M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 136 Press ~~Mis.~~

193-194

Dated 30 : 1 : 1882 ~~19~~ .

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 30th January 1862.

No. 193. Read the following Proceedings of Government in the Revenue Department, dated 20th January 1862, No. 81.

Referring for consideration in the Judicial Department, paragraph 12 *of Mr. Dale's letter to the Secretary of State, dated* 14*th instant, in the latter part of which is urged the advisability of obtaining a properly qualified class of men as Government Vakils in the Mofussil Courts.*

(Vide Proceedings Revenue Department, dated 20th January 1862, Nos. 162 and 163.)

Extract from a letter from the Government Pleader to the address of the Secretary of State, dated 14th January 1862.

It could not fairly be argued, that although the Collector had been so constantly shifted, yet that the establishment whose peculiar duty it was to be acquainted with the records of the office has not been changed, or that the defendant was represented by a Vakeel, for to those acquainted with such functionaries it is well known, that unless under energetic supervision, much dependence cannot be placed on the establishment of Collectors for getting up evidence in suits of this nature, probably not so much (as a general rule) from want of zeal or natural acuteness as from lack of knowledge of the quality of the information which should be sought for; and of proper direction in that respect. This doubtless *ought* to be to a considerable extent supplied by the Vakeel, but unfortunately the acquirements of the general run of Vakeels who practice in Mofussil Courts is not of a quality to enable them to afford much assistance in that respect, and it is owing to this that many of the Government suits miscarry, as in point of fact the conduct of the suits devolve on the Collectors, who can scarcely be expected to be very *au fait* at the work; and before quitting this part of the subject, I consider it my duty to remark, that I firmly believe Government would be gainers if they could obtain a properly qualified class of men as their Vakeels in the Mofussil Courts, even though they paid higher for their services with the new system, which it is understood will be introduced into the Judicial branch of the service; this might probably be thought worthy of consideration; I entertain no doubt if inducements were held out to qualified men to accept the office of Government Vakeel in the Mofussil, most beneficial effects would shortly accrue, not only by getting the work of Government better performed, but by giving Government a large class of efficient Advocates from which to select for the Bench.

(True Extract.)

(Signed) C. G. MASTER,
Deputy Secretary to Government.

No. 194. ORDER THEREON, 30th January 1862, No. 136.
Referred to the Sudder Court.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Extract from a letter from the Government Reader to the address of the Secretary of State dated 14th January 1862.

Para 12 In paras 4 to 7 of the Petition to Her Majesty, reference is made to an Order passed by the Civil Judge on the 14th of February 1859, declining to take Evidence which the then Collector was prepared to tender. It may therefore be convenient here to detail the Circumstances relating to the Conduct of the suit; The Plaint was filed on the 2nd January 1856, the Answers on the 14th and 26th March, the replication on the 26th April, and the Rejoinders on the 12th June 1856, At those dates Mr. Parker

was

was the Collector and he prepared the answer of the Collector and Rejoinder; He had been many years in the District, and in addition to being an active energetic Man, was extremely intelligent; was thoroughly acquainted with the District, the Customs prevailing in that part of India, and with the records of his Office, It will be observed that issue was joined on the 19th June 1856, The points however were not given till the 13th July 1857, This very great delay has not been accounted for, but doubtless to such delay may be attributed the miscarriage of the suit so far as the non production

non production of evidence is concerned, for Mr. Parker remained in the District till October 1856 and if the points had been given in the 4 months which intervened between the joining of issue and Mr. Parker's departure, I feel confident the evidence which would have been adduced on behalf of Government would have been of a very different character from that which was adduced. In October 1856 however, the late Mr. R. Sullivan was appointed to act as Collector of the District during Mr. Parker's absence, Mr. Sullivan was then suffering from indisposition

indisposition of so severe a character as must have greatly weakened his powers, and would have been likely to interfere prejudicially, with his entering upon a laborious Examination of this case, and the records of his Office bearing on the points in issue, even had he been naturally of an active energetic turn of mind, and had professed an aptitude for business of this nature, However the fact is that the points were given on the 13th of July 1857; That on the 25th of the same month, Mr Sullivan filed the 2 Exhibits Nos 1 and 2; but failed to tender any other evidence, - Thus matters

matters stood, so far as this suit was concerned, until February 1859; in the interval however the following changes in the Office of Collector occurred; — Mr Sullivans state of health rendered his removal from India necessary, and on the 17th of October 1857 he obtained leave of absence, delivering over charge of the District on the 21st of that month; On the 30th Mr Hathaway was appointed to act, and assumed charge on the 11th November; On the 10th of November Mr Sullivan obtained leave to proceed to England, where he died on the 6th of February 1858. About the latter date Mr Parker returned to the District, but was there only about a month, Mr Hathaway having been reappointed to act on the 30th of March 1858: He however only remained in the District a few months, for on the 22d of October 1858 Mr Clarke took charge of the District from him: I believe Mr Sullivan, as also —

Mr

not fairly be argued, that although the Collectors had been so constantly shifted, yet that the Establishment whose peculiar duty it was to be acquainted with the records of the office had not been changed, or that the defendant was represented by a Vakeel for to those acquainted with such functionaries it is well known, that unless under energetic supervision, much dependence cannot be placed on the Establishment of Collectors for getting up evidence in suits of this nature, probably not so much as a general rule, from want of zeal or natural carelessness proceeding from lack of knowledge

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of the quality of the information which should be sought for; and of proper direction in that respect: This doubtless ought to be to a considerable extent supplied by the Vakeel, but unfortunately the acquirements of the general run of Vakeels who practice in Inoperpal Courts is not of a quality to enable them to afford much assistance in that respect, and it is owing to this that many of the Government suits miscarry, as in point of facts the conduct of the suits devolve on the Collectors, who can scarcely be expected to be very au fait at the work; and before quitting this part of the subject I consider it my duty to remark, that I firmly believe Government would be gainers if they could obtain a properly qualified class of men as their Vakeels in the Inoperpal Courts, even though they paid higher for the services with the new system, which it is understood

understood will be introduced into the Judicial branch of the services, this might probably be thought worthy of Consideration. I entertain no doubt if inducements were held out to qualified men to accept the office of Government Vakeel in the Mofussil, most beneficial effects would shortly accrue, not only by getting the work of Government better performed, but by giving Government a large class of efficient Advocates from which to select for the Bench.

(True Extract)

C Masters

Dy Secy to Govt

REVENUE DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from CLEMENT DALE, Esq., Government Pleader, Sudder Adálat, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 14th January 1862, No. 8:—

SIR,

Proceedings of Government, 25th January 1861, No. 181, Revenue Department. Letter from Government Pleader, to Secretary to Government, 1st March 1861, No. 39.

With reference to the Proceedings of Government, and my letter, under the dates and numbers noted in the margin, the former authorizing an Appeal to Her Majesty in Council against the Decree passed by the Court of Sudder Adálat in A. S. No. 140 of 1859, I now do myself the honor of enclosing for transmission to England a letter, I have addressed to the Right Honorable the Secretary of State for India in Council, under date the 14th instant, No. 7, as directed by the Despatch of the late Court of Directors of the East India Company, dated the 28th March 1855, No. 3.

ORDER THEREON, 20th January 1862, No. 81.

1. Ordered to be forwarded to the Secretary of State.

2. Paragraph 12 of Mr. Dale's letter to the Secretary of State, in the latter part of which that gentleman urges the advisability of obtaining a properly qualified class of men as Government Vakils in the Mofussil Courts, will be referred to the Judicial Department for consideration.

(True Extract.)

J. D. Sim

Secretary to Government.

To the Government Pleader.
" Board of Revenue.
" Judicial Department.

Exd. S. T. Augustin.

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No 133.

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Judicial 1862 Dept

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Prov: Sylvt in the
Rev: Dt 81.

Nº 136 30th January 1862

Referred to the Sudder
Court.

J.P.

Sf 20th
Rf 22nd 3 Jany 62

Encl 1 Pet
Same Cause
Nº 133

Referring for consideration in the Sudr Dt Para 12 of Mr Forbes's letter to the Secy of State of 14th Inst in the latter part of which he urges the advisability of obtaining a properly qualified class of men as Sirkl Vakils in the Mofussil Courts.

193 v 194

With an Order.

The Sudder Court, 3 desp 30th