

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1918	Press
		~~Mis.~~
181-182		
Dated	26.11.1882	[]

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
26th November 1862.*

No. 181. Read the following letter from E. C. BAYLEY, Esq., Secretary to the Government of India; to T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, dated Fort William, the 27th October 1862, No. 6,002.

Home Department.
Judicial.

I am directed to request that you will be good enough to move the Honorable the Judges of the High Court at Madras to favor the Governor General in Council with their opinion upon the points noticed below, affecting the practice of the High Court at Madras, and regarding which His Excellency is of opinion that legislative interference is either requisite or very desirable.

2. With reference to that part of the Preamble of Act XX of 1862, in which it is stated that it is expedient, as a temporary arrangement, that Court fees, and not Stamp duties, shall be paid in respect of some portion of the business coming before the High Court, and that Stamp duties shall be levied, in accordance with Section 30, Act X of 1862, in respect of other business coming before the said Court, the Governor General in Council considers it very undesirable that the distinction thus made in respect of the different portions of the business coming before the same Court should be maintained longer than is necessary to admit of the question being fully considered and discussed, and of a decision being come to upon it. In the opinion of the Governor General in Council an uniform system, whether of Stamp duties or fees, should be introduced throughout the Court, to take effect from the date on which the operation of Act XX of 1862 will cease, the necessary legislation being had recourse to in the mean time.

The Governor General in Council is in favor of the levy of Stamp duties throughout the Court, as more simple than a system of fees, as better calculated to secure the punctual payment of the dues of Government, and as obviating the necessity of keeping complicated accounts, and of subjecting the same to audit and examination.

4. The Governor General in Council observes that no difficulty was experienced by the late Sudder Court at Madras in the levy of Stamp duties on all instruments and writings coming before that Court of the kinds specified as requiring Stamps in Schedule B annexed to Act X of 1862; but that there may be reasons, of which the Government is not aware, why it might not be desirable to substitute Stamp duties for Court fees in that part of the High Court which represents the late Supreme Court. If any such reasons exist, the Governor General in Council would be glad to be informed of the same, and in that case to have the opinion of the honorable and learned Judges whether fees should be substituted for Stamp duties in that portion of the business coming before the High Court on which Stamp duties are now leviable. The Governor General in Council would greatly regret the adoption of this alternative for the sake of introducing uniformity.

5. I have the honor also to request that the Judges of the High Court may be asked whether, in their opinion, it is expedient that any shorter time of appeal than that allowed by Section 333 of Act VIII of 1859, should be fixed for the appeals specified in Section 6 of Act XX of 1862.

6. The Governor General in Council is disposed to consider that it may be found advisable to enlarge the powers of single Judges of the Court, particularly in disposing of applications for the admission of special appeals, and to impose further checks upon the applications for appeals of that nature to prevent the reckless manner in which they appear at present to be made.

7. It may also seem to deserve consideration whether it is not expedient to limit the right of regular appeal to the High Court, and indeed to allow no appeal to that Court upon the facts, except in cases appealable to the Queen in Council, leaving the facts in all other cases in which a regular appeal now lies to the High Court to be finally determined by a Provincial or Divisional Court,—constituted as it was proposed in the

* Bill "to constitute Courts of Civil Judicature," 1859. accompanying copy of a Bill* presented to the late Legislative Council by a Select Committee of that Council to constitute the Upper District Court mentioned in Section 5.

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8. The Governor General in Council being desirous to lose no time in introducing into his Council, when it meets for the purpose of making Laws and Regulations, a Bill for making such alterations in the Law in regard to these subjects as may be deemed expedient, I am desired to beg that the Honorable the Judges will favor His Excellency in Council with an early expression of their sentiments as above requested.

No. 182. ORDER THEREON, 26th November 1862, No. 1,918.

His Excellency the Governor in Council requests that the Honorable the Judges of the High Court of Judicature will favor him with their opinion on the several points adverted to in the foregoing letter.

2. The question raised in para. 7 of Mr. Bayley's letter and in the Bill which accompanied it, involves the entire question of the suitability or otherwise of the present system of Courts in the Provinces to the wants of the country. Considering the very short time which has elapsed since the High Court was constituted, it appears to His Excellency in Council that it would not be desirable, except for very urgent reasons, to bring before the Legislature a measure involving so complete an alteration in the constitution of the Courts in the Provinces, and he is under the impression that as regards this Presidency the amount of work devolving on the High Court in its Appellate Jurisdiction and which, it is understood, has been much reduced by the Code of Civil Procedure is not such as to call for any immediate change in the existing Law. The Governor in Council requests that the Honorable the Judges, when expressing their opinion on the points entered by the Government of India, will furnish a return showing the state of business in the late Sudder Court and on the Appellate side of the High Court during the first nine months of the present Calendar year, accompanied by such explanation as may be deemed requisite.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. T. McMootry.

Judicial Department.

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EDINGS of the MADRAS GOVERNMENT.

*Read the following letter
from the Secy to the Govt.
of India. Home Department*

Recd letter 27 October 1862 No 6004

Order thereon 26 November 1862 No 1918

*His Excellency the
Governor in Council requests
that the Honorable the Judges
of the High Court of Judicature
will favor him with
their opinion on the several
points adverted to in the
foregoing letter.*

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the present system of Courts
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has elapsed since the High
Court was constituted, it
appears to His Excellency
in Council that it would
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bring before the Legisla-
ture a measure involving
so complete an alteration
in the constitution of
the Courts in the Provin-
ces, and he is under the
impression that as regards
this Presidency the amount
of work devolving on the
High Court in its appellate
jurisdiction and which
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L.R.

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The Honble the Judges
of the High Court
of Judicature } despatch
with a bill

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13-3-15
2/8/12

Public 1862. Department.

No. 1210

PROCEEDINGS OF GOVERNMENT.

24/108 of 1863.

Dated 26/4/1862

Regarding the matter
the Judges of the High Court
to have their own opinion
on the several points entered
to in the letter from the
Secretary to the Government
of India and stating that
the question of the
city or otherwise of the
system of transfer in the
service to the benefit of the
country need not be
considered.

7861 India—Printed at the Government Press
as ordered and the Secretary
will be responsible for the
of the same.

1874/182