M.R.O. 1—89,000—19-10-22.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1727 Press Mis.

32-33

Dated 4 — 12 — 19 18 20

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Not to be folded or roughly handled

No. 32. Read the following letter from the Honorable the Chief Justice of the High Court of Judicature, Madras, to His Excellency the Honorable the Governor in Council, Fort Saint George; dated Madras, 23rd October 1865.

In answer to the letter of the Acting Secretary to Government (No. 1354), I beg to state that, having ascertained from Mr. Justice Innes that he is willing to undertake the revision of establishments referred to in the Order of Government accompanying the letter, and that his doing so will not very materially interfere with his Judicial duties, I see no objection to the arrangement proposed by the Government. As, however, my attention has been directed to the terms of the order of Government, importing that the duty of revision might be imposed on Mr. Justice Innes without his consent, and the order has been published in the News-papers, I think it right to add that the undertaking of the duty is quite voluntary on his part, and that, without his assent, the wishes of the Government could not have been complied with.

Transferred to Acting Chief Secretary.

(By Order).

(Signed) A. HENLEY,

Private Secretary to the Governor.

30*th October* 1865.

No. 33. ORDER THEREON, 4th December 1865, No. 1727.

To be recorded.

(True Extract).

A. J. ARBUTHNOT,

Chief Secretary.

Exd. J. H. Burns.

Judicial.

No. 2334.

From The Honorable the Chief Justice.

D/23d October 1865.

For Orders.

I cannot perceive anything either in the order or letter of 21 Sept last No. 1353 & 1354 to warrant the construction put upon them by the Hble the Chief Justice. On the contrary the terms are those of "request" and of conveying the "wishes" of Govt.

We should fail in the respect due to our selves were we to entertain any discussion with the Cd on this subject or to offer any explanation. ~~[illegible]~~

~~[illegible]~~

If any thing need be done it would be to send this letter home in reference to the pending modification of the High Court letters patent, ~~and~~ in further illustration of the attitude towards us taken by the High Court Judges or at least by the head of them — and to show the necessity for their relation and I should hope dear subordinate to us being more clearly defined.

At the same time I am by no means prepared to admit that the Govt. had not power to impose this work upon Mr Jones if it would not interfere with his Judicial duties —

In England the Majesty not

in pursuance of issues her royal commission to Judges & high Judicial functionaries directing them to frame codes — drawing rules for the despatch of judicial business and the like — In this country the Government as representing the Queen must have or at least ought to have similar authority.

18/11/65 JP

The Court of the C. Justice should, I think, be sent to the S. of State, as a supplement to the despatch of date 3 Sept. 64. The C. Justice is obstinately away at the very fantastic shadows sought reserve his valor for a more solid prevailing.

18.11.65: UDC

If we send this Home we must be prepared to recommend that certain powers should be given to the Government to demand from the judges the performance of certain duties for which their legal education fits them particularly. It would be better however before we do this to ascertain to what extent the Govn Genl exercises any control over the judges at Calcutta - we shall be more likely to gain our object if we can say that the fancy is only that of an individual chief justice & not that of all of them

WD

4 December 1865 No. 1727

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Recorded

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