MR. O. 1—80,000—16-10-28.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 280 , ress
~~Mis.~~
177-1798
Dated 21.2.1862 ~~19~~

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
21st February 1862.

No. 177. Read the following letter from THOMAS WILKINS, Esq., Acting Deputy Registrar of the Sudder Court; to T. PYCROFT, Esq., Chief Secretary to Government, dated Madras, 15th January 1862, No. 3.

I am instructed by the Judges of the Sudder Court to state for the information of Government that on the introduction of the new Code of Criminal Procedure, they have felt it to be their duty to consider those provisions of the Code which have reference to the system of trial by Jury, and the substitution of the notes of the Judge presiding at the trial for the record of the evidence taken down as at present by an inferior Officer of the Court in the vernacular language of the district.

2. These provisions are contained in Chapter XXIII of the Code, and in Section 196 as made applicable to Courts of Session by Section 364. It will be observed that under the above Section 196, and Section 322, it rests with the Government exclusively to direct the introduction of the system described in these portions of the Act, either generally or partially as may appear proper.

3. Preparatory to submitting to Government any recommendation on the above subject, the Judges have considered it advisable to ascertain the views of the local district Officers with respect to the change of system contemplated by the Act. The result of this reference has shown that ten Judges, including some of the most able and experienced Officers in this Presidency, recommend the introduction of the system of trial by Jury into their districts, though four of this number would confine its operation for the present to offences against property. Seven of these Officers are further of opinion that Section 196 of the Code of Criminal Procedure should be made applicable to the Courts under their charge.

4. The Judges are of opinion that the system of trial by Jury is so far intimately connected with Section 196, that it would not be advisable to adopt the former system in any district to which the above Section 196 was not at the same time declared applicable. The present system of taking down the evidence in extenso in the vernacular language, involving often the introduction of much irrelevant matter, is, as is well known to those who have been employed in the Courts of the interior, tedious in the extreme; and the Judges cannot doubt that its retention would prove most distasteful to the great body of Jurors employed on trials, and occupy an unreasonably large portion of time, which to persons of their class, is of no little value.

5. The system of trial by Jury in criminal cases it may be remarked, has succeeded well in Ceylon, where a large proportion of the people are of the same race as the inhabitants of Southern India; and in Mysore also, where it is universally prevalent, the native communities are said to be much attached to it.

6. Adverting however to the large extent of territory subject to this Government, and to the importance of the change, the Judges are averse to the adoption of any general measure in the first instance, and would rather be disposed to suggest that the trial of the system should be confined for the present to a few only of those districts where the Judges favor the system and would feel such interest in the subject as would prompt them to exert themselves in promoting a satisfactory result. The Judges further think that it should be limited also to particular classes of offences to which the system appears to be more especially applicable. After some experience of this mode of trial, it may readily be extended to other districts and other classes of offences, if this should appear desirable.

7. With this view the Judges would recommend that the system of trial by Jury, as described in Chapter XXIII of the Code of Criminal Procedure, should be introduced in the manner specified in Section 322 of the Code, into the contiguous districts of Chittoor, Cuddapah, and Nundial, as respects those classes of crimes and offences which are described in those Sections of the Penal Code which are noted in the margin. To these three districts the Judges would be disposed to add Masulipatam. The Judges presiding in all these Courts have expressed themselves in favor of the measure,

Simple theft, Sections 379, 380, 382.
Robberry and gang Robberry, Sections 392, 393, 394, 395, 397, 398, 399, 400, 401, 402.
Housebreaking, Sections 451, 452, 453, 454, 455, 456, 457, 458, 459.

and the Judges of the Sudder Court consider them individually fully competent to inaugurate this important change in their districts respectively, if the Government should be pleased to accede to the proposal now submitted.

8. The Judges would at the same time suggest that the provisions of Section 196 of the Code of Criminal Procedure, should, with reference to Section 364 of the same Code, be declared applicable to all trials before the several Courts of Session, in which the trial is held by Jury in the manner above indicated.

No. 178. ORDER THEREON, 21st February 1862, No. 280.

The Government approve the recommendations made in the above letter, except that they would substitute the Rajahmundry Zillah for that of Nundial, as Mr. Innes has recently been transferred to the former Court. The Sudder Court will be so good as to submit a Notification for publication in the Gazette.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Judicial Departt

Memorandum.

From the Acting Registrar of the Sudr Court } Dated 15th Jany 1862 No 3/

The recommendation of the Judges should be carried out— I think in the Zillahs where hardly sufficient Juries could therefore at once be summoned I would recommend that the Trial by Jury should be made as advised by the Judges— Messrs Kelly & Davidson are certainly

If this application from the Sudr be proceeded to— as I submit that it should be— I would suggest that the introduction of trial by Jury be at first confined to the two Zillahs of Chittoor and Nundial.

2. The Acting Judge of Chittoor, Mr Collett, is an able man— He has been called to the Bar at home— and has

Yours Session Judges
have the Sudder Jurors
certified to these
Gentlemen -

Yrs &c -

I think with the Sudder Court
the experiment may be tried in
the 4 Districts Ellis

Messrs Kelly &
Davidson -

per post

has published a legal
work -

3. The Gentleman
Mr. Innes who presides
on the Mundial Khurnool
Court is one of our
best Judges.

4. The Judges of
Masulipatam & Cudda-
pah may be well
affected towards the
change but I doubt
their being so well
qualified to introduce
it as the two that
I have named. -

JP

JP

JP

Messrs

Judicial.

List.

Proceedings of the Madras Govt.

Read letter from the
Sudder Court — Enter 15th Jany. 62 No 3.

Order — thereon 21 Febuary 1862 No 280

The Govt. approve the recommendations made in the above letter,† and request the Sudder Court to submit a Notification for publication in the Gazette.

† except that they would substitute the Rajahmundry Pleader for that of Nundial — as Mr Grimes has recently been transferred to the Coimbatore Court. The Sudder Court will be so good as —

The Sudder Court. 3
" Sessions Judges, Chittoor 3
Cuddapah 3
Rajahmundry 3
Nundial 3
Masulipatam 3

Dispd 25th "

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B22 "

1. 3. 29 v v

Judicial 1862. Department

No. 280

PROCEEDINGS of the MADRAS GOVERNMENT.

Dated 21st February 1862.

Feb 461. 460 to 462

" 2446 to 2447 24-12-61

Passing Orders on the subject of trials by Jury in certain Zillahs.

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