M.R.O. 1—39,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 894 A-895 Press ~~Mis.~~
73-75

Dated 9.6.1863 ~~19~~ .

11/12

Not to be folded or roughly handled

No. 73. Read the following letter from the Honorable Sir C. H. SCOTLAND, Kt., Chief Justice of the High Court; to the Honorable the Governor in Council, &c., &c., &c., Fort Saint George, dated Madras, 4th June 1863.

I am in receipt of the letter of the Chief Secretary of the 30th ultimo, acknowledging by direction of your Excellency in Council my letter of the 27th ultimo.

In regard to the Registrar's office and referring to the latter part of the 2nd paragraph of the letter under acknowledgment, I have but one observation to make and which was intended to be conveyed to your Excellency in Council by my last letter of the 27th ultimo. Whatever may be decided upon as the fixed salary of the Registrar, the arrangement as regards the office will of course properly date from the 1st instant, and the Registrar will have to account to the Government for all fees received in the interval beyond the amount that may be fixed as his salary; the present salary of the Assistant Registrar, and the office allowances that have been approved of.

It was a matter of surprize to me to find it stated in the Chief Secretary's letter, that the transfer to the Registrar of the office of Chief Clerk of the Insolvent Court was in no way connected with the appointment of the Clerk of the Crown as Acting Advocate General.

There is no doubt that the arrangements proposed by me were necessarily made dependent upon a vacancy arising in the Chief Clerk's office upon the Clerk of the Crown being made Acting Advocate General, and I certainly gathered from the correspondence, that this was so understood and acted upon by your Excellency in Council; and the Registrar on the Original side was directed to write the letter of the 28th ultimo for the purpose of correcting what I thought at the time had been unintentionally ordered.

I cannot admit that in the instance of the Chief Clerk's office, the order of your Excellency in Council has absolute effect from the 1st instant in disregard of the arrangements that I have been enabled to make for the transfer of the office to the Registrar. I do not consider that the powers conferred on either the Government or myself by the Letters Patent authorize the ejection from office of the present Chief Clerk. He holds the office by appointment from the Chief Justice on behalf of the Court under the power given by the Statute 11 Victoria, Chapter 21, and expressly continued by the 17th Section of the Letters Patent; and a little consideration will, I think, show that I have taken the earliest and only proper opportunity of arranging for the discharge of the work of the office with a saving to Government.

But the Chief Secretary's letter informs me in imperative terms that the salary of the present Chief Clerk must cease from the 31st ultimo, and that an account will be required of the fees received. I can only express my regret that the Government should have resolved upon such a step, and particularly as not more than a fortnight will, I believe, elapse before the arrangements I have made, will upon a vacancy, come into operation. In the meantime there appears to me no ground to justify the removal of Mr. Mayne from his office, and whilst he remains in office he alone must be held responsible for the discharge of its duties, and is, I think, entitled to its emoluments. If, however, your Excellency in Council still differs from me and deems it right to stop the salary and require an account of fees, the matter must necessarily be left for settlement between the Officer and the Government.

I have to add my acknowledgment of a copy of the Secretary of State's Despatch, dated the 30th April last. My letter of the 21st March, I observe, had not reached him.

No. 74. ORDER THEREON, 9th June 1863, No. 894A.

Under the explanation given in the foregoing letter, His Excellency the Governor in Council directs that the Civil Paymaster will continue to pass the charges at present incurred on account of the office of Chief Clerk of the Insolvent Court up to the date on which the Advocate General, Mr. T. S. Smyth, may avail himself of the leave recently granted to him.

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

Proceedings of the Madras Government, Judicial Department, 9th June 1863.

No. 75. To the Honorable Sir C. H. SCOTLAND, Kt., Chief Justice of the High Court of Judicature, Madras, dated Fort Saint George, 9th June 1863, No. 895.

In acknowledging the receipt of your letter of the 4th instant, I am directed by His Excellency the Governor in Council to inform you that, under the explanation therein given, His Excellency in Council withdraws his objection to the continuance of the office of Chief Clerk of the Insolvent Court up to the date of the Advocate General's departure.

2. I am to add when issuing the previous instructions, the Government had not before them the terms of the Statute 11 Victoria Chapter 21, Section IV, for the establishment of the Court for the relief of Insolvent Debtors at Madras, referred to in your letter now under acknowledgment, and they had not gathered from your letter of 27th March last, nor from the Registrar's letter of the 28th ultimo, that your objection to abolishing the office of Chief Clerk previous to the resignation of the present incumbent was of a legal character.

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

Exd. T. McMootry,

No. 38

Madras District
Joint Magistrate's Office
Chingleput, 1st May 1863.

From W. S. Hooper Esqre
Aj. Joint Magistrate of the
Madras District

To
The Honorable R. S. Ellis C. B.
Aj. Magistrate of the Madras District

Sir,

A man who is supposed to be of unsound mind was forwarded to me three days ago by the Sub Magistrate of Sholinghur. I immediately forwarded him to the Civil Dispensary, and requested the Zillah Surgeon to furnish me with the Certificate required by Act XXXVII of 1858, after he should have formed his opinion as to the state of the man's mind. The Zillah Surgeon informed me that he must decline to receive the man into the Hospital, unless I could furnish a guard for him. I accordingly issued a Warrant to the Head Constable, for his detention. I am now informed that there are two Police orders regarding Lunatics, one of which prohibits a Lunatic from being admitted into the station house, and the other prohibits any guard from being detailed to guard him elsewhere.

Under these circumstances, I request that you will ascertain what is the proper course to be pursued in such cases, where a lunatic should be detained while under observation, and on whom the duty of guarding him devolves.

I have the honor to be,
Sir,
your most Obedient Servant
(Signed) W. S. Hooper Esqre
(True Copy) Aj Joint Magistrate

R S Ellis
Aj Magistrate.

Recd Registered Letter 2 May.

Madras Magistrates Office
No. 30 Saidapet 12th May 1863.

From

The Honorable R. S. Ellis C.S.
Ag Magistrate of the Madras Dt.

To

The Honorable A. J. Arbuthnot
Chief Secretary to Government
Judicial Deptt
Fort St. George.

Sir,

I beg to enclose a Copy of a letter received from the Joint Magistrate of this District, & request the instructions of Government.

2 It seems to me that the proper course was for the Civil Surgeon to have provided for the proper guarding of the Lunatic while under observation, & to have made out a Contingent Bill for the cost of the Keeper or Keepers, against the Magisterial Department.

I have the honor to be
Sir
Your most obedt. Servant

R. S. Ellis
Ag Magistrate.

On No. 30 of 1863 from the Actg Magte, Chingleput & Re. Mag. Secretary's Dept.

Recd 16th June 1863 & Ans.

By Pte Actg Jt Magte.
Clerk.

Mad. Gaz. 1863
No. 1009

JUDICIAL DEPARTMENT.

No. 25 OF 1863.

To

THE RIGHT HONORABLE THE SECRETARY OF STATE FOR INDIA.

RIGHT HONORABLE SIR,

With reference to our letter of the 30th ultimo, No. 21, we have the honor to transmit for your information copies of a further correspondence which has passed between us and the Chief Justice of the High Court, from which you will observe that under the explanation given by the Chief Justice, of the circumstances which place the office of Chief Clerk of the Insolvent Court in a different position from the Ministerial offices of the High Court, we have withdrawn our objection to that office being continued up to the date of the departure of the Advocate General, Mr. T. S. Smyth.

Proceedings, 9th June 1863, Nos. 73 75

We have the honor to be,
Right Honorable Sir,
Your most obedient
humble Servants,

FORT SAINT GEORGE,
12th June 1863.

FORT SAINT GEORGE.

JUDICIAL (1863) DEPT.

Letter to the Right Honorable the Secretary of State for India.

Dated 12th June

No. 25 of 1863.

Transmitting further correspondence regarding the Ministerial Establishment of the High Court, with reference to the office of Chief Clerk of the Insolvent Court.

60

Judicial DEPARTMENT.

No 25 OF 1863

To

The Right Honorable the Secretary of State for India.

RIGHT HONORABLE SIR,

Rec. 9th June 1863. Nos. 73@75.

With reference to our letter of the 30th ultimo No. 21, We have the honor to transmit for your information Copies of further Correspondence which has passed between us and the Chief Justice of the High Court, from which you will observe that under the Explanation given by the Chief Justice of the circumstances which place the office of Chief Clerk of the Insolvent Court in a different position from the Ministerial

Ministerial Office of the High Court, we have withdrawn our objection to that Office being continued up to the date of the departure of the Advocate General, Mr J. S. Smyth.

Fort St. George,
12th June 1863.

Chief Secretary

FORT SAINT GEORGE.

Judicial (1863) DEPARTMENT.

Letter to the Right Honorable the Secretary of State for India,

Dated 12th June

No. 25 *of* 1863.

Replied to — No. 20 of 1803.
10 Sept^r/63 No. 1461

Orig^l & Copy to Eng^d by the Steamer — 13th June/63
Copy to the Govt of India — " — 20 " —

Transmitting further correspondence regarding the Ministerial establishment of the High Court, with reference to the Office of Chief Clerk of the Insolvent Court.

Judicial Department

Proceedings of the Madras Government

Read the following letter from the Honorable the Chief Justice of the High Court of Judicature

Rec^d Entered 1^st June 1863

Order thereon 9th June 1863 No. 894

Under the explanation given in the foregoing letter His Excellency the Governor in Council directs the Civil Auditor to continue to pass the charges at present incurred on account of the Office of Chief Clerk of the Insolvent Court up to the date on which the Advocate General, Mr. T. L. Spring may avail himself of the leave recently granted to him

The Civil Auditor
The Hon^ble the Judges of the High Court.

Secretary

Recd. 9

Judicial Depth

No. 895.

To

The Honble Sir C. Scotland Kt.
Chief Justice of the High Court of Judicature
Madras.

Honble Sir,

In acknowledging the receipt of your letter of the 4 instant, I am directed by His Excellency the Governor in Council to inform you that, under the explanation therein given, His Excellency in Council withdraws his objection to the continuance of the Office of Chief Clerk of the Insolvent Court up to the date of the Advocate General's departure.

2. I am to add that in issuing the previous instructions the Govt. had not before them the terms of the Statute 11 Vic. Cap. 21.

Sec.

Recd. 9th Dec. 1863
Answd. 24 Dec. 1863

Judicial 10th Dec. 1863 Depth to
Chief Sec. Govt.
No. 895 of
Dated 9th Dec. 1863.

Proceedings of Government

Dated 9th Dec. 1863.

230 75

Sec. IV for the establishment of the Court for the relief of Insolvent Debtors at Madras referred to in your letter now under acknowledgment - and they had not gathered from your letter of 27th March last, nor from the Registrar's letter of the 28th ultimo, that your objection to abolishing the office of Chief Clerk previous to the resignation of the present incumbent was of a legal character.

Fort St. George
9th June 1863

Judl. Dept. to Engd. 12th. Jne
No. 25 of 1863.

Pros. June

Judicial 1863 Department

No. 895

To

The Hon. the Chief Justice
of the High Court of Judicature
Madras.

9th June 1863.

Informing that the objection to the continuance of the Office of Chief Clerk of the Insolvent Court up to the Date of the Advocate Generals Departure, withdrawn —

73 to 75.