M.R.O. 14—18,000—27-9-24

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 89 Press ~~Mis.~~

14—15

Dated 27 — 1 — 1857.

Not to be folded or roughly handled

Jud
69

No. 14. Read the following letter from D. ELIOTT, Esq., Member of the Legislative Council; to T. PYCROFT, Esq., Chief Secretary to Government, dated Fort William, the 8th January 1857, No. 78.

SIR,

The Penal Code was read a second time on Saturday last, the 3d Instant; and as it may be convenient to the Right Honorable the Governor in Council to have copies of it in the form in which it was laid before the Council, with the Clauses of the Original Code, printed in a parallel column, to shew the alterations proposed by the Select Committee, I have directed that two such copies shall be transmitted to you by this Mail.

Yesterday I received your letter of 24th December, with the accompanying Draft of an Act for the punishment of abuse of Authority on the part of persons in the service of the East India Company, within the Presidency of Fort St. George, with reference to which, I have the honor to request you will submit to the Right Honorable the Governor in Council the following observations.

The subject of the proposed Act was fully considered by the Select Committee on the Penal Code, having in view the disclosures contained in the Report of the Madras Commissioners on the alleged use of Torture in that Presidency, and the observations of the Commissioners upon the existing state of the law, adverted to in the 2nd para: of your letter.

The Penal provisions which the Select Committee recommend to be enacted for the punishment of persons committing offences of the nature contemplated in the Draft Act, as described in the definition of the expression "Abuse of Authority," will be found in Clauses 31 to 34, and 50 and 51 of Chapter XVII of the Code relating to offences affecting the human body; and again in Clauses 5 to 11 of Chapter XVIII under the head of extortion. It will be observed that the Clauses referred to do not apply peculiarly to Public Servants, but include persons being Public Servants in common with all men who commit the offences described. The illustrations to Clause 33, Chapter XVII, it will be remarked, are all instances of Torture so called. Two are cases of Torture by Police Officers, the first to induce the confession of a Crime, the second to induce a person to point out stolen property. One is a case of Torture by a Revenue Officer, to compel payment of arrears of Revenue. The last is the case of a Zemindar torturing a Ryot to compel him to pay his rent.

The punishments provided in the Code are much heavier than those proposed in the Draft Act. The maximum in the latter is Imprisonment, with or without hard labor, for a term not exceeding 3 years, or a fine not exceeding 5000 Rupees, or both.

Section VI.

Cl. 31, Chapter XVII. The penalty in the Code for the offence of causing hurt for the purpose of extorting property, &c., is imprisonment of either description, rigorous or simple, for a term which may extend to 14 years, to which may be added an unlimited fine.

„ 32. If the hurt be grievous, the offender may be sentenced to transportation for life.

„ 33. Causing hurt for the purpose of extorting a confession, &c., is punishable

„ 34. with imprisonment of either description, which may extend to 7 years, and if the hurt be grievous, to 14 years, and with fine to any amount.

„ 50 and 51. The wrongful confinement of a person for the purpose of extorting property, or a confession from him, is punishable with imprisonment of either description, which may extend to 3 years, and with fine to any amount.

Chapter XVIII, Clause 6. Extortion is punishable with imprisonment of either description, which

8. may extend to 3 years, or with fine, or both, and if the extortion is committed by putting the person in fear of death or grievous hurt, with imprisonment which may extend to 14 years, and must not be less than 5, to which an unlimited fine may be added.

7. Putting a person in fear of an injury in order to the committing of extortion, is punishable with imprisonment, which may extend to 2 years, or with fine, or both.

9. Putting him in fear of death is punishable with imprisonment which may extend to 7 years, and shall not be less than 3, and with fine in addition.

Heavier penalties are provided for the offences described in Clauses 10 and 11.

Fort St. George, Judicial Consultation, 27th January 1857.

The Right Honorable the Governor in Council will probably be of opinion with the Select Committee on the Penal Code, that the provisions they have made are sufficiently comprehensive, and that the penalties proposed for the offences indicated are adequate.

If his Lordship in Council would suggest any modifications, the opportunity will be afforded when the Penal Code is published for general information. In the mean time, I believe, the Legislative Council would be unwilling to entertain a Bill framed according to the Draft Act, and, I trust, his Lordship in Council will approve of my not bringing it forward.

The provisions regarding procedure will fall to be considered in the course of the preparation of the Code of Criminal procedure.

No. 15. ORDER THEREON, No. 89; dated 22nd January 1857.

Resolved that the above letter and the correspondence to which it refers, be brought to the notice of the Honorable the Court of Directors, in reference to their Despatch of the 10th September, No. 14 of 1856.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. J. A. Wilson.

No 89

Resolved that the above letter & the correspondence to which it refers be brought to the notice of the Hble the Court of Directors in reference to their Despatch of 10th Sept. No 14 of 1856

Fort St George, 22d January 1857

JP

Judl. Dept. 1857.

From

The Member of the Legislative Council of India for Madras.

Recd 9/8 1857

Answd 22/8/57

No 78

Transmits 20 copies of the penal Code. Acknowledges receipt of letter of 24th Jan 57 with the Draft Act for the punishment of abuse of authority on the part of persons in the service of the East India Company within the Presidency of Fort St George and submits observations thereon.—

Recd 10th June 1857

Para 273

Replied to 7/10th June No 7 of 1857.

Judl. Dept. 3 of 1857

14 Aug 18.

C 17 Aug
A 20.

Encl. J. A. Wilson.