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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial DEPARTMENT

G.O. No.	1233	Press.
B.P. No.		Mis.
10-11		
Dated	9.9.1858	198

Not to be folded or roughly handled

No. 10. Read the following letter from H. FORBES, Esq., Member of the Legislative Council; to T. PYCROFT, Esq., Chief Secretary to the Government of Fort St. George, dated Fort William, the 17th August 1858.

SIR,

I have the honor to forward for the information of the Right Honorable the Governor in Council, a copy of a Despatch from the Honorable Court of Directors, dated the 2nd of June 1858, which was communicated to the Legislative Council by the Government of India, on the 23rd Ultimo.

In the latter part of this Despatch it will be seen that the Honorable Court recommend that, in framing new Acts which are to modify existing Acts or Regulations, all that is modified should be repealed and all that is retained should be re-enacted, so that each Act may be complete in itself, and reference to prior Acts be avoided.

The Honorable Court further recommend that the Acts and Regulations in force under each Government should be consolidated under their proper heads, and formed into separate Acts, each complete in itself, as to the subject on which it treats.

The Civil and Criminal Codes which are now before the Council will, in their respective Departments, effect the object which the Honorable Court has in view, and the enactment of the Revenue Code for the Madras Presidency which is under contemplation, will be another most important step taken in the same direction.

The codification of the Laws which are to guide in future the proceedings of the Civil and Criminal Courts, and the whole Revenue administration being thus provided for, it does not occur to me, that there is much room for further condensation, but the Government may probably determine to obtain on so important a question, the opinions of the Board of Revenue and the Sudder Court of Adawlut.

Extract from a Despatch from the Honorable the Court of Directors in the Legislative Department, to the Government of India, dated 2nd June, No. 4 of 1858, paras. 35 to 38.

35. In reviewing from time to time the course of legislation in India, we have been much struck with the inconvenience of legislating, so much as is the case at present, by mere reference to prior and existing laws which are left unrepealed. In cases of extreme pressure and urgency, and when there may not be leisure for a full and more correct framing of the law, a short Act referring to existing Acts or Regulations, repealing, or adding to, or varying them, may be the only course open to the Legislative Council. But in general, and indeed whenever there is time to do it, the best mode of framing a new Act which is to modify existing Acts or Regulations, is to repeal all that it modifies, and embrace in the new Act all that the Act of reference and the Acts or Regulations referred to would, on the other plan of proceeding, include.

36. Again, when an Act is altogether repealed, it would materially assist to a proper understanding of the effect of the repealing law, if it cited the title of the Act which is repealed. As an instance, we may refer to Act IX of 1857, the purport and intent of which it is impossible to ascertain without reference to Act VI of the preceding year. This defect might easily have been obviated by inserting the title of the last mentioned Act either in the preamble or in the enacting Clause of the repealing Act.

37. If the plan of proceeding which we suggest be steadily followed hereafter, our Indian Book of Acts will, so far as the legislation included in it reaches, have as to each separate matter, the oneness and compactness of a code or digest. Otherwise it will grow in time to an oppressive mass of references, which it will be very difficult to follow.

38. In order to give practical effect to the preceding remarks, we suggest that each Member of the Legislative Council representing any Presidency or Lieutenant Governorship of India, be requested to take under his consideration the existing Regulations and Acts in force within the Territories under the Government from which he has received his nomination to Council, and after digesting them under their proper heads, consolidating them, and correcting the somewhat too vague language and incompleteness of the provisions of many of them, lay them before the

Fort St. George, Judicial Consultation, 14th September 1858.

Legislative Council in the form of Bills, each complete in itself as to the subject of which it treats. The Legislative Members would thus accomplish a work of great usefulness, which must some day be done and which will increase in difficulty the longer it is postponed.

No. 11. ORDER THEREON, No. 1233; dated 9th September 1858.

Ordered to be communicated to the Court of Sudder and Foujdaree Udalt, and, through the Revenue Department, to the Board of Revenue, who will, in reference to the remarks contained in the last two paras. of Mr. Forbes' letter, report their opinion on the Honorable Court's suggestion regarding the consolidation of existing enactments on each particular subject.

(Signed) T. PYCROFT,
Chief Secretary.

OFFICE MEMORANDUM.

Fort William, Home Department, No. 1711, the 23rd July 1858.

The undersigned has the honor to forward to the Clerk of the Legislative Council, the accompanying copy of a Despatch from the Honorable the Court of Directors in the Legislative Department, No. 4 of 1858 dated the 2nd June, reviewing the Acts of the Legislative Council, Nos. 1 to 35, passed during the year 1857.

R. B. CHAPMAN,

Under-Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

No. 4 OF 1858.

OUR GOVERNOR GENERAL OF INDIA IN COUNCIL.

1. We proceed to reply to your undermentioned Letters in the Public Department.

LETTER DATED 15TH JUNE (No. 53) 1857.

Act I of 1857, to prevent the overcrowding of vessels carrying Native Passengers in the Bay of Bengal.
Act II of 1857, to establish and incorporate an University at Calcutta.

2. Transferred to the Public Department.

3. This Act is the result of repeated discussions upon a very difficult subject. We desire to be informed of the practical working of the measure when it has been in operation a sufficient length of time to enable you to form a judgment on that point.

Act III of 1857, relating to trespasses by Cattle.
Act IV of 1857 to amend the law relating to the duties payable on Tobacco, and the retail sale and warehousing thereof in the Town of Bombay.

4. Transferred to the Revenue Department.

Act V of 1857, to confer certain powers on the Oriental Gas Company, Limited.

5. Transferred to the Public Department.

LETTER DATED 11TH JULY (No. 65) 1857.

Act No. VI of 1857, for the acquisition of land for public purposes.

6. Subject disposed of in Despatch dated 19th January (No. 3) 1858.

LETTER DATED 17TH SEPTEMBER (No. 107) 1857.

Act XXVI of 1857, for regulating Ferries in the Settlement of Prince of Wales Island, Singapore, and Malacca.

26. Approved.

Act XXVII of 1857, to establish and incorporate an University at Madras.

27. Transferred to the Public Department.

LETTER DATED 19TH OCTOBER (No. 122) 1857.

Act XXVIII of 1857, relating to the importation, manufacture, and sale of arms and ammunition, and for regulating the right to keep or use the same.

28. This Act will be considered by us in connection with your proceedings relative to the revolt of the Native Army of Bengal.

Act XXIX of 1857, to make better provision for the collection of Land Customs on certain Foreign Frontiers of the Presidency of Bombay.

29. Transferred to the Revenue Department.

LETTER DATED 5TH NOVEMBER (No. 127) 1857.

Act XXX of 1857, for the levy of Port-dues and Fees in the Port of Calcutta.

Act XXXI of 1857, for the levy of Port-dues and Fees in the Port of Bombay.

30. Transferred to the Revenue Department.

LETTER DATED 21ST DECEMBER (No. 150) 1857.

Act XXXII of 1857, to amend the Articles of War for the Native Army.

tion has our approval.

31. This Act for marking offenders convicted of mutiny or desertion has our approval.

Act XXXIII of 1857, to make further provision relating to foreigners.

32. We approve of this Act.

Act XXXIV of 1857, relating to the sale of Ganja in the Presidency of Bombay.

33. Transferred to the Revenue Department.

LETTER DATED 19TH JANUARY (No. 9) 1858.

Act XXXV of 1857, for the levy of Port-dues in the ports of Moulmein, Rangoon, Kyauk Phyoo, Akyab, and Chittagong.

34. Transferred to the Revenue Department.

35. In reviewing from time to time the course of legislation in India, we have been much struck with the inconvenience of legislating, so much as is the case at present.

by mere reference to prior and existing laws which are left unrepealed. In cases of extreme pressure and urgency, and when there may not be leisure for a full and more correct framing of the law, a short Act referring to existing Acts or Regulations, repealing, or adding to, or varying them, may be the only course open to the Legislative Council. But in general, and indeed whenever there is time to do it, the best mode of framing a new Act which is to modify existing Acts or Regulations, is to repeal all that it modifies, and embrace in the new Act all that the Act of reference and the Acts or Regulations referred to would, on the other plan of proceeding, include.

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38. In order to give practical effect to the preceding remarks, we suggest that each Member of the Legislative Council representing any Presidency or Lieutenant Governorship of India, be requested to take under his consideration the existing Regulations and Acts in force within the Territories under the Government from which he has received his nomination to Council, and after digesting them under their proper heads, consolidating them, and correcting the somewhat too vague language and incompleteness of the provisions of many of them, lay them before the Legislative Council in the form of Bills, each complete in itself as to the subject of which it treats. The Legislative Members would thus accomplish a work of great usefulness, which must some day be done and which will increase in difficulty the longer it is postponed.

We are, &c.,

(Signed) F. CURRIE,

W. J. EASTWICK,

AND OTHER DIRECTORS.

LONDON,
The 2nd June, 1858.

12/1/58
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Sept 13

Legislative Council of India.

Office Memorandum, Home Department, dated 23rd July 1858, forwarding a Despatch from the Honorable the Court of Directors reviewing the Acts of the Legislative Council for 1857.

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Judicial Department

Mr 1233

Extract from the Minutes of Consultation
Dated 9th September 1858.

Read the following letter
from the Member, for Member of
the Legislative Council of India

Here enter 17th Sept/58

Ordered & the communication
sent to the Court of Directors and
Foreign Affairs, and, thro' the
Revenue Department, to the
Board of Revenue, who will,
in reference to the remarks con-
tained in the last two pages
of Mr Forbes' letter, report their
opinion on the ~~say~~ Honble
Court's suggestion regarding the
consolidation of existing in-
actments on each particular
subject.

Copy to S & F Agent } Sept 13th
Revenue Dept.

