M.R.O. 1—28,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 189-90 Press ~~Mis.~~

48-50

Dated 7. 2. 1862 ~~19~~ .

10/10

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 7th February 1862.

No. 48. Read the following letter from JOHN MILLER, Esq., Acting Government Solicitor, Madras; to the Honorable T. PYCROFT, Chief Secretary to Government, Madras, dated 4th February 1862, No. 74.

1. With reference to my letter to Government of the 28th of September last, No. 728, and to the Proceedings of Government noted in the margin, I have the honor to forward herewith a Packet addressed to the Judge at Benares and containing a Commission issued from the Supreme Court for the examination by him of witnesses. The Packet also contains the Interrogatories to be put to the witnesses on behalf of Government and the cross Interrogatories prepared on behalf of the Plaintiff.

Dated 8th October 1861, No. 1,242, Judicial Department.

2. I shall be obliged by your forwarding the Packet to the Judge at Benares and requesting his early attention to the matter. I enclose full instructions for his guidance in executing and returning the Commission.

No. 49. ORDER THEREON, 7th February 1862, No. 189.

The Packet and the paper of Instructions received with it, will be forwarded to the Government of India, in reference to paragraph 2 of Mr. Miller's letter.

(Signed) T. PYCROFT,
Chief Secretary.

No. 50. To the Secretary to the Government of India, Home Department, dated Fort Saint George, 7th February 1862, No. 190.

With reference to recent correspondence, I am directed to forward a packet addressed to the "Judge of Benares," and containing a Commission issued from the Supreme Court for the examination by him of witnesses. The packet also contains the Interrogatories to be put to the witnesses on behalf of the Government, and the cross Interrogatories prepared on behalf of the plaintiff.

To Government of India, dated 8th and 26th October 1861, Nos. 1,243, and 1,313.
From do. 5th November, No. 2,176.

2. The Government Solicitor has submitted a paper of "Instructions for executing the Commission," which is forwarded with the packet, and has requested that the Judge at Benares should be instructed to give his early attention to the matter.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

No 1

V. Mooneesawmy Chitty

vs.

The Secretary of State and others.

Instructions for Examination of Witnesses under Commission issued in this Suit.

Before the Commissioner proceeds with the Examination of Witnesses he should take the usual Oath in the form inserted in the Commission.

After the Commissioner has taken the Oath an Interpreter should be appointed by him, and an Oath should be administered by the Commissioner to the Interpreter. The form of Interpreter's Oath is also inserted beneath the Commission.

A Clerk should also be appointed by the Commissioner and an Oath should also be administered to him by the Commissioner. The form of Clerk's Oath is also inserted beneath the Commission.

On each Witness being produced he should be affirmed by the Commissioner according to the form most binding on his conscience.

The following is the form of Oath for Christian Witnesses.

You are true answer to make to all such questions as shall be asked you upon the Interrogatories now produced and shewn to you without favor or affection to either party, and therein you shall speak the truth the whole truth and nothing but the truth.

So help you God.

The

The general Style or title of the Depositions should be in the following form:-

Examinations and Depositions of Witnesses produced on the part of The Secretary of State for India in Council under Commission issued from the Supreme Court at Madras and bearing date the day of 1861.-

The Examination of each Witness will be commenced with a Statement of his name in full, profession or occupation and place of residence, and his Evidence set out in detail.

If a Witness cannot swear any of the Interrogatories it should be stated as follows:-

To the Interrogatory the said A.B. saith that he does not know any thing about the facts enquired about by this Interrogatory and cannot further answer this Interrogatory.

If there be any Cross Interrogatories such should be shewn in like manner read to the Witness, and his answer should be in the following form:-

First. In answer to the first Cross Interrogatory he the said A.B. saith that &c. and so on throughout the Cross Interrogatories in the same manner as to the Interrogatories in Chief, only introducing the word "Cross" as here shewn.

When the Examination of each Witness has been completed his Deposition should be read over by or to him or explained to him, and any alteration made which the Witness may require. The Witness should then sign his Deposition or make his mark, and the following Certificate should be added and signed by the Commissioner.

Examination taken reduced to writing and by the Witness A.B. subscribed and affirmed to at in the East Indies this day of 1862.

Before me

Commissioner.

If the Witness is illiterate, such Witness's Deposition should be explained to him by the Interpreter before he is affirmed thereto, and the Interpreter should add a Memorandum at the foot of the Deposition to the following effect, and sign his name.

"The above Deposition was explained by me to the above named A.B. previous to his affirming thereto."

The Deposition should be then fairly transcribed by the Sworn Clerk in a similar manner to the Interrogatories in words at length and not in figures (omitting of course the signatures of the Witness and of the Commissioner). The Engrossment should be read over in the same manner as is mentioned above, and the

the Witness and Commissioner should then sign it.

If any papers or Documents are referred to in the Deposition, each should be marked with a letter, A.B. and so on through the Alphabet and endorsed by the Commissioner in the following form:-

"At the Execution of a Commission for the Examination of Witness between V. Moonesawmy Chetty Plaintiff and The Secretary of State and others Defendants, this paper writing was produced and shown to A.B. at the time of his Examination.

Before me

A.B.

Commissioner"

If the Examination of a Witness cannot be completed at the same meeting at which it was commenced, it may be adjourned and a Memo. should be made to that effect. If possible however the Examination of a Witness should be continued from one day to another.

When all the Witnesses have been examined and their Depositions taken down and signed as before mentioned, the following endorsement must be made on the Original Commission.

The

VI

"The Execution of this Commission appears in certain Schedules hereunto annexed".

A.B.

Commissioner.

The Commission, Original Interrogatories in Chief, Cross Interrogatories, the Depositions and Exhibits should then be made up and put into an Envelope and bound with Tape and should be forwarded to Madras to the address of the "The Registrar of the Supreme Court, at Madras." The Commissioner who executes the Commission should seal the Envelope and sign his name thereon.

The Commissioner is at liberty to put any other questions to the Witnesses than those mentioned in the Interrogatories in Chief as he might consider pertinent to the enquiry. The Commissioner is not bound to confine himself only to those questions which he will find mentioned in the Interrogatories in Chief.

The Commissioner is requested to be very careful to observe the foregoing Instructions as even a small deviation from them may vitiate the Execution of the Commission.—

No 4 189 - 1 Feby 1862.

The Advocate of the Supreme Court

of Madras with his compliments requests

that he will be pleased to inform him

with as little delay as possible whether

he intends to file any further

papers in the above case.

Fort St George
1st February 1862.

To
The Hon'ble Mr. Advocate General.

V. Moonesawmy Chetty
&
The Secy of State and others.

Instructions for executing Commission

J. 241/62

Pub. 2nd Dept. 1861 No. 25627.
2nd " Acct. 1813.
Rev. 60 61.

Dept. of Jud. Feby.

Jud. 1862 Dept.

From Prov. Feby.
The Actg. Govt. Solicitor
Madras

To The Chief Secretary to
Government of Madras

Dated 4th Feby
Recd 7th Feby

No. 74
Packet Instructions
No. 2411

Forwards a Packet containing Commission for the examination of Witnesses in "V Moonesawmy Chetty vs The Secretary of State & others for transmission to the Judge of Benares with Instructions for his guidance.

48.

Submitted

Exhibits an Order.

Recd 8th July per Steamer Candia

Judicial.

No. 190.

To the Secretary to the Govt. of India.
Home Department.

Sir -

To Govt. of India, 8.8.26
Dct. 21 Nos 1243 & 1313.
From do 5th Nov. No. 2178

With reference to recent correspondence, I am directed to forward a Packet addressed to the "Judge of Benares", & containing a Commission issued from the Supreme Court for the examination by him of Witnesses. The Packet also contains the Interrogatories to be put to

to the Witnesses on be-
half of the Govt, and
to cross examine on
the Cross Interrogat-
tories prepared on
behalf of the Plain-
tiff.

2. The Govt. Solicitor has submitted a paper of In-
structions for execu-
ting the Commission,
which is forwarded
with the Packet, and
has requested that
the Judge ch Beira
res should be in-
structed to give his
early attention to
the

the matter.

Lord Kimberley
7th February 1862

Rec'd 11th Feb'y

Ans of February

Judicial 1862 Dept.

No. 190.

To the Secretary to the Government of India.

Dated 17th February 1862

Rec'd 389.

1063/68.

Forwarding a Packet addressed to the Judge of Benares and containing a Commission issued from the Supreme Court for the examination by him of Witnesses.

48@50