M.R.O. 1—30,000—16-10-22.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1023 Press Mis.

156-157.

Dated 22-7-1865 19 .

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Not to be folded or roughly handled

No. 156. Read the following letter from Mr. J. F. ANDERSON, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 19th June 1865.

I have the honor to request you to be so good as to lay the accompanying letter before His Excellency in Council, and acquaint me of the result.

To His Excellency the Honorable Sir W. T. DENISON, K. C. B.,
Governor in Council, Fort Saint George.

Honorable Sir,

I respectfully beg to submit, for the consideration of your Excellency in Council, the subjoined copy of a letter addressed by me to one of the Magistrates of the Black Town Police Court.

2. In such letter your Excellency in Council will notice that—

(i.) The Magistrates of the said Court put forth a "prohibition" to the restraint and deprivation of both public and individual liberty with right and privilege, even against legislative provision, and, doubtless, contrarily to the pretensions of the local Government, or your Excellency in Council for the time being.

* "Notice."

"The Magistrates of the Town Police Court have deemed "it necessary to prohibit from and after Monday the 6th "March instant, all persons, other than Barristers, Solicitors, "Attorneys, and Vakeels, who are enrolled in the High Court, "from practising in the Town Police Court."

Madras, Town Police Court, 3rd March 1865. (Signed) H. P. CAMPBELL, (") T. G. CLARKE, Magistrates."

(ii.) As a citizen of this land, and a loyal subject of Her Majesty Queen Victoria, and having, moreover, followed the calling of a Pleader in all Lower Courts, as it were non-professionally, or without a diploma, from January 1856, and thus considering myself entitled to the protection of your Excellency in Council, I did myself the honorable duty of submitting two observations for the consideration of the said Magistrates, in *remonstrance* of such prohibition, in due justice not only to myself, but also to the public at large—observations which, on a perusal, I humbly trust your Excellency in Council will find to be perfectly and lawfully correct.

3. As fourteen days have elapsed since the transmission of the said letter, and there is, as yet, no appearance of a reply being forthcoming, I have felt it necessary at once hereby to submit the question for the disposal of your Excellency in Council—a question which important as it unquestionably is, and involves both public and individual liberty with right and privilege, I humbly trust your Excellency in Council will deem it worthy of that discriminating attention which shall lead you to interfere towards imparting due justice in the matter.

Madras, 19*th June* 1865. (Signed) J. F. ANDERSON.

From Mr. J. F. ANDERSON, to T. G. CLARKE, Esq., Magistrate, Town Police Court; dated Madras, 31st May 1865.

In my last* (addressed jointly to self and colleague) I did myself the honorable duty of communicating—

* Dated 12th May 1865.

(i.) The hardship of the general prohibition (dated 3rd March 1865, and signed by you both) "to other than those enrolled in the High Court practising in the Town Police Court," and my request for permission to exempt myself from its effect.

(ii.) My trust to there being no difficulty to such permission, inasmuch as it was apparently *not* entertained in the† instance of Mr. G. Jeremiah, my junior in Pleading Work, (by 3 to 4 years) at all events in the Madras Court of Small Causes," besides being, as much as myself, *not* "one enrolled in the High Court."

† Subsequent to date of prohibition.

(iii.) My proposition to see you in person on a future day, towards receiving such permission (and you will recollect that I had accordingly scarce entered your presence on Wednesday

the 17th instant, having within a minute before sent in my card) when you abruptly observed "we can make no exception in your favor," "that is our reply to your letter."

2. With due deference to this reply, I do myself the honorable duty to submit the following observations for your joint consideration of the subject generally—observations which I officially trust will be found to be such as should and will influence you to *cancel* the said prohibition, even in accordance with the right and privilege of the public at large, I venture to say, individual right and privilege too, especially as both these, I humbly believe, the Legislature (enacting authority of a provision hereto) does not mean to deprive, or the local Government suffer its ministering servants to act against or violate, that is to say:—

(i.) The Legislative Council, deeming it the right and privilege of every man, especially the poor and illiterate, with the slow of, and defective in, speech, as well as the timid, has, in its Police enactment for one, provided *non*-professional agency also, with a view that the assistance of an intelligent and otherwise fit kindred or other friend, or even an utter stranger, may be obtained for the conduct of a prosecution or defence, if not *free* of expense altogether, at all events for a much lower consideration than professionalees generally require, and oft times insist upon being allowed, almost to exaction, if so be, or if I may so say; and whilst it is in accordance with such provision, doubtless, *non-professionalees* have hitherto been allowed to practise in all Police Courts here, (whether they be "admitted Vakeels of the Court of Sudder Udalut" or not) in perfect equality with "those enrolled in the High Court," and I have myself done so in *your* Court, even as I told you in my last, it is a serious innovation on both public and individual right and privilege, as well as an act of violation against the said lawful provision, to put forth the prohibition in question—a prohibition, indeed, which does not exist in the other Police Courts, I believe. This observation, I presume, stands borne out by the precedent in the instance of Mr. Jeremiah, which has occurred since that prohibition, as afore adverted to.

(ii.) The "Notice" of the prohibition declares it to have been "*deemed necessary.*" What this necessity was (or continues to be) the public is decidedly unable to see therefrom, but if it was caused, as is said abroad, by the misconduct of others in the course of their practice in the Town Police Court, or in connection therewith, or on account of their otherwise seen unfitness thereto, and no one can fancy any other disqualification as affecting non-professionalees, or the individual public generally, which had forced, or justifies, such prohibition, then it cannot be looked upon otherwise than as a serious injury against the public generally, as well as individual right and privilege, thereby to subject the innocent and intelligent numbers to a visitation at all, on account of the guilty (or sin of) others, or otherwise unfit others. It is truly competent to *Magistrates*, for instance, to dismiss from practising in their Police Courts every non-professionalee (I may say, *Professionalee* too) who misbehaves himself in any way whatsoever, or on account of being otherwise seen unfit thereto; and by no means, I humbly presume, have they the right to assume the authority of putting forth a prohibition of the tendency in question, even such as which savors of an attempt towards violating the lawful provision of the Legislature, as well as the desire of the masters of its producers.

3. If, in my afore adverted to letter, I applied (without the afore entered observations) for the aforesaid permission, it was because I looked upon the said precedent as a beginning of a gradual and ultimate cancelling of the prohibition, cultivating in my mind at the same time, the principle "Stoop to conquer;" but as you have replied to me in the way you have, even as afore quoted, and thereby attempted towards making "*fowl of one and fish of another,*" (although they were both created on the same day and by the same hand) which is quite unofficial, and savors of strange partiality. I now do myself the honorable duty of repeating it in both public and private right, not only in due justice to myself, but also to the public at large, as freeborn men, whose liberty and privilege, I feel confident, neither the laws of the land, nor your honorable masters, pretend the authority of restraining or depriving, and I trust to be favored with an early reply, whatever be its tendency.

Authority in point.—Some four to five years back, the professionalees petitioned Sir W. W. Burton, Puisne Justice, to restrain non-professionalees from preparing Insolvency papers; and His Lordship is known to have distinctly replied—"I cannot interfere with private

"right and privilege;" "An Insolvent for one may have his papers prepared *free* of expense, or for "a far lower consideration than an Attorney will require." This shews the respect and regard which so august a personage as a Judge of the Supreme Court (despite subordinate functionaries) entertained for the *poor* especially.

(A True Copy).

(Signed) J. F. ANDERSON.

No. 157. ORDER THEREON, 22nd July 1865, No. 1023.

The Governor in Council is not prepared to interfere with the discretion exercised by the Magistrates in regard to the admission of persons not qualified as Advocates, Attorneys, or Pleaders, to plead in their Courts.

(True Extract).

Chief Secretary.

To Mr. J. F. Anderson, Anderson's Street, Black Town, Madras.

Exd. J. H. Burns.

Lord Ch.

The Writer advises that he has no Objection that he is a non Professional man - the Law therefore no Professional Matter but the Magistrates are bound to acknowledge him - he has Ch. Ch. Practice - a Rolling Bond that a Magistrate can be restricted in the Exercise of their discretion as to whom he will permit habitually to practise (if the Term may be used) as his Magisterial Power and I know not that the Legislature have the Power to require the Magistrate to admit as a Practitioner before them, a person

whom for some reason or other they have decided objection. The writer does not urge that he has been impeded in advising any assured person, who has consulted him - but asked him - I see no reason why the Legislature should not interpose & I know of no authority by which they could make the Magistrates undo what they have done, or for the future prohibit them

Oct 55

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following
letter from Mr. J. F. Anderson -
Black Town.
(Rec.d entr 19th June 1825)

Order thereon 22d July 25. to 1025.

The Governor in Council
is not prepared to interfere with
the discretion exercised by the
Magistrates in regard to the
admission of persons not
qualified as Advocates, Attor-
-neys or Pleaders to plead
in their Courts.

To Mr. J. F. Anderson
Anderson & Reed - Black Town, Madras 3rd Aug.t 25

Lieut. 1st Cavy

Persia (1865. Department.

No. 1023.

PROCEEDINGS OF GOVERNMENT.

Dated 22d July 1865.

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