M.R.O. 1—[illegible]—10-13-3.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1574 Press Mis.

262-264.

Dated 22.9.1865 19 .

Not to be folded or roughly handled

Read the following papers :—

No. 272. From W. ROBINSON, Esq., Inspector General of Police, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Kotagherry, 28th August 1865, No. 1729.

A difference of opinion exists on the following point :—

2. A Police officer is dismissed or discharged in one District, he passes over to the next, and applies to be entertained in the Police, either under a feigned name, or, when questioned, denies ever having been employed. The rules forbid the re-employment, under such circumstances, of men who have left the Service.

3. He is re-employed in consequence of such wilful concealment and misrepresentation, but it is afterwards discovered that he has been in the Service before, and discharged in another District.

4. District Superintendents have then charged the individual under Section 417 of the Indian Penal Code, and several convictions have been obtained before certain Magistrates. Other Magistrates have doubted whether any penal offence has been committed.

5. I would request the Government, if they see fit, to obtain the opinion of the Law Officers whether an offence cognizable by Law has been committed; and if so, under what provision the person may be charged, for the guidance of Officers of the Force.

Referred to the Government Solicitor, for the opinion of the Advocate General.

FORT SAINT GEORGE,
4th September 1865.

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

No. 273. From J. R. BOYSON, Esq., Government Solicitor, Madras, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 16th September 1865, No. 528.

I have the honor to acknowledge the Order of Government, noted in the margin, requesting the Advocate General's opinion as to the case suggested by the Inspector General of Police, of a Police Officer, dismissed or discharged from the public service in one District, obtaining re-employment in another District, by wilful concealment and misrepresentation.

Dated 4th September 1865, and made on letter from Inspector General of Mofussil Police to Government, of 28th August 1865, No. 1729.

2. I submitted the matter for the consideration of the Advocate General, with whom I have also conferred; and,

3. I now forward a copy of his Opinion, and return the order above noted.

COPY—OPINION.

I am clearly of opinion that the facts stated in the letter of the Inspector General of Police, No. 1729, dated 28th August last, constitute no offence under Sections 415—17 of the Indian Penal Code.

2. In order to constitute the offence of "cheating", under Section 415, some *individual* must have suffered a personal wrong, and have been damnified by the loss of his property, or have been injured in body, mind, or reputation. It is difficult to see how the Officer who enrolls the applicant has suffered any such damage, in consequence of the "*Suppressio veri*" on which he acted; unless perchance it should be argued that his "reputation" as a detective is likely to suffer by his not having discovered the real character of the person by whom he has been imposed on.

3. Where the applicant assumes a feigned name, one of the cases put by the Inspector General, he is no doubt guilty of "personation", as defined by Section 416, but in order to render him punishable under Section 417, it is necessary that by such personation he should have been guilty of "cheating" under Section 415, which, I have already stated, in my opinion, he is not.

(Signed) J. B. NORTON,
Advocate General.

15th September 1865.

(True Copy).

(Signed) J. R. BOYSON,
Government Solicitor.

No. 274. ORDER THEREON, 22nd September 1865, No. 1374.

The Governor in Council directs that the Opinion of the Advocate General be communicated to the Inspector General of Police, and to the several Magistrates in the Presidency.

(True Extract).

W. HUDLESTON,
Acting Secretary to Government.

To the Inspector General of Madras Police.
„ Magistrate of

Exd, J, H. Burns.

Read the following letters
from Inspr Genl of the Police — / Recd ultio 28 Augt 1865 No 1729 /
from Government Solicitor — (- do — 16 Septr 65 No 5281 /

Ordered thereon 22? September 1865 No 1374

The Governor in Council
directs that the opinion of the Advo=
=cate General be communicated to the
Inspector General of Police, and to the
several Magistrates in the Presidency=

The Inspector Genl of the Police
The Magistrates of the several Districts } dispatched 27/9