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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1433 Press
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Dated 1.9.1862 ~~19~~

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
1st September 1862.

No. 5. Read the following letter from CLEMENT DALE, Esq., Government Pleader; to the Honorable THOMAS PYCROFT, Chief Secretary to Government, Fort Saint George, dated 28th August 1862, No. 132.

Para. 1. In continuation of the letter which I had the honor to address to you under date the 20th instant and Nod. 127, I now do myself the honor of stating, for the information of the Honorable the Governor in Council, that in penning that letter I was under the impression, that for the present the practitioners were to be allowed to proceed in the High Court, when sitting in the exercise of its appellate jurisdiction, in the same manner and on the same footing as they had been allowed to practice in the late Sudder Court; I now find however I was mistaken, and that the Court requires that a Barrister should either enrol himself as a Vakeel of the Court, or that he should receive his instructions from an Attorney.

2. As regards the first course, a Barrister by enrolling himself as a Vakeel loses, on that side of the Court, his status as a Barrister; and every Vakeel whose Sunnud in the late Sudder is dated prior to his own admission, will take precedence of him; moreover it is not yet settled from what time such Barrister Vakeel (if I may so term him) is to be allowed to count with reference to the question of precedence.

3. Indeed an opinion prevails with some, that if a Barrister voluntarily enrolls himself amongst the Vakeels, a grade admitted to be inferior to that of Barrister, and his conduct were brought to the notice of the Inn of Court of which he is a Member, he renders himself liable to be disbarred by the Bench. I am aware that a contrary opinion prevails, but it is mere matter of opinion at present, and it is not possible to say which might ultimately prevail if the question were raised.

4. The practice is at present so unsettled, it is not possible to form a very decided opinion as to the proper course to be pursued, but as at present advised, I do not consider it would be for the interests of Government that I should enrol myself as a Vakeel.

5. Probably His Excellency in Council may wish to have the opinion of Mr. Advocate General on this portion of the subject, as well as on that which caused my letter of the 20th instant; and it may be desired that I should offer such suggestions as occur to my mind, as to the course best to be pursued; I therefore submit, for the consideration of His Excellency, that in the Warrant suggested in paragraph 12 of my former letter, the appointment of Mr. Miller, as Attorney and Pleader should be in general terms, by omitting the words "exercising its original jurisdiction."

6. If this suggestion be adopted, the effect will be, that Mr. Miller will be appointed the Attorney and Vakeel of the Government in the High Court on all sides of its jurisdiction; while Mr. Advocate General, under instructions from Mr. Miller, would appear and plead for the Government before the High Court when sitting in the exercise of its original jurisdiction; and I should, under similar instructions, appear and plead for Government when the Court was sitting in the exercise of its appellate jurisdiction in disposing of appeals from decrees pronounced by Subordinate Courts; and so far as the duties of Mr. Advocate General and myself were concerned, no alteration would be made.

7. But now it should be considered how such an alteration would affect Mr. Miller, and I would premise this part of my remarks, by the surmise that consequent on the amalgamation of the late Courts, some arrangement will be required to be made by Government on the subject of their Law Officers, when doubtless the several duties to be performed by each will have to be defined; any measure therefore now adopted may be considered as merely temporary, and for the guidance of His Excellency in Council, I should state, that in all cases now pending I am in possession of full instructions for my guidance, that consequently all that Mr. Miller would have to do in those cases, would be to file in Court an appointment by Government under the 18th Section of the Civil Procedure Act; then to receive from me the papers in those suits, and, after putting his name at the foot as the Attorney for Government, returning them to me (which would fully satisfy the requirements of the Court) and when a decree is pronounced Mr. Miller would have to obtain from the Court a copy thereof, and forward it to the Board of Revenue.

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altering that practice; I think therefore I may safely say that until
ments are completed, if my suggestion be adopted Mr. Miller would have no
han to file an Order of Government under the 18th Section of Act No. 8

the decree being pronounced to obtain a copy and forward it to the Board, a
of cases I should not require any assistance from the Government Solicitor

have reason to believe
from Saturday last, to allow time

ORDER THEREOF, 100 September 10, 1900.

forwarded to the Advocate General and the Government Solicitor, in
of the 28th ultimo, No. 1,395.

(Signed) T. PYCH

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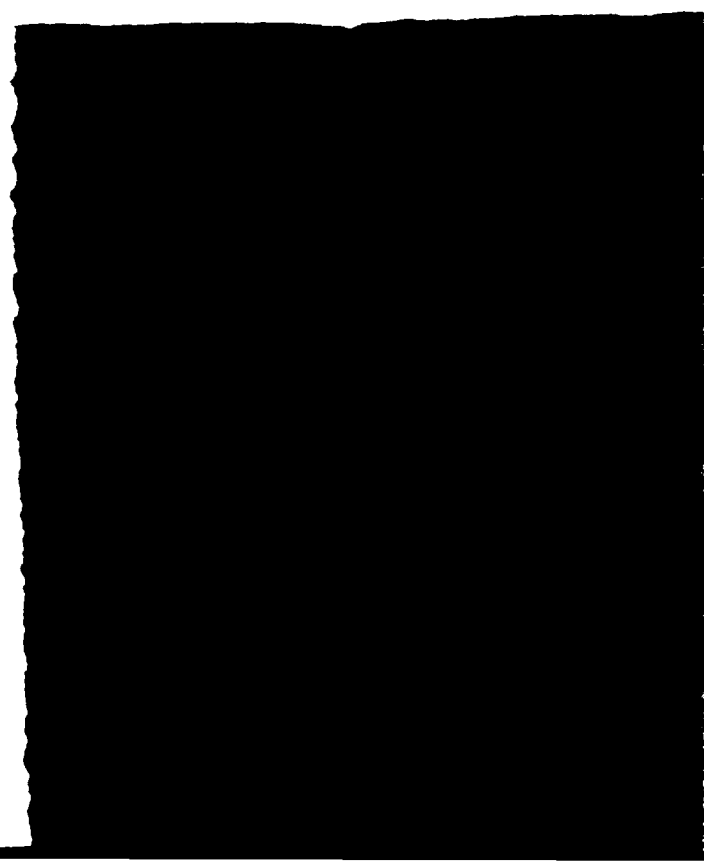
N^o: 1433-1 Sept 1862

Referred to the Advocate Genl. & ^{the} Govt.
Solicitor, in continuation
of the Order of
the 28th ulto. N^o: 1395.

JP

The Advocate Genl. }
" Govt. Solicitor. }
" Govt. Pleader. }

Despatch



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When I can find that I have
done so much for the good of the
world I shall feel that I have
the very best of the world for making
the best of the world.

Yours,

Your obedient servant

Wm. Lloyd Garrison

For the cause of the poor