M.R.O. 1—39,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 796-797 Press Mis.

195 - 199

Dated 23 - 5 - 1883

21/22

Not to be folded or roughly handled

No. 195. Read the following letter from the Honorable Sir C. H. SCOTLAND, *Knight*, Chief Justice of the High Court of Judicature at Madras, to the Honorable the Governor in Council, &c., &c., &c., Fort St. George, dated Madras, 12th May 1863.

I have the hono. to acknowledge the receipt of the letter of the Chief Secretary by direction of your Excellency in Council, dated the 30th of April last, in reply to my second letter of the 21st of March on the subject of the Ministerial Establishment of the High Court.

2. I regret to find that your Excellency in Council still withholds your approval in some respects of the Ministerial establishment which it has been my duty to submit, and that it is desired to add to the joint office of Clerk of the Crown and Crown Prosecutor, a duty not before mentioned and not considered by me, and which would interfere in some very material respects with the arrangements for effecting a saving that I have proposed.

3. I would gladly have felt myself at liberty to defer to the views of your Excellency in Council upon the points on which we now appear to differ, most anxious as I am to prevent any further *objectionable and inconvenient* delay in the working of the Ministerial establishment of the Court; but this I am unable to do. I have but lately in connection with the observations made in the letter of your Excellency in Council of the 24th February last, very fully and deliberately reconsidered every office and salary of the proposed establishment and (adverting to the offices of Registrar and Assistant Registrar on the Original Side of the Court) I can only repeat that in my judgment the amount proposed as the first salaries of these Officers are under all existing circumstances reasonable *present* salaries to allow.

4. After my former letters very fully observing on this matter, I will only make one or two observations which seem required of me in replying to the letter of the Chief Secretary. I would observe, first, that my proposed arrangements as to the transfer to the Registrar of the office of Clerk of the Insolvent Court were not, it will be found expressed to be, and are not dependent upon the contingency of the present Advocate-General's resignation, but of his absence on leave and an acting appointment being in consequence made; and this occasion will, I learn, arise almost immediately. Next with reference to the Assistant Registrar; this officer has, for the purpose of reducing the number of offices, been deprived by the proposed arrangements of two offices hitherto held by him for some time, as stated in paragraph 15 of my first letter. One of the offices (Clerk to the Puisne Justice with an income to some amount), I should have proposed the continuance of (as has been done at Calcutta) had Sir Adam Bittleston, not at my request, consented to deprive himself of the services of a Clerk, in order to enable me to arrange the establishment as I have proposed it, and these circumstances were necessarily considered in fixing the present salary of Assistant Registrar, subject in this instance as well as that of the Registrar, to future reduction as stated in the paragraph of my former letter just referred to.

5. On the subject of the continuance of the office of Under-Sheriff, I feel myself unable to do otherwise than adhere to what is stated in the 11th paragraph of my second letter. Without changing completely the nature and character and the duties of the office of Sheriff, the Under-Sheriff cannot properly be dispensed with; it would be better as I have said to effect a saving by some reduction in the salary appointed to the Sheriff.

6. In regard to the additional duty proposed to be transferred from the Government Pleader to the Crown Prosecutor of appearing on appeals in Criminal cases on the Appellate Side of the Court. This I think could not be done consistently with securing at the salary proposed the proper discharge of the work of the office of Clerk of the Crown and Crown Prosecutor. The additional duty would involve

he giving up by the holder of the office of all private practice in Criminal matters and I am satisfied that the salary would be insufficient to obtain the services of gentleman of any standing and experience at the Bar here, for the efficient discharge of the various duties of the joint offices; and further there is no doubt that one immediate effect of imposing the additional duty would be to prevent the carrying out of the arrangements stated in my second letter for the appointment of the present Clerk of the Insolvent Court to the offices of Clerk of the Crown and Crown Prosecutor, and the transfer to the Registrar of the duties of Clerk of the Insolvent Court by which the salary and fees of the latter office will be saved to the Government.

7. Your Excellency in Council will, I trust, upon further consideration agree with me in thinking that the additional duty cannot properly be attached to the joint offices with the salary proposed; and that with reference to the arrangement made for the transfer of the office of Clerk of the Insolvent Court, it would be most inexpedient to do so now.

8. Feeling myself unable, after every consideration, to adopt the views of your Excellency in Council upon the several matters to which I have above referred I must, in conclusion, of necessity ask that, should your Excellency in Council still see fit to withhold your approval, the matters of difference may be submitted together with the correspondence that has passed between the Government and myself, to the consideration of the Right Honorable the Secretary of State for India; the offices of Registrar and Deputy Registrar and of Clerk to the Chief Justice and the Puisne Judge, and Under or Deputy Sheriff being in the meantime continued as at present, unless your Excellency in Council thinks proper to accord your temporary approval subject to the opinion of the Secretary of State, upon the points submitted.

9. The approval of your Excellency in Council of the establishment on the Appellate Side, and so far as it has been given of the offices and salaries as submitted on the Original Side, will at once be acted upon and all fees paid into the Bank to the credit of the Government from the 1st of June next.

10. As to the salary of the Registrar on the Appellate Side, I see no sufficient reason why the reduction stated in the Chief Secretary's letter may not be made and the appointed salary fixed at Rupees 2,000 per mensem on the office being vacated by the present incumbent.

No. 196. MINUTE by the Honorable T. PYCROFT, dated 16th May 1863.

The above letter from the Chief Justice is in reply to that from the Chief Secretary of the 30th ultimo, which communicated to him the decision of Government in regard to the future remuneration of the Officers of the High Court.

2. In the first five paragraphs of his letter, Sir C. Scotland does little more than intimate his adherence to the opinions which he had already expressed in respect to certain appointments. I have nothing to add to what I have said on these subjects in my previous Minutes. As regards the Assistant Registrar, I may, however, remark, that the fact of the gentleman who will hold that office, having lost his situation of Clerk to the Puisne Judge, furnishes, to my mind, no reason why he should receive nearly double the salary that he has hitherto drawn for the performance of his duties in the Registrar's Department. The appointment of Puisne Judge's Clerk is a personal one, its tenure being dependent on the pleasure or continuance in office of the Puisne Judge. Any claim that Mr. Brooks may prefer to compensation for the loss of his Clerkship should be duly considered; but to give him Rupees 7,080 per annum, besides the benefit of the Pension and Leave Rules, for work that he has hitherto done for Rupees 3,600, is quite another matter.

3. On further consideration, I am led to think that there is force in the remarks made by the Chief Justice in paragraphs 6, 7, and that it might be difficult

to get the joint office of Clerk of the Crown and Crown Prosecutor efficiently filled at the proposed rate of salary, if appearance on behalf of Government in appeals in Criminal cases on the Appellate Side of the Court were attached to it. I would therefore not press this part of the arrangement. Still the duty in the interests of public justice must be performed, and I can suggest no other mode for carrying it out than that, pending the general revision of the establishment of the Government Law Officers on both sides of the High Court, Counsel should be retained from time to time to appear on behalf of Government in any Criminal cases under appeal to the High Court in which their services may seem to be required.

4. In paragraph 8 of his letter the Chief Justice writes:—

"Feeling myself unable, after every consideration, to adopt the views of your Excellency in Council upon the several matters to which I have above referred, I must, in conclusion, of necessity ask that, should your Excellency in Council still see fit to withhold your approval, the matters of difference may be submitted, together with the correspondence that has passed between the Government and myself, to the consideration of the Right Honorable the Secretary of State for India; the offices of Registrar and Deputy Registrar and of Clerk to the Chief Justice and the Puisne Judge, and Under or Deputy Sheriff being in the meantime continued as at present, unless your Excellency in Council thinks proper to accord your temporary approval subject to the opinion of the Secretary, upon the points submitted." I do not think that the Government should accede to this request.

5. By the Letters Patent establishing the High Court, the Officers and Clerks attached to it are to receive such salaries as "the Governor in Council shall approve of." Their salaries are not even as in all other cases made subject to the confirmation of the Government of India. Such provision in the Letters Patent is in accordance with the natural and obvious principle, that the ultimate determination of the remuneration which they will give their servants must rest with Government and not with the head of the particular Office or Department. The Despatches from the Secretary of State upon the subject seem to me clearly to indicate that it was his intention that the salaries should be settled by the Government here. The correspondence between the Supreme Government and the Chief Justice of the High Court of Calcutta appears to show that the same view was entertained by those authorities. The points at issue between the Government and Chief Justice are, whether the Registrar and Assistant Registrar on the Original Side of the Court should be paid Rupees 18,000 and Rupees 3,600 or Rupees 24,684 and Rupees 7,080 per annum respectively, and whether there should be a paid Deputy Sheriff at all. There seems no reason why the general measure for the reorganization of the establishment of the High Court and payment of it by salaries instead of by fees should in any of its parts be delayed on this account. Should the Secretary of State consider the remuneration which we have assigned to the two first offices to be insufficient, or that the third office should be maintained, it will be easy for him to pass orders accordingly, with retrospective effect from the 1st proximo, as respect the salaries of the Registrar and his Assistant.

Section 6.

See Despatch, 9th July 1862, paragraph 2. "In revising this statement, *i.e.*, that to be submitted by the Chief Justice, your Excellency in Council will, on the one hand, give due consideration to the necessity of providing the Court with an efficient establishment and of adequately remunerating its Officers; and, on the other, you will guard against any unnecessary expenditure on account of an establishment which, under the most economical arrangements, will entail a heavy charge on the State."
See also Despatch, 16th January 1863, No. 2.

6. It seems the more incumbent on the Government to maintain its rightful position in this behalf on the present occasion, now that we are settling the establishment of the High Court on its creation. The course that we may now adopt will form a precedent, for if the Chief Justice can in this instance demur to the orders of Government in regard to the salaries of the Court servants, and appeal to the

Secretary of State, he may do so on any future opportunity. Moreover, if he may, I see not why any other head of a Department may not claim the same privilege.

7. In truth, from the expressions used in the 8th paragraph of his letter, Sir C. Scotland does not seem to me to appreciate his true position towards Government as Chief Justice of the High Court. It is not for him more than for the head of any other Department to "adopt the views of the Government" in regard to the payment of the servants of his Court. It is for the Government after due consideration and full communication with him to settle what salaries they will assign to the Officers and servants of the High Court, as to those of any other public establishment, and it is for him to acquiesce in and carry out their decision. Of course if any individual deem himself aggrieved by the orders of Government in his case, it is open to him to memorialize the Secretary of State.

8. I would then inform Sir C. Scotland that the Government deferred to the views in paragraph 6 of his letter in respect to the appearance of the Crown Prosecutor on behalf of Government in Criminal appeals, and would make other arrangements for the performance of that duty. As regards the other questions treated of in his letter, I would say that the Government having, in the exercises of the powers and duty vested in them by the Law, approved such a scale of salaries for the establishment of the High Court on both its sides as seemed to them to be just and sufficient, did not feel themselves at liberty to authorize even temporarily any other or larger salaries than those shown in the scale, nor could they permit the carrying out of the arrangements for the reorganization of the High Court establishment as specified in their last letter in their integrity being delayed beyond the day already fixed. The Chief Justice should be apprized that all the previous correspondence connected with the revision of the establishment had been sent Home by the last steamer, and that his present letter with our answer would be despatched by the next one.

(Signed) T. PYCROFT.

No. 197. MINUTE by the Honorable the PRESIDENT, dated 18th May 1863.

I concur in the view taken by Mr. Pycroft in his Minute.

It appears to me that the functions of the Chief Justice and the Government are clearly stated in the Letters Patent, the former is to submit to the Government the number and description of the Officers which may be required, and he is also to name a salary which he may consider adequate to the work performed, the latter is the ultimate referee with regard to both offices and salaries.

While, however, the Government naturally defers to the opinion of the Chief Justice as to the number and character of the appointments to be made, it reserves to itself the right to determine the salary which such Officers ought to receive. Acting in accordance with this principle I should defer to the opinion of the Chief Justice with reference to the Clerk of the Crown and the Crown Prosecutor, and I should be disposed also to defer to it with reference to the appointment of Deputy Sheriff.

But looking to the fact that 18,000 rupees per annum is considered sufficient for the Registrar on the Original Side of the Court at Calcutta, I see no reason why the Registrar at Madras should receive 24,000; neither do I see why the Deputy Registrar, who now performs the duties of the office on a salary of Rupees 3,600, should be paid 7,080 for the performance of the same duty.

Also as regards the Sheriff I should say that the sum granted by the Government was amply sufficient for the duties which the Sheriff has to perform, but if these are duties of such a description as would be more properly performed by a Deputy than by the Sheriff himself, the pay of that Deputy should be deducted from the salary of the Sheriff.

It would certainly be better that the Government should act in accordance with its own view of the duties imposed upon it by the Letters Patent and by instruction from the Secretary of State, than that it should refer a matter clearly within its province to the Secretary of State.

(Signed) W. T. DENISON.

No. 198. ORDER THEREON, 23rd May 1863, No. 796.

In the foregoing letter the Chief Justice offers further remarks on the subject of the Ministerial establishment of the High Court.

2. The Governor in Council defers to Sir C. Scotland's objections to attaching to the office of Clerk of the Crown and Crown Prosecutor the duty of appearing on behalf of Government on the hearing of appeals in Criminal cases on the Appellate Side of the High Court, and will make other arrangements for the performance of that duty.

3. In respect of the office of Sheriff, the Governor in Council considers that the sum which has been authorized as the salary of that office, viz., Rupees 920 per mensem, is amply sufficient, with reference to the duties which the Sheriff has to perform; but if it is considered desirable that any part of these duties should be performed by a Deputy, the Government have no objection to the appointment of a Deputy, provided that the expense be met by a deduction from the salary sanctioned for the Sheriff. It will, therefore, be open to the Chief Justice either to authorize the Sheriff to appoint a Deputy, paying him himself, or to propose a reduced scale of salary for the Sheriff, making provision, at the same time, for the appointment of a Deputy to be paid out of the balance which will thus accrue from the sum sanctioned for the office of Sheriff.

4. In regard to the other questions adverted to in the Chief Justice's letter, His Excellency in Council would observe that having, in the exercise of the power and duty vested in him by the Letters Patent constituting the High Court, approved such a scale of establishment and such salaries as seemed to him to be sufficient, he does not feel himself justified in authorizing, even temporarily, any other or larger salaries than those entered in the sanctioned scale; nor can he assent to any postponement in carrying out, in their integrity, the arrangements sanctioned, for the reorganization of the establishment in question, beyond the date fixed upon.

5. Resolved that the following letter be despatched to the Chief Justice, and that a copy thereof and of the papers recorded above, be transmitted to the Secretary of State for India, in continuation of the previous correspondence on the subject.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

No. 199. To the Honorable Sir C. H. SCOTLAND, *Knight*, Chief Justice of the High Court of Judicature at Madras, dated Fort St. George, 23rd May 1863, No. 797.

I am directed by His Excellency the Governor in Council to acknowledge the receipt of your letter of the 12th instant, offering further remarks on the subject of the Ministerial establishment of the High Court.

2. The Governor in Council defers to your objections to attaching to the office of Clerk of the Crown and Crown Prosecutor the duty of appearing, on behalf of Government, on the hearing of appeals in Criminal cases on the Appellate Side of the High Court, and will make other arrangements for the performance of that duty.

3. In respect of the office of Sheriff, the Governor in Council considers that the sum which has been authorized as the salary of that office, viz., Rupees 920 per mensem, is amply sufficient, with reference to the nature of the duties which the Sheriff has to perform; but if it is considered desirable that any part of these duties should be performed by a Deputy, the Government have no objection to the appointment of a Deputy, provided that the expense be met by a deduction from the salary sanctioned for the Sheriff. It will, therefore, be open to you, either to authorize the Sheriff to appoint a Deputy, paying him himself; or to propose a reduced scale of salary for the Sheriff, making provision, at the same time, for the appointment of a Deputy Sheriff, to be paid in full out of the balance which will thus accrue from the sum sanctioned for the office of Sheriff.

4. In regard to the other questions adverted to in your letter, I am directed to observe, that the Governor in Council having, in the exercise of the power and duty vested in him by the Letters Patent constituting the High Court, approved such a scale of establishment and such salaries as seemed to him to be sufficient, does not feel himself justified in authorizing, even temporarily, any other or larger salaries than those entered in the sanctioned scale; nor can he assent to any postponement in carrying out, in their integrity, the arrangements sanctioned for the reorganization of the establishment in question, beyond the date already fixed on.

5. I am to add that the previous correspondence on this subject has been already transmitted to the Secretary of State, and that copies of your letter now under acknowledgment and of this communication will be forwarded for the information of Her Majesty's Government by the next Mail.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

4

Minute.

From the Honorable the Chief Justice of the High Court, d/ 12 May 1863.

The above letter from the Chief Justice is in reply to that from the Chief Secretary of the 30th ultimo, which communicated to him the decision of Government in regard to the future remuneration of the Officers of the High Court.

2. In the first five paragraphs of his letter Sir [illegible] Scotland does little more than intimate his adherence to the opinions which he had already expressed in respect to certain appointments. I have nothing to add to what I have said

said on these subjects in my previous Minutes. As regards the Assistant Registrar, I may however remark, that the fact of the gentleman who will hold that office, having lost his situation of Clerk to the Puisne Judge, furnishes, to my mind, no reason why he should receive nearly double the salary that he has hitherto drawn for the performance of his duties in the Registrar's Department. The appointment of Puisne Judge's Clerk is a personal one, its tenure being dependent on the pleasure and continuance in office of the Puisne Judge. Any claim that Mr Brooks may prefer to compensation for the loss of his Clerkship should be duly considered - but to give him Rs. 7080 per annum, besides the benefit of the Pension and Leave rules for

work

work that he has hitherto done for Rs 3,600 is quite another matter. -

3. On further consideration I am led to think that there is force in the remarks made by the Chief Justice in para 6. 7- and that it might be difficult to get the joint office of Clerk of the Crown and Crown Prosecutor efficiently filled at the proposed rate of salary if appearance on behalf of Government in Appeals in Criminal Cases on the Appellate side of the Court were attached to it. I would therefore not press this part of the arrangement - still the duty in the interests of public

justice

justice must be performed, and I can suggest no other mode for carrying it out, than that, pending the general revision of the establishment of the Government in the Offices on both sides of the High Court, Counsel should be retained from time to time to appear on behalf of Government in any Criminal Cases under appeal to the High Court in which their services may

may seem to be require

4. In para 8 of his letter the Chief Justice writes:-

"Feeling myself unable, after every consideration, to adopt the views of your Excellency in Council upon the several matter to which I have above referred, I must, in conclusion, of necessity ask that, should your Excellency in Council still see fit to withhold your approval, - the matters of difference be submitted together with the correspondence that has passed between the Government and myself

myself, to the considera-
tion of the Right Honor-
able the Secretary of
State for India; the
offices of Registrar
and Deputy Registrar
and of Clerk to the
Chief Justice and
the Puisne Judge,
and Under or Deputy
Sheriff being in
the meantime con-
tinued as at present,
unless your Excellency
in Council thinks
proper to accord
your temporary
approval subject to
the opinion of the
Secretary of State,
upon the points sub-
mitted."

I do not think that
I ~~can had much~~
~~I do not think that I should~~ ~~ought~~ the Govt
~~would be justified in~~ I should accede to
this request.

5 By the Letters patent
establishing the High Court
the Officers and Clerks attached
to it are to receive such Salaries
as the Governor in Council
shall approve of. Their Salaries
are not even as in all other
cases made subject to the
confirmation of the Govt. of
India. Such provision in the
Letters Patent is in accordance
with the natural and obvious
principle, that the ultimate
determination of the remunera-
tion which they will give
their Servants must rest with
Government and not with the
Head of the particular Office
or Department. The despatches
from the Secretary of State
upon the subject
seem to me clearly to indicate
that it was his intention

that

பிரதி.

S. Jeyan

தமிழ்நாடு ஆவணக் காப்பகம்.

(ஆராய்ச்சிக் கூடம்)

5051

ஆவணங்களுக்கான கோரிக்கை.

ஏட்டின் விவரம்.

தொகுதி எண். அ.ஆ./வ.ந. எண்.	ஏட்டின் எண்.	துறை.
Establishment		Judicial
G.O. No.	169	- 170
Dated	19-12	- 1863

தேதி : 3-4-91

கையொப்பம்.

குறிப்பு.—(1) ஒரே கோரிக்கையில் ஒன்றுக்கு மேற் பட்ட துறைகளோடு தொடர்புள்ள ஆவணங்களைச் சேர்க்கக்கூடாது.

(2) கோரிக்கை இரட்டைப்படிகளாக எழுதப்படவேண்டும்.

that the Salaries should be settled by the Government here. The Correspondence between the Supreme Govt and the Chief Justice of the High Court of Calcutta appears to shew that the same view was entertained by those authorities. [illegible]

The points at issue between the Government and Chief Justice are, whether the Registrar and Assistant Registrar on the original side of the Court should be paid Rs 18,000 and Rs 3600 or Rs 24,684 and Rs 7,080 per annum respectively, and whether whether there should be a paid Deputy Sheriff at all. There seems no reason why the general measure for the reorganization of the Establishment of the High Court and payment of Salaries instead of by fees should in any of its parts be delayed on this account. Should the Secretary of State consider the remuneration which we have assigned to the two first offices to be insufficient or that the third Office should be maintained, it will be easy for him to pass orders accordingly, with retrospective effect from the 1st Proximo.

6. It seems [illegible] for more in general terms to call on the Govt to maintain its rightful position in this behalf on the present occasion, now that we are settling the Establishment of the High Court on its creation. The

Con-

+ as respects the salaries of the Registrar and his Asst

course that we may now adopt
~~Dacca~~ form a precedent, for if
the Chief Justice can in this
instance demur to the orders
of Govt in regard to the Salaries
of the Court Servants, and
appeal to the Secretary of
State, he may ~~today~~ do so
on any future opportunity.
Moreover if he may, I see
not why any other Head
of a Department may not
claim the same privilege.

7. In truth, from the
expressions used in the 8th
paragraph of his letter Sir
C Scotland does not seem
to me to appreciate his true
position towards Govt. as
Chief Justice of the High
Court. It is not for him
more than for the Head
of any other Dept to adopt
the views of the Govt in regard
to the payment of the Servants
of his Court. It is for the
Govt after due consideration

and full communica-
-tion with him to settle
what salaries they
will assign to the Officers
and Servants of the
High Court, as to those
of any other public
establishment, and
it is for him to acqui-
-esce in and carry
out their decision. Of
course if any individ-
-ual deem himself
aggrieved by the orders
of Govt in his case, it
is open to him to memo-
-rialize the Secretary
of State.

8. Under the above
considerations the
Govt must avoid,
in any opinion, be
quite justified in
requiring the scale
of salaries laid
down in their last
letter to be strictly

~~Special Session~~
~~Edinr~~ 10

P.S. I omitted to inform Sir C Scotland that his Government depended upon his answer in para 6 of his letter in respect to the appearance of the Crown Prosecutor on behalf of Govt. in Criminal appeals, and for making other arrangements for the performance of that duty as regards the other questions treated of in his letter I would say that the Government having the approval of the Powers & duly instituted in them by the Law, approve such a scale of salaries for the establishment of the High Court on both sides as seemed to them just &

…fficient, distinct
…ch Translation at liberty
…to authorize com-
…temporarily any
…ther or 2any sala-
…ries than those shown
…in the scale_ ~~such~~

~~but they have not~~
could they permit
~~Excellency~~ ~~they~~ the ~~carrying~~
carrying out of the arrange-
…ments for the resig-
…nation of the High
Constable. ~~should~~ as speci-
…fied in the 2ast letter
~~but they could not~~ ~~act in~~
being delayed beyond
…the indefinite ~~or~~
…k day ahead of first.
The Chief Justice did
be apprized that all
the previous corres-
…pondence connected
with the Creation of
the establishment
had been sent home
by the last Steamer,
that his present letter
without answer
would be despatched
by the mail-boat,

Lycett's character as the
Postmaster at Port Elizabeth
prevents that Probate
Paragraphs contained in
the former portion of the
present Letter should appear
in it.

Jabez Bell

16 May 1863

that the whole Salary
of State except Fees and
the Registrar and Asst.
Regr. higher Salaries
than those assigned
to them by this Commun-
ication should be open to
the Inspection of the
Secretary of State
— and also that he
might, if he should,
authorize the entire
Continuance of paid
Deputy Sheriff. If
however the Chief Jus-
tice should still
desire a continu-
ance of the Offices
named by him on
the present footing,
pending the return of
the Secretary of State,
this Govmt would
not object.

Lyttelton

13

I concur generally in the view taken by Mr Dy Secy in his minute.

It appears to me that the functions of the Chief Justice and the Govt are clearly stated in the Letters Patent. The former is to ~~describe~~ propose the number and description of the officers which may be required ~~for the performance of the various duties~~ ~~to enable the High Court to perform its functions properly.~~ ~~The latter is to determine the remuneration to be given to these officers.~~

submit to the Govt

and he is also to name a salary which he may consider adequate to the work performed. The latter is the ultimate referee with regard to both officers & salaries. While however the Govt naturally defers to the opinion of the Chief Justice as to the number and character of the appointments to be made it reserves to itself the right to determine the salary which each officer ought to receive.

acting in accordance with this principle I would defer to the opinion of the Chief Justice with reference to the Clerk of the Crown & the Crown Prosecutor, and I should be disposed also to defer to it with

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Judl Letter 26th Aug 1863 No 97

Encl 1863 Deptt.

Bombay Aug 1863

10 Pl Nos 796 & 797

Memo by the Private Secy

16th May 1863
15th June 1863

No 1288

Relative to the salaries which the Ministerial officers of the High Court are to receive.

190

reference to the appointg
Deputy Sheriff -
but looking to the fact
that 1800 R per month
is considered insufficient
for the Registrar on the
original index of the Courts
at Calcutta I see no reason
why the Registrar at
Madras should receive
2400 - neither do I see
why the Deputy Registrar
who is to perform the
duties of the office as
a salary of 1800
should be paid 700
for the performance of the
same duty. -
As in regard the Sheriff
I should say that the
sum granted by the
Govt was amply sufficient for the duties
which the Sheriff has
to perform; but if there
are duties of such a
description as would
be more properly
performed by a deputy
than by the Sheriff
himself, the pay of

I should certainly

that Deputy should be
deducted from the salary
of the Sheriff -
~~as to any part of the duties~~
~~to be performed by the Sheriff~~
~~which I consider should be~~
~~performed by the Sheriff~~
the Govt should act in
accordance with the
own view of the duties
imposed upon him by
his letter & extent and by
instructions from the
Secretary of State, than
that it should refer a
matter clearly within
the province of the
Secretary of State.
I do not consider that
the Sheriff should be
~~paid by the Govt~~
~~for the performance of~~
~~duties which~~
~~should be performed~~
~~by a deputy~~
~~appointed by him~~
~~and paid by him~~
~~out of his salary~~

18 May 1863.

13

14

Judicial Department.

15

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the [illegible] Letter from
the Honble Sir C. P. Rolland, Knight, Chief
Justice of the Supreme Court of Judicature at
Madras.

Dated 12th May 1863. No

Read also a Minute by the Honorable
2 the President. (Dated 18 May 1863)

1 & Minute by the [illegible] Dated 16th May 1863
J. Lycett

Order thereon 23rd May 1863. No 796.

In the foregoing letter
the Chief Justice offers
further Remarks on the
Subject of the Provisional
Establishment of the
High Court.

2. The Governor in
Council

[illegible] defers to Sir
[illegible] Scotland's objections
to attaching to the Office
[illegible] & the Crown

[illegible] Crown Prosecutor the
duty of appearing on
behalf of Government
on the hearing of Appeals
in Criminal Cases on
the Appellate side of
the High Court, and
will make other arrange-
ments for the performance
of that duty.

3. In respect of the
office of Sheriff, the
Governor in Council
considers that the sum
which has been authori-
zed as the salary of
that office, viz. Rs 920
per mensem, is amply
sufficient, with reference
to

to the duties which the
Sheriff has to perform;
but if it is considered
desirable that any
of these duties should
be performed by a Deputy,
the Government have no
objection to the appoint-
ment of a Deputy, pro-
vided that the expense
be met by a deduction
from the salary sanctioned
for the Sheriff. It
will therefore be open
to the Chief Justice
to authorize
the Sheriff to appoint
a Deputy, paying him
himself; or to propose
a reduced scale of
salary for the Sheriff,
making provision, at
the same time, for the
[illegible] appointment

[illegible] establishment of a Deputy
to be paid out of the
balance which will
accrue from the
[illegible] sanctioned for the
Office of Sheriff.

4. In regard to the
other questions adverted
to in the Chief Justice's
letter, His Excellency
in Council would observe
[illegible] in pursuance of the power
and duty vested in him
by the Letters Patent
Constituting the High
Court, approved such
a scale of Establishment
and such salaries as
seemed to him to be sufficient
[illegible] he does not feel himself
justified in authorizing,
even temporarily, any
other or larger salaries

than those entered
[illustrious] scale, or
to assent to any postpone
ment in carrying out
their integrity the
ments sanctioned for the
the organization of the Esta
blishment in question,
beyond the date fixed
upon [illegible]

5. Resolved that the
above, be transmitted
to the Secretary of State
for India, in Continuation
of the previous correspon
dence on the subject.—

[illegible]

The Honble the Speaker & the
High Court—
The Joint Paymaster—

Judicial

No 797.

To Sir C. H. Scotland, Knight,
Chief Justice of the
Supreme Court of
Madras.

Noble Sir,

I am directed by
His Excellency the Governor
in Council to acknowledge
the receipt of your letter
of the 12th Instant, offering
further remarks on the
subject of the ministerial
Establishment of the
High Court.

2. The Governor in Council
defers to your objections
to attaching to the Office of
Clerk of the Crown and Crown
Prosecutor the duty of
appearing, on behalf of
Government

Jud. & L. 1863. Department.

No. 1796.

PROCEEDINGS OF GOVERNMENT,

Dated 23rd May 1863

Certain observations
communicated to the Chief
Justice with reference to the
objections raised by him
to the Office of Clerk of the Crown
and Crown Prosecutor
and to the Salaries assign-
ed to certain Officers of the
Original Side of the Court

2678

ernment, on the hearing
of appeals in Criminal
Cases on the Appellate
side of the High Court
[illegible]
arrangements for the
performance of that duty.

3. In respect of the
Office of Sheriff, the Governor
in Council considers that
the sum which has been
fixed as the salary
of that office, viz: Rs 920
per mensem, is amply
sufficient, with reference
to the nature of the duties
which the Sheriff has
to perform; but if it
is considered desirable
that any part of these
duties should be performed
by a Deputy, the Govern=
ment have no objection

to the appointment
Deputy, provided that
the Expense be met by a
[illegible] the
[illegible]
It will, therefore, be open
to you, either to authorize
the Sheriff to appoint a
Deputy, paying him him=
=self; or to propose a
reduced scale of salary
for the Sheriff; or
provision, at the same
time, for the appointment
of a Deputy Sheriff, to
be paid in full out of the balance
which will thus accrue
from the sum sanctioned
for the Office of Sheriff.

4. In regard to the
other questions adverted
to in your letter, I am
directed to observe that
the

Governor in Council
acting, in the Exercise of
the power and duty vested
in him by the

High Court, approved
such a scale of Establish-
ment and such salaries
as seemed to him to be
sufficient, does not feel
himself justified in
authorizing, even tempo-
rarily, any other or
larger salaries than those
entered in the sanctioned
scale; nor can he assent
to any postponement in
carrying out, in their
integrity, the arrangements
sanctioned for the reor-
ganization of the Esta-
blishment in question,
beyond the date already
fixed on.

I

5. I am to a
the previous Correspondence
this subject has been
la

ary of State,
That your letter now unde
and this
acknowledgment will
forwarded for the
information of Her
Majesty's Government
by the next Mail.

Judicial 1863 Dept

No. 797.

To the Chief Justice
High Court

Dated 23rd May 1863

F. No. 1132.
1131.
1204

Further observations
relative to the Ministerial
Establishment of the
Court.

Govt. No. 18-19
3-12-62
192-63
96-2-63
668 + 669
31-4-62

No. 199.-

No. 1 Letter to Engr. 2
No. 19 of 1863
Replied to 31 July
No. 19 of 63

5-1-15
21 2 20

14/6/64

6/19/81
19 11 495