  
of the executive authority of the Govt of India.

I have therefore said nothing  
about arrears in this draft - If  
the Court claims them the matter  
must be referred for the decision  
of the Court.

26/1/58

3  
Judicial Department

No 102

Extract from the Minutes of Consultation  
Dated 2<sup>d</sup> February 1858. —

Read the following letter  
from the Under Secretary to the  
Government of India:—

(Minutes 18<sup>th</sup> Decr/57 p. 2023)

With the above com-  
munication the Government  
of India forward copy of an  
Extract from a Despatch  
from the Honble the Court  
of Directors, stating, in re-  
ply to the Memorial from  
Mr. John Registrar and  
Prothonotary of the Su-  
preme Court, — that they  
are prepared to authorize  
the grant to him of com-  
pensation for losses under  
the operation of Act IX of  
1850, VI of 1854 and VII  
of 1855, on the same prin-  
ciple as that applied to  
the cases of Mr. Orme, the  
Examiner

At  
No  
will

Examiner in Equity and Mr. Teed, the Master, if he substantiates his claim to the satisfaction of this Government - The Court also think it desirable to remunerate the Registrar by a fixed salary, provided it can be effected without entailing a charge on Government.

2. - In reply to the reference made to him on the point, his Honor the Chief Justice has stated that he does not think that Mr. Serle was appointed to the Office of Registrar and Prothonotary on the contingency of his being subjected to such losses as those complained of in his Memorial, but only as Sir C. Robinson is informed, to such changes as might be made in the distribution of the Offices of the Supreme Court, and to his being paid an adequate salary in the event of the system of the remuneration by fees being abolished - Under these circumstances

circumstances, the Right Honorable the Governor in Council is of opinion that Mr. Serle is entitled to the compensation on account of his losses.

3. - From the Statement submitted with his letter of 2<sup>d</sup> March 1857, it is observed that Mr. Serle's net income for the five years preceding the passing of Act IX of 1850 averaged, in round numbers, Rupees 20,649 per annum, and for the subsequent five years Rupees 12,477. - The yearly average of loss is Rupees 8,172, and the compensation to be paid him annually on this account, according to the principle laid down by the Honble. Court, is Rupees 4,086 <sup>per annum</sup> or Rupees 340-8-0 per mensem, being a moiety of the former sum. This will be disbursed to him from the commencement of the current year.

4. - As only four years have elapsed since the passing

Letter from Chief Justice  
6<sup>th</sup> Nov<sup>r</sup> 1856.

passing of Act VI of 1854,  
His Lordship in council con-  
siders it sufficient to accept  
as the basis of the compen-  
sation to be awarded Mr.  
Serle, for his losses under this  
Act, the average of his emolu-  
ments for that period. He  
will be accordingly called upon  
to furnish a statement of  
his net income for the year  
ending January 1858, a return  
for the three preceding years  
having been furnished with  
his letter of 2<sup>nd</sup> March last.

5.— Mr. Serle has  
not submitted a statement  
of his net income prior to the  
introduction of the changes in  
Practice occasioned by Act  
VII of 1855, and he stated  
that he was unable to fur-  
nish any analogous return  
of the losses incurred since  
the Act was passed. Indeed  
he remarked in his letter to  
the Chief Justice which ac-  
companied his letter to Go-  
vernment of 2<sup>nd</sup> March  
1857, "I only referred to this

Act

Act for the sake of showing  
that the Legislature was so  
continually passing Acts which  
had a direct tendency to in-  
jure me in my emoluments  
as Registrar and Prothonotary,  
that in time such officers  
would become perfectly un-  
tenable by any one compen-  
sated alone by fees. It is  
presumed therefore that  
Mr. Serle is not in a condi-  
tion to establish by returns  
of losses his claim to com-  
pensation under the operation  
of this Act.

6.— The annual com-  
pensation to be awarded  
to Mr. Serle will, it is to  
be clearly understood, be  
subject, as was that granted  
to Messrs. Orme and Feed,  
to ~~these~~ <sup>the</sup> conditions. It is  
to be paid (1) so long <sup>only</sup> as Mr.  
Serle remains in India (2)  
holds his present office of  
Registrar and Prothonotary  
in the Supreme Court, and  
(3) the emoluments of any  
other office that he may  
hold

8/18/58  
22-8  
19-11-58  
24-10-58  
hold together with those of  
Registrar and Prothonotary  
are to be applied in reduction  
or satisfaction of it. —

7. Adverting to para.  
6 of the Court's despatch, it  
is remarked that the views  
of this Government on the  
remuneration of the Registrar  
of the Supreme Court by  
fixed salary instead of fees  
were submitted to the Govt.  
of India in a letter dated  
18<sup>th</sup> March, and that the  
subject was reported to the  
Honorable Court by the  
Government in their Judicial  
Despatch 9<sup>th</sup> July 1857 at  
16 para. 32.33. —

Copies to Mr. Serle, Registrar  
and Prothonotary of the  
Supreme Court. —

Officer of account & Audit

JF  
Dispt. 9<sup>th</sup>

W. H. Hall