

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	719	Press
		Mis.
10-11		
Dated	3-6-	1945.8

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 8th June 1858.

No. 10. Read the following letter from H. FORBES, Esq., Member for Madras of the Legislative Council of India; to T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, dated Fort William, the 19th May 1858.

SIR,

Although the Select Committees to report on the Code of Civil Procedure are nominally separate for each Presidency, it is the practice for the Members of each Committee to attend the Meetings of all, and in accordance with this practice, I was yesterday present at a Meeting of the Committee on the Code of Civil Procedure for the North Western Provinces, the chief subject brought forward for discussion being the constitution of the Courts.

2. The papers which I now enclose will put the Government in possession of the views entertained regarding the future constitution of the Courts in the Upper and Lower Provinces of the Presidency of Bengal, and the scheme propounded by the Honorable the Lieutenant Governor has met with very general acceptance.

3. I should be very glad to be informed of the opinion of the Government on so important a matter as the constitution of the Courts of Justice, before the Committee on the Madras Code of Procedure makes its reports to the Council; and I therefore request that His Lordship in Council will inform me of his views at as early a date as may be convenient, and if they should coincide with those advocated by the Lieutenant Governor of Bengal, that the fact may be communicated by telegraph.

4. I do not think that there is any disposition in the Legislative Council to insist on uniformity in the constitution of the Courts throughout the different Presidencies; and it occurs to me that, while the large size of the Madras Provinces would make a Jail delivery by a Judge on circuit a difficult and tedious process, the scheme now propounded will deprive the judicial service of the Subordinate Courts, and with them, of all training for higher and more responsible positions. On the other hand it is argued, that it is desirable to allow a prisoner more time to prepare his defence than the speedy action of the present Courts of Session admits of, and that the Small Cause Courts which it is proposed to establish, will offer sufficient opportunities of training the younger judicial servants for high and responsible duty.

5. The Government will observe, that it is part of the plan proposed for Bengal that at least one professional man should have a seat on the bench of the Provincial Courts, and I believe that this measure will be adopted, partly to give greater efficiency to the Courts, partly to render the introduction of what is commonly termed the Black Act more easy, and partly to satisfy the cry which has been raised of late for a bench with more legal training than has hitherto been provided.

6. This part of the proposed plan appears to me to make it necessary very seriously to deliberate before it is determined to retain the present constitution of the Courts in the Madras Presidency. However, much the present system of a rapid disposal of criminal trials may be preferred to a tardy Jail delivery by a Judge on circuit, and however valuable may be the training given to our judicial servants in the Subordinate Courts, I think that the Government will pause before they place Madras in the invidious position of being the only part of India where the bench is closed to the profession, the outcry which has been heard of late years against the want of legal training would be redoubled; and I think that it would be better voluntarily to give what there can be little question, must ere long be otherwise ceded to agitation.

7. In saying this I offer no opinion on the general question, that is I think fairly open to discussion; but supposing that the bench is opened to the Legal Profession in other parts of India, it is, I think, a serious question whether the policy should not be universally adopted.

No. 11. ORDER THEREON, No. 719; dated 3rd June 1858.

Resolved, that copy of Mr. H. Forbes' letter with the original papers that accompanied it, be referred to the Court of Sudder and Foujdaree Adawlut for their opinion, how far the leading features in the proposed constitution of the Courts in the Upper and Lower Provinces of the Bengal Presidency are adapted to the circumstances of the Presidency of Madras, as also for their opinion more particularly on the point noticed by the Member for Madras in the three last paras. of his letter.

(Signed) T. PYCROFT,
Chief Secretary.

No 719 Judicial Dept
Extract Mins. of Council - Date 3^d June 1858.
From Mr H Forbes - Member for Madras, of the
Legislative Council 19 May 1858.

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H
Wick

see letter forwarded
to Secy of Legation
and see a copy
to Mr

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