

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1644	Press
	38-39	~~Mis~~
Dated	7-12-1915	

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
for the month of December 1859.*

No. 38. Read the following letter from W. GREY, Esq., Secretary to the Government of India; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Fort William, 23rd November 1859, No. 2342.

Home Department.
Judicial.

I am directed to acknowledge the receipt of your letter (without number,) dated the 10th instant, reporting that the Commission appointed at Madras in accordance with the proposal contained in the Minute of His Excellency the Governor of Madras, dated the 25th of April last, has nearly completed its labors and will shortly submit a scheme for the amalgamation of the Supreme and Sudder Courts at that Presidency, with one Code of Procedure adapted to the United High Court and the Courts subordinate to it, and requesting that measures may in consequence be taken for suspending the introduction of Act VIII of 1859, into the Madras Presidency.

2. In reply the Honorable the President in Council desires me to point out that the Government of Madras would appear to have overlooked the fact that it has been determined by the Home Authorities, that there shall be, as far as possible, one uniform Code of Civil Procedure for all Courts of Civil Judicature established within what are called the Regulation Provinces of the British Indian Territories; that the Royal Commissioners who prepared the Code, objected to by the Madras Government, framed it with this view; and that, although so much of the Code prepared in England, as related to the High Courts proposed to be constituted at the several Presidencies, was struck out in this country for reasons with which the Madras Government is acquainted, the rest of the Code, which has become law as Act VIII of 1859, and has been in operation in the Presidency of Bengal, since the 1st of July last, is substantially the same as was proposed by Her Majesty's Commissioners.

3. The alterations in the Code made in this country, are alterations of detail rather than of principle; and in introducing them, the Legislative Council kept steadily in view the object aimed at by the Royal Commissioners as set forth in their introductory notes, *viz.*, that the Code should apply to all ordinary Civil Courts established as above.

4. Under these circumstances, it seems to the President in Council, that it was clearly not the duty, nor did it fall within the province of the Madras Government, to devolve upon the Commission appointed by them, the task of preparing a Code of Civil Procedure, to supersede or take the place in the Madras Presidency of the Code passed by the Legislative Council, and to which the assent of His Excellency the Governor General was given several months ago; and the President in Council desires me to say, that he sees no reason whatever for the adoption of any measure with a view to suspend the introduction into the Madras Presidency of Act VIII of 1859, from the date fixed by the Act, *viz.*, the 1st January next.

5. I am directed to add that a similar application was made, though on different grounds, to the Secretary of State for India by the Government of Bombay, and that that Government was informed in reply that Her Majesty's Government, being of opinion that the Procedure at all the Presidencies should be assimilated as far as possible, had no intention of taking any measures to prevent the enforcement of the Act in the Presidency of Bombay.

No. 39. ORDER THEREON, 7th December 1859, No. 1644.

In the foregoing letter from the Government of India, the Honorable the President in Council states that "he sees no reason whatever for the adoption of any measure with a view to suspend the introduction into the Madras Presidency of Act VIII, 1859, from the date fixed by the Act, *viz.*, the 1st January next."

2. Looking to the terms in which this answer is conveyed, it appears to this Government, that it would be to no purpose to address the Supreme Government again upon the subject. The Honorable the Governor in Council resolves, however, to transmit a copy of their letter for

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the information of the Right Honorable the Secretary of State, in continuation of the Despatch of the 12th ultimo, No. 43. It will at the same time be stated that Act VIII, 1859, will of course be brought into operation in the Regulation Provinces under this Government, on the 1st Proximo, and that the Report and Code prepared by the Commissioners, which is now being printed, will shortly be laid before the Government of India, and copies of it submitted to the Home Government.

(Signed) T. PYCROFT,
Chief Secretary.

N^o. 16414 - 7 December/59

In the foregoing letter from the Govt. of India, the Honorable the President in Council states that "he sees no reason whatever for the adoption of any measure with a view to suspend the introduction into the Madras Presidency of Act VIII - 1859 from the date fixed by the Act, viz. the 1st January next.

2. Looking to the terms in which this answer is conveyed, it appears to this Govt. that it would be to no purpose to address the Supreme Govt. again upon the subject. The Honble the Governor in Council resolves, however, to transmit

transmit a copy of them
for the information of
Rt. Honble the Secretary
of State in continuation
the despatch of the 12th 1859
No. 43. It will at the same
time be stated that a
VIII-1859 will of course
brought into operation
the Regulation Provision
under this Govt. on the
Proce^s - & that the Re-
code prepared by the
missioners, which is ac-
cording printed, will shortly
be laid before the Govt.
dia, & copies of it. sub-
mitted to the Home Govt.

Proc. of Govt. 10th Dec^r 1859
Int. of 16th Dec^r 96

Jud. L. to Eng. J. L. Sec^y
No. 49 of 1859
Rpt. to Govt. of 1859.

Proc. of Govt. 10th Dec^r 1859
Judicial 1859 (Dep. Sec^y)

From
The Secy. to the Govt.
of India - No. 2342

2/23rd &
28 November 1859.

No. 1947

clearly not the duty of this
Govt. to devolve upon the
Commission appointed, the
task of preparing a Code
of Civil Procedure, to super-
cede or take the place in the
Madras Presidency of the
Code passed by the Legisla-
tive Council, and that there
is no reason for the adoption
of any measure with a
view to suspend the in-
troduction into the Madras
Presidency of Act VIII. 1859.

c3 Sec^y
26-11 38439.

Acknowledge the receipt
of letter dated 10th Instant,
reporting that the Commis-
sion appointed at Madras
has nearly completed its
labors and will shortly
submit a scheme for the
amalgamation of the
Supreme and Sadr Courts
at this Presidency, and re-
questing that measures
may be taken for sus-
pending the introduction
of Act VIII of 1859 into the
Madras Presidency - It
that, under circumstances
noticed, it seems to the
Govt. of India that it was
With an Order.