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MADRAS RECORD OFFICE.

Government of Madras.

Judicial

DEPARTMENT.

G.O. No. 2280-81Press
Mis.*Originals*Dated 5 11 18 91.Not to be folded or roughly handled

14/11/91
No 436.
From

Joseph Steaverson Esquire
Registrar of the High Court
of Judicature at Madras
Original Side

To

The Chief Secretary
to Government
Judicial Department

Honorable Sir,

With reference to your letter dated
10th April 1891 transmitting Proceedings
of the Madras Government of the same
date No 670, I am directed to inform
you that the Honorable the Chief Justice
and Judges after careful consideration
of the changes proposed in the office and
duties of the Sheriff think that one objection
to the proposal is that it is doubtful whether
any suitable person would be found to
accept the office of Sheriff.

There would probably also be
much difficulty in finding a person to
accept the office of High Bailiff with its
heavy responsibilities and small
remuneration.

Upon the whole there does not
seem

Further papers

MS No 4092 Date 11/11/91

See sufficient reason to alter the existing system.

I have the honor to be
Honorable Sir
your most obedient servant

Registrar's office
High Court Madras
Original Side
September 1891.

Joseph Stevenson
Registrar.

Judicial Department

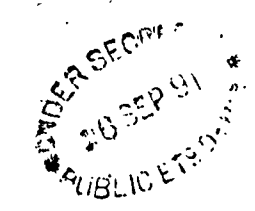
10-6-91

From
The Registrar
High Court Madras
Original Side

To
The Chief Secretary
to Government
Judicial Department

164747

Dated 25 September 1891
Received



Stating that the Honorable
the Chief Justice and Judges
after careful consideration
of the changes proposed in
the office and duties of the
Sheriff do not see sufficient
reason to alter the existing
System.

(C)

Jul-16-91: 967 R.
 24-6-91: 676 R.
 10-4-91: 669 R.
 12-12-90: 1926.
 24-10-90: 1644.
 2-6-90: 929.
 7-3-90: 425/6.
 8-2-90: 212.
 16-1-90: 631 R.
 11-1-90: 36.
 3-12-89: 1326.
 86-11-89: 1222.
 5-8-89: 1325 R.
 11-6-89: 1003/4 R.
 20-12-88: 2596/7 R.
 14-5-87: 1026/7 R.

[19]

Reference on No. of 189 .

In replying the above should be quoted.



3
 DEPARTMENT.

9/7th October 1891

Read the following.

To

The Hon the C.J.
 H.C of Judicature
 IN H.S.

Dear Sir

I am directed to
 request that you the Hon
 the Judges will be good
 enough to forward to
 Govt at a very early
 date copy of G.O of 10th
 April 1891 no 669 to-
 gether with the Govt of
 India Resolution thereon
 recorded on the sub-
 ject of the Office of Sher-
 riff, Madras.

I have to

Yours truly

Note.
 The Comr is urgent as there
 have been several reminders
 from India. The C.J. asked for
 is said to be not forthcoming
 In reference at present

Sheriff.

From Judicial Dept^t

✓
14001
Refers 4358 of 91
2-6-90-929-42 f.
10-4-91-669-4-2
7-3-90-425-26-
8-2-90-712-
24-4-91-676 R

The Registrar
High Court Madras
Original side

L

The Chief Secretary
to the Government of Madras

Dated 9 October } 1891
Received



Informing that G.O.
dated 10th April 1891 A 669
together with the Government
of India Resolution therein
recorded have not been
received.

A473

From

Joseph Stevenson Esquire
Registrar of the High Court
of Judicature at Madras
Original Side

To

The Chief Secretary
to the Government of Madras

Honorable Sir,

In reply to your letter
dated 7th Instant Judicial, Current,
N^o 10356, I am directed to inform
you that "G.O. dated 10th April 1891
N^o 669 together with the Government
of India Resolution therein recorded
on the subject of the office of
Sheriff, Madras," of which you require
copies have not been received in
either this Office or the Office of
the Appellate Side of the Court.

I have the honour to be
Honorable Sir

Your most obedient servant

Joseph Stevenson
Registrar
High Court
Original Side

Registrar's Office
High Court
Original Side Madras
9th October 1891

No. 9 4556 9 4617
25. 7. 91 9. 10. 91

From

Regt. High Court.

Dated

189

FOR ORDERS.

but we should advise
mendation which this
insistently made viz.
vice of Sheriff elsewhere
abolished by legislation
of High local processes
trusted to a staff organized
Regt. (or Deputy Regt. of the
ment is abolished) or the
the similar to the

These papers relate to the retention
of the office of Sheriff of
haddas.
In the Charter granted to the
High Court (then Supreme Court)
by George III in 1800 the duties
of the Sheriff of haddas are
set out at length. It is to
be appointed yearly on the first
Monday in December to perform
the following functions:-

at Execution
order to receive
give possession.
to certain criminal
attendance at
summons of public
regulation.

- (1) Execution of the processes
of the High Court;
- (2) Reception & detention in
prison of all persons committed
to the custody by the High Court;
- (3) Summoning of juries.

my establishment is the
I think that the supposed
link would accord to the
the execution of processes
system is a mere suggestion
of any such difficulty in
I am I cannot exactly
in the matter. The
criminals doubtless
of no importance to
the establishment of
I think it is

2. As much of the Charter of
as was inconsistent with the
Letters Patent of 1865 granted to
the authority conveyed in Statute
25 Vic. c. 104 was removed.
But although no reference
made to the part of the Charter
referred to in the Letters Patent
(the part is made in Sec. 15
of Statute 25 & 26 Vic. c. 104) the
provisions of the Charter of 1800
on the subject are in force in
accord with the amendments made
and are therefore still in force.
No other acts affecting the
appointment of Sheriff are
(a) Act III of 1852 where under
the power due to the Sheriff

Execution of process are regulated;

(b) Act III of 1877, sec. 88, which relates to documents executed by the Sheriff &c

(c) Act III of 1882, sec. 491, which relates to Sheriffs' warrants of capias corpus in return to a writ of habeas corpus.

4. The Govt. of India has power under sec. 22 of the Indian Councils Act, 1861, to repeal ~~the~~ the Act of George III under which the Charter of 1800 was granted & thus to abolish the office of Sheriff.

5. The Sheriff receives Rs. 898 per annum out of that he has to pay a Deputy Sheriff. The latter officer receives in the average it seems Rs. 338 per annum so the net value of the post to the Sheriff comes to Rs. 575.

The office establishment cost Rs. 6,600 in 1879-80 & this was borne by Govt.

Altogether then in 1879-80 the Sheriff & his establishment cost Govt. Rs. 16,461.

But against this must be set the fees which are credited to Govt. of which amount Rs. 11,3,875 in 1879-80 & Rs. 11,3,875 - so that the net annual cost to Govt. of the Sheriff & his establishment falls to Rs. 12,583.

5. In its letter read in 1879 of 10.10.1871 & 2.11.1871 the Govt. of India after setting out at length the history of the case asks the opinion of the High Court on the possibility of abolishing the Shrivally.

6. The first sign of dissatisfaction with the existing system came from Sir C. Wood in 1863 (vide p. 2 of Sept. 1863 & 1872) but nothing seems to have been done

in the interim, if it must be killed at all. The summoning of juries will become by the Clerk of the Crown, & the duties of that office an ancient & a function of the High Court. Original rule, by that office.

The Shrivally is a useless and antiquated sinecure, & a saving & some good, coming will accrue from its abolition.

Application has been made for sanction for continuation of the present arrangement for 1892.

1160
25.11.1871

I don't think this for to have been very consistent in the end. The Shrivally was abolished for from 1863 to 1886 there was no need of it. The office of Sheriff, which was a long time, ended in a "President" for - for was in 1886 that my brother, Sir C. Wood, was in the office. The office of Sheriff was in the office of the High Court. The office of Sheriff was in the office of the High Court. The office of Sheriff was in the office of the High Court.

It is the best way of dealing with it. There is no change & as there are no more battles known & no more a healthy system to be found there for the further service, I doubt if the abolition of the office

the more so - it was not intended to be held by successful jeweller or such like worthy citizens. Mr. Nicholas, the photographer, intimated to me his intention, a few days ago, to take the office - I think it had better be abolished before it becomes a laughing stock. The system suggested by my hon. colleague will, I think, work well in its place & as for the amount of the duties, such as shooting out - Oyes! Oyes! Oyes!

* This was the view of the High Court in 1879; if, they said, the present system is to be continued, a paid servant of Govt. must be put under the Registrar of the original High Court. [If the High Court is to be abolished, as recently proposed, this arrangement will have to be altered.]

When a criminal summons of the High Court is to be given, the responsibility is to be put on the Registrar & the Registrar of the High Court. The Registrar of the High Court is to be put on the Registrar of the High Court. The Registrar of the High Court is to be put on the Registrar of the High Court.

I quite agree, and India should be addressed accordingly. Thos.

in 1879 when Mr. Carmichael proposed to abolish the appointment (vide p. 2 of 23 June 1879 & 1874 in the Volume of 1879).

The matter was then referred to the High Court but after a little correspondence in which the High Court expressed no definite opinion the subject was dropped.

Sir. H. E. Grant - my next raised the question of the retention of the post in 1874 & Mr. Carmichael wrote a note on the subject which will be found in p. 2 of 23 June 1874 & 3239 Ld.

The next step occurred in 1886 when the Govt. addressed the Govt. of India suggesting the appointment of a special paid servant of Govt. to perform the duties entrusted to the Sheriff & the abolition of the Shrivally. The legislation (p. 2 of 7 Aug. 1886 & 776 Ld.) The process being set out in the letter of Govt. to the Govt. of India on this point the views of the Finance Commission coincided with those of the Govt. (para. 19 of the letter of 10.10.1871 & 1.11.1871) & the Commission urged that

(1) the duty of executing etc. processes should be entrusted to a paid servant of Govt. (2) the duty of summoning juries should be entrusted to the Crown Prosecutor, (3) the post of Sheriff should be made honorary the formal & ceremonial duties attached to the office being alone retained.

The proposals of the Finance Committee were referred to the High Court for opinion & that body in para. 4 of a letter dated 3rd March 1887 gave in p. 2 of 17 May 1887 & 1026 Ld. remarked that

(1) that there was no objection to making the post of Sheriff honorary provided any one was found to take it up.

which & provides a paid
 amount of Rs. 1000 were
 appointed to perform the
 duties in respect of the
 execution of processes.
 (2) that there were obvious
 objections to entrusting
 the duty of summoning jurors
 to the Crown Prosecutor.

FOR ORDERS.

In forwarding the letter of the
 High Court to the Govt of India
 the Govt simply observed that
 it had already recommended
 the abolition of the post of
 said Sheriff.

The orders of the Govt of India on the
 subject will be found in the
 Home Secy's letter in G.O. No. 202
 of 1895 at 2596 Ind. The Govt
 observed:

A

1. that the proposals of the
 Govt of India to abolish the
 Sheriffship were contrary to
 law.

2. that it was desirable that
 the Deputy Sheriff should continue
 to be responsible to the Sheriff
 & not to Govt. as otherwise
 Govt would be considered
 responsible for his acts.

3. that the Sheriff should in future
 be appointed by Govt only, the
 High Court being abolished,
 & that the Govt should make
 the Deputy Sheriff responsible for
 the execution of processes in any
 case where the Sheriff is
 inefficient or incapable.

4. that the Govt should make
 the Deputy Sheriff responsible for
 the execution of processes in any
 case where the Sheriff is
 inefficient or incapable.

8 3.
 The Govt of India then went on
 to order that the following system
 should be introduced at once in
 place of the system of paying the
 Sheriff a fixed salary which had
 hitherto prevailed:—

- (1) the custom of paying the
 Sheriff a fixed salary & of
 meeting the cost of his establishment
 out of Govt revenues to
 be abolished;
- (2) the Sheriff to receive all fees
 collected on his account;
- (3) if the fee-receipts prove
 insufficient to meet the
 cost of the Deputy Sheriff &
 establishment then the
 balance to be made good by Govt.

The Govt of India then went on
 to observe that the scheme
 proposed was a very good one
 in its letter dated 20th Dec
 1895 at 2595 Ind. & of course
 been found impossible to get
 one to take up responsible
 on such terms.

The Govt of India has now as
 the failure of the scheme
 existing the Sheriffship of
 was, in the letter dated
 10th Dec 1891 at 2595 Ind.
 the following proposals:

- (1) that the Sheriff should be
 made responsible for the
 execution of processes & that
 the Govt should make the
 Deputy Sheriff responsible for
 the execution of processes in any
 case where the Sheriff is
 inefficient or incapable.
- (2) that the Sheriff should be
 paid a fixed salary & that
 the cost of his establishment
 should be met by the Govt.
- (3) that the Sheriff should be
 made responsible for the
 execution of processes & that
 the Govt should make the
 Deputy Sheriff responsible for
 the execution of processes in any
 case where the Sheriff is
 inefficient or incapable.

to give security to Govt.
(3) that Govt. accept liability
so far as it can protect
itself by the security taken
from the members of
the process. saving satisfaction

13 The High Court has been consulted
on these proposals & its reply
forms C. L. 4508.

The High Court raises objections
on the grounds that:

- (1) it is doubtful whether
any one could be found
willing to take up the
post of Sheriff &
- (2) it is doubtful whether
any one could be got to
take up the post of High
Bailiff.

These objections do not seem very
weighty. ~~It is not necessary to~~
~~consider whether any one~~
~~will take up the post of Sheriff~~

The pay proposed for the High
Bailiff has not been stated in
the G. of I. Bill in 1877 (note
place marked with red tape
in the Sheriff's file) the High Court
proposed a salary of Rs. 350.
~~and a gratuity of Rs. 1000~~

The scale proposed by the High
Court in 1877 allowed for an
annual total cost of Rs. 506 only
against Rs. 1372 now incurred.

The question of the proper person to be appointed
as a new Sheriff will have to be considered in the proposals contained in G. of I.

Appointed very early in December
next and as the proposed
scheme certainly cannot be
brought into force by that
time it is necessary to address
the Govt. of India in view of
permitting the appointment of a
paid Sheriff in the usual way
for the forthcoming year.

Papers to be read in Proceedings:—

Again G.O., dated 18, No.

Again G.O., dated 18, No.

Current No. 4356 of 1891, dated 10 Sept. from

Current No. 4617 of 1891, dated 9 Oct. from

Ref. High Court

Order of 5 November 1891 No. 2280
The Govt. of India will be
addressed.

(Emerson)

RECEIVED
26 Nov 91
M.S.

Letter No. 2281

To the Secy of the Govt. of India (Ld. Secy.)

Sir,

I am directed to acknowledge receipt of your letter dated the 26 March 1891 No. 428 in which the opinion of the Govt. is invited upon certain proposals of the Govt. of India in regard to the Sheriff of Madras.

The Govt. of India suggests that

- (1) the office of Sheriff be a purely honorary post & stripped of all duties except those of a ceremonial nature.
- (2) the process serving & attachment must be provided for by a paid servant of Govt. called a High or Head Bail.
- (3) that Govt. accept liability to the extent to which it can protect itself by taking security from the person serving & attaching.

with reference to the 16. of the rules in order to submit application therefor under to be by way for sanction to appoint to the office in the usual terms for acceptance.

Yrs

A

In reply I am to state that
 H.E. in C. considers that the
 Shrivally should be entirely
 abolished by legislative instrument
 that the execution of High Ct.
 processes should be entrusted to
 a staff organized under the
 Registrar of the High Ct. on the
 original side or to the D^y Reg^y.
 if the former appointment is
 abolished, the arrangement
 would then be similar to that
 obtaining in the Mofussil.
 The question of liability is not
 the opinion of this Govt. a
 matter of much moment; he
 is chiefly on this account has
 experienced in the Mofussil
 there seems to be no reason why
 should arise in Madras.
 ceremonial duties of the Chief
 of no importance & H.E.
 considers that such of them
 subsist on the abolition
 can very well
 be performed by the President of
 the Court.

The expediency of summoning
 is shown on the opinion of
 the Registrar of the High Ct.
 of that office
 the Deputy Reg^y.
 of the High Ct.
 of the High Ct.

HER PAPER, No. 4488/92.

NEOUS.

Dec 10/92

LETTER OF GOVERNMENT.

STATEMENT WITH

4350

ORDINARY, MS.

Journal DEPARTMENT.
 G.O., DATED 5-11-91
 No. 2280-87

INDEXED.

When given for copying

[Despatch Abstract.]

*Replying to certain proposals
 to Govt of India in regard
 to post of Sheriff of Madras*

PRINTED IN INDIA: 1902

No. 2280-87

26/10/91
4-1-11

10-5-23 BT ✓
22.1.30 ✓
21.12.33 ✓