

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. <i>1337</i>	Press ~~Mis~~
<i>181-182</i>	
Dated <i>16.8.1962</i>	~~FF~~ .

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
16th August 1862.*

No. 181. Read the following letter from E. C. BAYLEY, Esq., Secretary to the Government of India; to J. D. SIM, Esq., Secretary to the Government of Madras, dated Fort William, the 22nd July 1862, No. 3,694.

Home Department.
Legislative.

I am instructed to address you with reference to the copy of the Despatch to this Government, No. 14, dated 15th May last, forwarded by the Secretary of State with his Despatch to your Government, No. 44, dated the 16th of June, and to draw your attention to the instructions therein contained, and to the extract from the letter of the late Indian Law Commissioners, dated the 14th October 1837, annexed to the Despatch relative to the serious inconvenience which is likely to arise from uncertain and contradictory constructions of the Penal Code by different Courts, and the course suggested by the Law Commissioners in order to obviate the difficulty.

2. It is requested that you will, under the orders of the Madras Government, communicate the Despatch and its enclosure to the Superintending Judicial authorities subordinate to them, calling the attention of those authorities to the suggestions of the Indian Law Commissioners, and request that they will take the necessary steps for giving effect to the same as regards both their own Courts and the Courts subordinate to them.

3. You are also requested to draw the attention of the Superintending Judicial authorities in Madras to the remark made by the Indian Law Commissioners that "every case in which the construction put by a Judge on any part of the Code is set aside by any of those tribunals from which, at present, there is no appeal in India, and every case in which there is a difference of opinion in a Court composed of several Judges as to the construction of any part of the Code, ought to be forthwith reported to the Legislature," and direct those authorities to take steps to ensure the adoption of this suggestion.

4. The Indian Law Commissioners further suggest that every Judge of every rank, whose duty it is to administer the law as contained in the Penal Code, should be enjoined to report to his official superiors every doubt which he may entertain as to any question of construction which may have arisen in his Court, and that all of these doubts, which are not obviously unreasonable, ought to be periodically reported by the highest Judicial authorities to the Legislature. These reports, eliminated as above, should, the Governor General in Council thinks, be embodied in a tabular form, the column of Remarks in which should set forth the doubt entertained and the views taken by the Officer entertaining the doubt, and the views of his chief Judicial superior. The tables should, His Excellency in Council is of opinion, be prepared in the Office of the highest Judicial authority of the place to which they relate, and should be submitted half-yearly to the Government of India through the local Government.

5. It is very desirable, the Governor General in Council thinks, that retrospective effect should be given to these instructions, and that the tables and special reports required by them should embrace all cases in which doubts as to the proper constructions of any part of the Penal Code have arisen, or in which the construction of a lower Court has been reversed by an appellate Court exercising final jurisdiction, since the Code came into operation on the 1st January last. During the last six months many doubtful points of construction may have arisen, and many reversals in points of law may have taken place which, looking to the object of the present instructions, should, the Governor General in Council is disposed to think, be communicated to the Legislature.

6. When a High Court shall have been established in your Presidency, you will, with the permission of His Excellency the Governor in Council, communicate to it the Despatch of the Secretary of State and its enclosure, in order to the adoption by the Court of the suggestions therein contained, as far as the same will relate to it.

7. The Governor General in Council further desires me to request that you will be good enough to draw the attention of His Excellency the Governor in Council to the last Clause of paragraph 3 of the Despatch from the Secretary of State, in order that instructions may be issued in accordance therewith.

J. D. SIM

Proceedings of the Madras Government, Judicial Department,
16th August 1862.

No. 182.

ORDER THEREON, 16th August 1862, No. 1,337.

The papers referred to in paragraph 1 of this letter were communicated to the Judges of the late Supreme and Sudder Courts, under date the 29th ultimo.

2. Resolved that a copy of Mr. Bayley's letter be forwarded to the Judges of the High Court, and their attention requested to the several instructions contained therein, and to the tables and special reports required by paragraphs 4 and 5 of the Despatch.

3. Referring to the concluding paragraph of Mr. Bayley's letter and to the last Clause of paragraph 3 of the Despatch from the Secretary of State, it is observed that the only non-Regulation Provinces in the Madras Presidency, are the Government Agencies in Vizagapatam and Ganjam. Copies of these papers will be furnished to the Agents for their information and guidance.

(Signed) T. PYCROFT,
Chief Secretary.

Ed. F. Cartledge.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following
letter from the Government
of India.

(Here enter 22nd July 1862. No. 3,691.)

Order thereon 16th August 1862. No. 1,337.

The papers referred to
in para 1 of this letter were
communicated to the Judges
of the late Supreme ^{& Sudder} Courts
under date the 29th Ultimo.

2. Resolved that a copy
of Mr. Bayley's letter be
forwarded to the Judges
of the High Court, and
their attention requested
to the several instructions
contained therein, and to
the tables and special
reports required by paras.
4 and 5 of the Despatch.

3. Referring to the con-
cluding para of Mr. Bayley's
letter

letter and to the last clause
 of para 3 of the Despatch
 from the Secretary of State,
 it is observed that the only
~~Chief Judicial Authorities~~
 of non-regulation Provinces
 in the Madras Presidency
 are the Government Agents
 in Vizagapatam and
 Ganjam. Copies of these
 papers will be furnished
 to those ^{Agents} ~~Officers~~ for their
 information and gui-
 dance.

J.P.

Agencies

Chief Justice and Judges of the
 The High Court of
 Judicature at Madras.
 Government Agent
 Vizagapatam.
 Ganjam.

7610
 Despatch 15th

No. of Govt. No. 1199. despatch 19th Sept. '62.

J.P.

George W. F.
1862. Department.

No. 1337.

PROCEEDINGS OF GOVERNMENT.

Dated 16th Decr 1862
Of A 2080. 536/63
91/68 21/44
Communicating to the High
Court from the office
of the Court of Justice regarding
the preparation and
the submission of bills and
special reports of accounts and
and contradictory conclusions
of the Court of Justice.