

THE SUPREME COURT OF THE FEDERATION OF MALAYA

REGISTRAR'S CIRCULAR NO. 6/48

GOVERNMENT

REPORT OF CIVIL AND CRIMINAL PROCEEDINGS AGAINST

It has come to the notice of the Chief Justice that,

in numerous criminal cases before the inferior Courts where a Government officer is tried or otherwise concerned, the head of such officer's department or the appropriate Secretariat on his behalf has asked the District Judge or Magistrate who tried the case (a) to supply a copy of the record, (b) to write and supply grounds of his decision or (c) to report on the case or certain aspects of it.

2. Attention is drawn to the provisions of General Orders 23A and 24 which prescribe the measures to be taken by the Courts after certain civil and criminal proceedings against a Government officer. G.O. 23A calls merely for a formal report of the existence of the bankruptcy proceedings or judgment and no difficulty arises from this.

3. G.O. 24 imposes different duties on the Court concerned according as the officer is pensionable or non-pensionable and, if pensionable, according as his pensionable emoluments are less or more than \$250/- per month. As regards officers who are non-pensionable, on probation, or paid from open vote, the duty of the Court is confined to supplying, in case of a conviction, to the officer having the power of dismissal a copy of the Notes of Evidence, to enable him to submit these to the proper quarter. See G.O.24(1) para 2. As regards pensionable officers whose pensionable emoluments exceed \$250/- p.m., the Court must in case of a conviction, or if the charge is found to be proved but no conviction recorded, supply a copy of the proceedings to the Deputy Chief Secretary, State Secretary or Secretary to Resident Commissioner as the case may be. See G.O. 24(11)(d). If pensionable emoluments do not exceed \$250/- p.m. the Court must, in case of a conviction, supply to the appropriate officer the records of the trial and is also

Resident Commissioner. See G.O. 24(ii)(a) para 2.

4. The duties referred to in the preceding paragraph arise only on proper demand being made by the appropriate authority. They must be exactly performed, but must in no case be exceeded. The nature of the "assistance" to be given under G.O. 24(ii)(a) is not specified, but it is considered that it should not extend beyond an expression of views at a personal interview with the actual officer having the power of dismissal, if such officer finds an interview necessary.

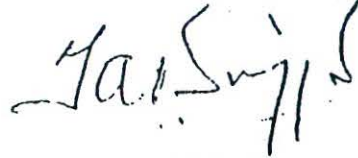
5. If the Court has given a written judgment, or recorded grounds of judgment in the course of and for the purposes of an appeal, these would go forward in cases under G.O.24(ii), but not in cases under G.O.24(i). If there is no such written judgment or grounds of judgment, grounds should not be written for the purpose of proceedings under G.O.24, or indeed at all. Such a document would be an extra-judicial imitation of a judicial proceeding. It would not enjoy judicial privilege. Similarly it is considered that in the class of cases where "assistance" can be required, it should not be given in the form of a written report on the case.

6. If any request is made for information or other action beyond that to which the person concerned is entitled under the precise terms of General Orders, the request should be referred back and, if it is persisted in, the matter should be referred to me for submission to the Chief Justice, since a question of judicial conduct is then involved.

7. It follows from the above that, where a Government officer is tried, the Court should ascertain sufficient particulars of his employment to know whether he is governed by G.O. 24(i), 24(ii)(a) or 24(ii)(d).

8. The Chief Justice further directs that, when an authority desires action to be taken by the Supreme Court or any District

Court under G.O. 24, application should be made to me and the proceedings or necessary documents will be forwarded through me.



REGISTRAR.

The Registry,
Supreme Court,
Federation of Malaya.

Kuala Lumpur, 15th June, 1948.
(FAB/AJS)

To: All District Judges
" Magistrates (through State/Settlement Secretariats)
" Assistant Registrars Supreme Court
" Secretaries to Judges (for Their Lordship's information)
Deputy Chief Secretary (for information)