M.R.O. 1—20,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1672 Press
~~Mis.~~

27-28-29

Dated 15—12— ~~19~~ 1859

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, for the month of December 1859.

No. 27. Read the following letter from W. GREY, Esq., Secretary to the Government of India; to T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, dated Fort William, 21st November 1859, No. 2320.

Home Department.
Judicial.

I am directed by the President in Council to forward the accompanying Extract paragraphs 42 to 45 from a paper submitted by the Advocate General of Calcutta, and to request that His Excellency the Governor in Council will be so good as to report, after obtaining the opinion of the Judges of the Supreme Court, whether an arrangement such as that proposed by Mr. Ritchie in regard to ordinary Criminal cases tried by the Supreme Courts is required and would be likely to prove beneficial at Madras, and what would be the probable annual cost incurred by its adoption.

Extract paragraphs 42 to 45 from a paper submitted by the Advocate General of Calcutta, dated 6th May 1859.

42. Again a complaint has sometimes been made by some of the Judges that there is in ordinary cases no Counsel to conduct prosecutions, but that they have themselves to examine the witnesses and conduct the case, which is always an undesirable position for a Judge.

43. I do not think this duty can be properly cast in every case or even in the majority of cases on the present standing Counsel upon the scale of remuneration which he now receives, he being a gentleman in large private practice who probably would not have accepted office if he had been apprised that this additional duty would be required from him. But I think that this duty may fairly be added to the other duties of the office when a vacancy shall take place.

44. I think that in the meantime, and perhaps even permanently, this difficulty may be obviated, by the Government sanctioning the practice of the Judge directing the Clerk of the Crown to procure the attendance of some of the Junior Counsel to conduct such prosecutions as the presiding Judge may think should be entrusted to Counsel, and to pay moderate fees for such attendance out of the Fine Fund, the surplus of which belongs to the Government.

45. The present standing Counsel, has expressed his willingness to relinquish a portion of his official salary, if by so doing he could facilitate a change that may be thought beneficial for the public, he being in that case relieved from the duty of prosecuting except in cases in which he is expressly desired to attend on behalf of Government. By these means, the amount which Government would actually lose out of the Fine Fund, by such an arrangement would not be very great.

(True Extract.)

(Signed) W. GREY,
Secretary to the Government of India.

No. 28. ORDER THEREON, 15th December 1859, No. 1672.

Resolved accordingly that the opinion of the Judges of the Supreme Court be obtained on the subject of the above communication.

2. In the Order of the 1st July last, No. 901, Government referred for the consideration of the Judicial Commission a letter, 21st June last, from the Advocate General on the question of appointing a Public Prosecutor, or authorizing the Clerk of the Crown to instruct Counsel for the prosecution in all cases where none have been retained, and, whenever necessary, to employ an Attorney also at the public expense. Government are now desirous of learning the views of the Commission on Mr. Smyth's proposals.

3. The Accountant General is requested to submit a Statement, in continuation of that furnished with his Memorandum of the 2nd June 1853, showing what further additions have been

made to the "Fines Fund," what sums have been paid out of it as costs of prosecutions, and the present state of the Fund.

(Signed) T. PYCROFT,
Chief Secretary.

No. 29. To the Honorable the Judges of Her Majesty's Supreme Court of Judicature, at Madras; dated Fort St. George, 15th December 1859, No. 1673.

We have the honor to forward to you copy of a letter, 21st Ultimo, No. 2320 from the Government of India, together with copy of its enclosure, and request to be favored with your opinion, whether an arrangement such as that proposed by the Advocate General of Calcutta in regard to ordinary Criminal cases tried by the Supreme Court is required and would be likely to prove beneficial, and what would be the probable expense incurred by its adoption.

(Signed) C. E. TREVELYAN,
(,,) PAT. GRANT,
(,,) W. A. MOREHEAD,
(,,) E. MALTBY.

Exd. S. T. Augustin.

Judicial. 2

Proceedings of the Madras Govt.

Read letter from the Govt. of India ——— Enter 21st Novr. 1859 No. 2320.

Order 15th December 1859. No 1672.

Resolved accordingly that the opinions of the Judges of the Supreme Court be obtained on the subject of the above communication.

2. In the order of the 1st July last. No. 901, Govt. referred for the consideration of the Judicial Commissioner a letter, 21st June last, from the Advocate General on the question of appointing a Public Prosecutor, or authorizing the Clerk of the Crown to instruct Counsel for the prosecution in all cases where none have been retained

retained, &, whenever necessary, to employ an Attorney also at the public expense. Govt. are now desirous of learning the views of the Commission on Mr. Sgunthi's proposals

3. The Accountant General is requested to submit a Statement, in continuation of that furnished with his Memorandum of the 2nd June 1853, showing what further additions have been made to the "Fines Fund" — what sums have been paid out of it as costs of prosecutions — & the present state of the Fund.

The Judicial Commission
" Accountant General. } Disp'd 19th
" Advocate General — for information. Disp'd 19th

Disp'd 19th Mch.

Judicial.

No. 1673.

The Hon'ble the Judges of H.M.'s Supreme Court of Judicature.

Hon'ble Sirs —

We have the honor to forward to you copy of a letter, 21st Ult. No. 2320 from the Govt. of India, together with copy of its enclosure, & request to be favored with your opinion, whether an arrangement such as that proposed by the Advocate General of Calcutta in regard to ordinary Criminal Cases tried by the Supreme Court is required & would be likely to prove beneficial, & what would be the probable expense incurred by its adoption.

We &c.
F. & St. George,
15th December, 1859.

Rec'd 23 Dec 57.

Pris of Gt 20 Decr

Judicial 1857 Dept

Indt Letter to Engr 22d June
& 22 of 1860. —

№ 1673

To The Honble Judges
of H Mis Supreme
Court.

Dated 15 Decr 57

Fe № 714/60 } Pris 29th Feb 60
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" 491 " } Lodged
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