

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	135	Press
	5-b	~~Mis.~~
Dated	2. 2. 1861	19

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Not to be folded or roughly handled

[Signature]

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*Proceedings of the Madras Government, Judicial Department,
2nd February 1861.*

No. 5. Read the following letter from H. FORBES, Esq., Member for Madras of the Legislative Council, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Fort William, the 13th January 1861.

On the 2nd instant, I had the honor to transmit to you a Telegraphic Message asking if there would be any objection on the part of the Madras Government to the removal of the exemption of the Village Police from the liability to the Criminal Procedure Code which Section 317 now contains, if the procedure laid down in Act XXIV of 1859 were introduced into the Code. I remarked that the Village Police had been made a part of the General Police by the last mentioned Law, and was subject to the same procedure.

2. In reply to this message, I received, on the 7th instant, your Telegraphic communication of the 5th, informing me that the Government would prefer that the exemption should remain, and requesting my attention to the latter part of the 4th paragraph of your letter of the 9th of August last.

3. From this request I am led to believe that the Government have not understood the full purport of my message referred to in the first paragraph of this letter, and I therefore take leave to address you more at large.

4. Act XXIV of 1859 was passed to enable the Madras Government at once to organize the new Police on the introduction of which they had resolved, a special Procedure was enacted to suit the new Police, and that body was exempted from the Criminal Procedure Code, as parts of it were considered by the Madras Government to be opposed to the principle on which they wished their Police to be organized. In the latter part of last year a Police Bill, almost identical with Act XXIV of 1859, was introduced into the Council by Sir Bartle Frere, and was intended to apply to the whole of India as the new Police, on the Madras system, was gradually organized and introduced, and this made it incumbent on the Select Committee appointed to revise the Procedure Code to reconsider the chapter on Police Procedure, and to endeavour to remodel it so as to suit the system which was already in force in part of India, was to be gradually extended, and might at no very distant day be universal.

5. Many proposals have been considered by the Committee, and one, to introduce the Procedure common to Act XXIV of 1859, and to the Bill introduced by Sir Bartle Frere to which I have above referred, found sufficient favor to induce me to ask the Government if, supposing the introduction were made, the exemption of the Village Police, now contained in Section 317 of the Code would be any longer necessary. It appeared to me that it would not, but I wished to be certain of the precise views of Government and I therefore made the reference.

6. It did not occur to me that the Government would suppose that, if the Procedure of Act XXIV were introduced into the Code, the Sections of that Act which contain it would still remain in force. I said in my message that "uniformity was insisted on," and I supposed that it would be concluded that, if the Code contained the Procedure of Act XXIV as the Police procedure for India, the Procedure Sections of that Act would be repealed, and the Code would be the general Law for the whole country.

7. Your message now under reply however requests my attention to a part of your letter of the 9th of August last, which expresses a wish for a more specific exemption of the Madras Police from liability to the Criminal Procedure Code than is now contained in Section 317, and it is therefore evident that the Government suppose that, even if the Procedure of Act XXIV be introduced into the Code, the Madras Police will still be exempted from liability to the Code, and be left under their own special law.

8. I address you now under some disadvantage, because I do not know what may be the view eventually adopted by the Select Committee, and, still less, the view that may be eventually adopted by the Council; but I am under a strong impression that the desire to see the Criminal Procedure Code introduced as universally as the Penal Code will be, is so great that, if the Police Procedure in the Code can be made to suit the new system of Police, the Procedure Sections of Act XXIV will be repealed, and the Madras Police be left under the same law as will be applicable to the rest of India. This appears to me at present to be the general view of the

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Council, and, if my surmise should prove correct, I cannot hold out to Government the least hope that I can successfully resist it.

9. At the last Meeting of the Select Committee there were present Colonel Bruce, Mr. Wanchosse, and Mr. Temple, all members of the Police Commission which prepared the Bill introduced by Sir Bartle Frere, and it was with their consent that all parts of that Bill which the Criminal Procedure Code already provided for were struck out, and I consider it probable that a repeal of the corresponding Sections in Act XXIV of 1859 will be moved in Council, a double provision of the same law being needless.

10. To the Meeting convened for the 15th instant, the same gentlemen have been invited, and the Committee will then proceed to discuss with them Chapter VIII of the Procedure Code, in the hope of being able to modify it so as to suit the system of Police of which they are the advocates, while the system which must obtain until the new one is introduced is not made inefficient by a too great diminution of power. I think it probable that the endeavour to unite the two will be successful.

11. From what I have now said the Government will see that, if matters take the course which circumstances lead me to anticipate, it will be impossible for me to carry out the wish expressed in the 4th paragraph of your letter of the 9th of August last, to which your Telegraph Message requests my attention, because, as the action of a large majority of the Council will be towards one Code of Procedure for all India, the exemption of the Madras Police now contained in Section 317 will no longer be allowed to stand.

12. I would not lead the Government to suppose that there is any disposition to dispense with any of the provisions which the Madras Government consider to be essential to an efficient Police, and they will probably be willing to consider that the association of the Members of the Police Commission now in Calcutta, with the Select Committee on the Criminal Procedure Code in arranging the Chapter on Police, evinces a desire to adapt the Code to the system of the new Police.

13. I shall not fail to use my best endeavours to secure all that I believe the Government consider essential, and I address you at present only because I am led, by your message, to believe that the Government do not understand that there is great probability that, if the Code be adapted to the present Madras Procedure, the Procedure Sections in Act XXIV will be repealed, and the retention of the exemption in Section 317 of the Code will be no longer possible.

No. 6. ORDER THEREON, 2nd February 1861, No. 135.

Ordered that the above letter be recorded. It is observed that instructions on the matter to which it relates have already been communicated to Mr. Forbes by Electric Telegraph under date the 18th and 22nd ultimo.

(Signed) T. PYCROFT,
Chief Secretary.

Order thereon 2^d February 1861. No. 135.

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Per Sept 1861 to Dec 1861

Per 1861 Sept 1

From

The Member for
Madras of the Legation.
of India.

At 13th
Sept 26th 1861.

No 124.

In the reason stated, the
address more at large on the
subject of the telegraphic lines
also transmitted by him
advising if there would be any
objection on the part of the
Director in the present
to the removal of the stream
of the Village Police from the
vicinity to the present location
some code on which the
more contained in the
paid down in the
more introduced into the

C. 29 Jan 1861
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Will be able
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