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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.G.O. No. *3239*Press
~~Mis.~~*Original*Dated *11* / *12* 18 *54*Not to be folded or roughly handled

GOVERNMENT MADRAS.
JUDICIAL DEPARTMENT.

READ—the following paper :—

Note upon the abolition of the office of Sheriff.

In his despatch, dated 31st July 1863, No. 19 (*vide* G.O., 7th September 1863, No. 1442), Sir C. Wood said: "With regard to the Shrievalty, it appears clearly that the office of Sheriff has become a valuable sinecure at Madras, as well as at the other Presidencies, and that all the duties are performed by an under Sheriff. In this country (from which the institution has been copied) the office is an onerous and costly charge, which persons of property are called upon to undertake. The course suggested by your Government will go some way to remedy the abuse which has gradually sprung up in India, but it is a question for consideration whether a more general measure might not be adopted, by which the actual as well as nominal duties may be conjoined in one officer, and I will communicate with the Supreme Government upon the subject."

No further communications seem to have been made, and the matter dropped until Mr. Carmichael raised the question again, in his minute recorded in G.O., 30th June 1879, No. 1544.

The financial position may be stated thus :—

Charges per annum.		Receipts per annum.	
	RS.		RS.
(1) Salary of Sheriff ..	10,776		
(2) Do. four Clerks ..	2,616		
(3) Do. six Bailiffs ..	2,448		
(4) Do. eight Peons ..	621		
(5) Contingencies ..	200		
		Fees and sale deposits ..	4,200
Total ..	16,661		
	4,200		
	12,461		

Total charge per annum to Government Rs. 12,461

From the statement which Mr. Carmichael prepared it appears the Sheriff's existence has cost the Government
up to 1878 from 1862 Rs. 1,30,170 2 3
Add the losses since 1878 as 6 × 12,461 " 74,766 0 0
Total " 2,04,936 2 3

It thus appears that by the close of next year over two lakhs of Government money will have been spent upon the Sheriff's office with no return since 1862.
The Sheriff was appointed in 1726 under Letters Patent. He then executed and made return of all process issued by the following Courts :—

The Mayor's Court.
The Civil Court of Governor and Council.
The Sessions Court of Madras.
The Court of Requests.

The Sheriff at present has the following duties :—

- The summoning of juries of Courts of Sessions in Madras.
- The arrest and custody of persons on civil process.

Further papers

G.O. No. 134092 Home d/ 14-10-1884

11 Dec 1884 3230
2
10TH OCTOBER 1884, MIS. NO. 2654, JUDICIAL.

Besides the above he sits on the meetings when requested to do so by

As to whether legislation is necessary to effect the result desired, the Advocate-General has already reported.

The case seems to be this. The Letters Patent of the late Supreme Court, 1800 A.D., are still in force under section 11 of the Act establishing High Courts in India (section 11, Act 24 and 25 Vic., cap. 104). Under those Letters Patent, section 15, the appointment of a Sheriff and his duties are provided for. Therefore certain duties exist which by statute fall upon the Sheriff to perform.

If the Sheriff as a paid officer is not retained but the Deputy Sheriff is made to do the work of Sheriff, the difficulty will be that the Sheriff, though unpaid and not the working officer, will be responsible for the duties, and it will be against him that any action for damages arising from the Deputy Sheriff's acts will lie.

To abolish the Sheriff legislative action will be necessary, and this can be done in the Legislative Council at Calcutta, which has the power under section 22 of the Indian Councils Act 24 and 25 Vic., cap. 67. The courses then open, if the present arrangement is to be revised, seem to be these—

I. The retention of the Sheriff, but the combination of the office with some other paid office, for instance, the Registrarship of the High Court, Original side, giving him such small addition to his salary as may be necessary. He will then be responsible as the present Sheriff is, the only thing lost to the town of Madras will be an independent man holding a social position entitling him to take a leading position in the matter of calling meetings, &c. It may be noted that at present the Sheriff is a Government Uncovenanted servant of no very marked social standing.

II. The second course would be to appoint some officer of the High Court Deputy Sheriff and make the Sheriff entirely an ornamental office, honorary, guaranteeing that he shall be free from all chance of being held responsible for losses incurred upon the Sheriff's action, and leaving the Deputy Sheriff to do all the work of the office.

III. The third course would be to represent to the Government of India the charge we incur every year from the Sheriff's establishment, and the fact that the office is useless, and that the President of the Madras Municipality should take his position as a leading man now, and ask them to legislate by a short Act by which the duties of the Sheriff might be handed over to any other specified officer, or to such person as the High Court might from time to time nominate.

Probably nobody would take the Sheriff's office if deprived of its emoluments and duties, and it is submitted the existence of such an office in Madras is at the present time not necessary, and should the Government of India pass such an Act as that mentioned, the President of the Municipality would take the Sheriff's position in all matters concerning the welfare of the town. Upon the whole perhaps the course to follow would be to suggest legislation to the Government of India, and in case they decline to legislate, to abolish the office as a paid one and to unite it always with the Registrarship of the High Court.

(Signed) M. HAMMICK,
Ag. Asst. Secy. to Govt.

11 Dec 1884 3239
ORDER—dated 10th October 1884, MIS. NO. 2654, JUDICIAL.

Recorded.
(True Extract.)

E. F. WEBSTER,
Chief Secretary.

Exd. J. Wright.

GOVERNMENT OF MADRAS.
FINANCIAL DEPARTMENT.

READ—the following paper:—

From the Sheriff of Madras, dated 5th September 1884:

ORDER—dated 6th October 1884, No. 2375, Financial.

The Sheriff's budget estimate of receipts for 1885-86 is fixed at Rs. 4,200, as in the current year. The actual receipts in 1883-84 came to Rs. 4,662, but were swelled by a sale deposit forfeited to Government. It is unlikely that the Sheriff's estimate will be exceeded, and it is therefore accepted.

		RS.	
Actuals ...	{ 1881-82	3,938	
	{ 1882-83	3,718	
	{ 1883-84	4,662	
Estimates. {	1884-85	4,200	
	1885-86	4,200	

2. The estimate of charges also agrees in amount with that for this year. The expenditure in 1883-84 was less by Rs. 38. The difference occurred under the items "Servants" and "Contingencies." The grant for the latter has hitherto stood at Rs. 200; the average outlay, however, has not exceeded Rs. 185, and the grant for 1885-86 will be fixed at that sum.

		RS.	
Actuals ..	{ 1881-82	16,654	
	{ 1882-83	16,645	
	{ 1883-84	16,623	
Grants ..	{ 1884-85	16,661	
	{ 1885-86	16,646	

3. The estimates, as reduced, are passed for inclusion in the Provincial budget:—

	Revenue.	RS.
XV. Law and justice		4,200

	Expenditure.	
19. Law and justice		16,646

(True Extract.)

Inspector
Chief Secretary.

To the Sheriff of Madras.
" Accountant-General.
" Judicial department.

vide orig. for para 4.

Exd. P. L. Pereira.

Govt. of (1884) Madras.
FINANCIAL.

Issued

Recd.

Encl.

G.O., 6th October 1884, No. 2375.

OCTOBER.

Budget Estimates.

Reviewing the budget estimate of the Sheriff of
Madras for 1885-86.

What is the case for retaining
the office of Sheriff of Madras?

Might it not disappear to
the advantage of the public?

MSD



Government House

12. 10. 84.

Dear Mr. Webster,

His Excellency,

wishes this note to be circulated
to raise the point as to the Sheriff's
position the necessity for the
continued existence of his appointment.

I aim to make
you if you will kindly take the
necessary steps, having signed

No.

From

Note upon the abolition of the office of Sheriff.

FOR ORDERS.

In his despatch dated
31st July 1863, No: 19 / vide G.O.
7th September 1863, No: 1242 Sir C
Wood, said, "With regard to the
Shrivally, it appears clearly that
the office of Sheriff has become a
valuable source at Madras, as
well as at the other Presidencies.
And that all the duties are performed
by an under Sheriff. In this country
(from which the institution has
been copied) the office is an onerous
and costly charge, which persons of
property are called upon to undertake.
The course suggested by your Govt.
will go some way to remedy the
abuse which has gradually sprung
up in India but it is a question
for consideration whether a more
general measure might not be
adopted, by which the actual as
well as nominal duties may be
conjoined in one office, and I will
communicate with the Supreme
Government upon the subject."

No further Communications seem to have been made and the matter dropped until Mr. Carmichael raised the question again, in his minute recorded in G.O. 30 June 1879. No. 1544.

The financial position may be stated thus:-

Charged per annum.

(1) Salary of Sheriff	Rs 10776
(2) do 4 Clerks	Rs 2616
(3) do 6 Bailiffs	Rs 2448
(4) do 8 Peons	Rs 621
(5) Contingencies	Rs 200
	<u>Rs 16,661</u>
	<u>4250</u>
	<u>Rs 12461</u>

Receipts per annum

Tolls and ^{sale} deposits 4200

Total Charge per annum to Government Rs 12,461

From the statement which Mr. Carmichael prepared it appears the Sheriff's existence has cost the Government up to 1878 from 1862 Rs — 1,30,170-2-3

Add the losses since 78 74,761 - - -
Rs 6 x 12461 — 74,761
284936
Rs 2,79,702. 2. 3

It thus appears that by the close of next year ^{over} ~~very nearly~~ ^{two} ~~three~~ lacs of Government Money will have been spent upon the

Sheriff's office with no return since 1862.

The Sheriff was appointed in 1726 under Letters patent. He then executed and made return of all process issued by the following Courts.

- The Mayors Court
- The Civil Court of Governor & Council
- The Sessions Court of Madras
- The Court of Requests.

The Sheriff at present has the following duties.

- (a) Summons Jurors of Courts of Sessions in Madras.
- (b) The arrest and custody of persons in civil process.

Besides the above he sits on the bench at Sessions sometimes and calls public meetings when requested to do so by citizens of the town.

As to whether depoliation is necessary to effect the result desired, the Advocate General has already reported.

The case seems to be this. The Letters patent of the late Supreme Court 1800 AD are still in force under Section 11 of the Act establishing High Courts in India (Section 11 Act 24 and 25 Vic. Chapter 104). Under those Letters patent § 15

the appointment of a Sheriff and his duties are provided for. Therefore certain duties exist which by Statute fall upon the Sheriff to perform.

If the Sheriff as a paid officer is not retained but the Deputy Sheriff is made to do the work of Sheriff, the difficulty will be that the Sheriff, though unpaid and not the working officer will be responsible for the duties and it will be against him that any action for damages arising from the Deputy Sheriff's acts will lie.

To abolish the Sheriff Legislative action will be necessary. And this can be done in the Legislative Council at Calcutta, which has the power under Section 22 of the Indian Councils Act 24 and 25 Vic. Chap. 67.

The courses then open, if the present arrangement is to be revised, seem to be these—

The retention of the Sheriff but the combination of the office with some other paid office for instance the Registrarship of the High Court, Original Side, giving him such small addition

FOR ORDERS.

In 1874. a Bill was published by the Govt. of India consolidating the Law regarding the post of Sheriff.

No 11. of 1874.

to his salary as maybe necessary. He will then be responsible to the present Sheriff is, the only thing it is the Govt. of Madras will be an independent man holding a social position, enabling him take a leading position in the matter of calling meetings etc. But at present the Sheriff is a Government functionary, devoid of no very marked social standing.

The second course would be to appoint some officer of the High Court, Deputy Sheriff and make the Sheriff entirely an ornamental office, honorary, guaranteeing that he shall be free from all chance of being held responsible for losses incurred from the Sheriff's action and leaving the Deputy Sheriff to do all the work of the office.

The third course would be to represent to the Government of India the charge we incur every year from the Sheriff's establishment, and the fact that the office is useless, and that the President of the Municipality should take his position as a leading man now, and ask them to legislate by a short Act, in which the duties of the Sheriff

17
might be handed over to any
other specified officer, or to such
person as the High Court ^{might} from
time to time nominate.

Probably no body would
take the Sheriff's office if deprived
of its emoluments and duties,
and it is submitted the existence of
such an office in Madras is at
the present time not necessary,
and should the Govt. of India
pass such an Act as that
mentioned, the President of the
Municipality would take the
Sheriff's position in all matters
concerning the welfare of the town.
Upon the whole perhaps the
course to follow would be to
suggest Legislation to the Govern-
ment of India and in case
they decline to legislate, to abolish
the office as a paid one and to
unite ^{or} always with the Registrarship
of the High Court.

11

Resolution of the office of
S. L. H. H.

The Council
9/12/84

Print his office photo
& let his papers be
Recorded FW

9/12/84

11 Dec. / 24th 1884

The Hon. V. C. G. Master &
Circ. A.

3-1-15
23-11-15
6-1-15
10-5. 23.30

[11]

ORDINARY, PRINTED.

Judicial DEPARTMENT.
G.O., DATED 11 Decr 84
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[Despatch Abstract.]