

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	546	Press
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64-65		
Dated	11.4.1963	19

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Not to be folded or roughly handled

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Government, Judicial Department,
11th April 1863.

No. 94. Proceedings of Government in the Military Department, dated
6th March 1863.

Communicating letter from the Judge Advocate]

(Vide Proceedings Military Department, dated
6th March 1863, Nos. 103 & 104.)
by His Excellency the Commander-in-Chief
being brought to the notice of the Government
of India.

To the Secretary to the Government of India, Home Department, dated Fort Saint
George, 11th April 1863, No. 540.

I am directed to submit for the consideration of the Honorable the President in Council,
the annexed copy of a letter, under date the 28th February last, from
No. 94. the Judge Advocate General of the Army, bringing to notice the
anomaly in the Law relating to the crime of attempt to murder as laid
down in Section 307 of the Indian Penal Code.

2. The Governor in Council concurs with His Excellency the Commander-in-Chief in
considering the distinction which is made in this and the following Section, with reference to
the result of the Criminal Act to be objectionable in principle, and to be deserving of the consi-
deration of the Legislature when the Code may come under revision.

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

Exd. T. McMootry.

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MILITARY DEPARTMENT.
PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter :—

*From the Judge Advocate General of the Army, Fort Saint George, 28th February 1863, No. 98 ;
to the Secretary to Government, Military Department, Fort Saint George.*

I have the honor, by order of His Excellency the Commander-in-Chief, to forward the

In duplicate.

• 1st.—*On the trial of Private Thomas Peck, 1st Battalion the
Royal Regiment.*

2nd.—*On the trial of Private Christopher Farrell, 18th Royal
Irish Regiment.*

Proceedings of two General
Courts Martial as per margin,* held at Secunderabad,
the sentences of which require
the concurrence of the Governor
in Council before they can
be carried into execution.

2. His Excellency desires to draw attention to the present state of the Law for "attempt at murder," as these cases afford so strong a contrast in the punishments awardable.

3. Under the Statute Laws of England, and the former Law for the administration of Criminal Justice in the East Indies, Geo. IV, Cap. 74, and Act XXXI of 1838, the offence of shooting at any person, with intent to commit the crime of murder, although no bodily injury shall be effected, is declared to be felony, and punishable, on conviction, with transportation, or Penal Servitude for life, or for a term of years; or to imprisonment for a term of years, at the discretion of the Court.

4. But, under the Indian Penal Code, Section 307, the same attempt at murder, on conviction, is punishable with imprisonment for a term which may extend to ten years, and liability to fine, if no hurt ensues: and if hurt is caused to transportation or Penal Servitude for life, or to imprisonment and fine as above.

5. In the two cases under reference, Private Thomas Peck discharges his Rifle loaded with Gunpowder at a Serjeant with intent to murder him, and wounds him under the ear, for which he is legally sentenced to Penal Servitude for life—and Private Christopher Farrell discharges his Rifle loaded with Gunpowder and a Bullet at a Serjeant with intent to murder him, but fortunately misses him, for which he can be, and is, only sentenced to Penal Servitude for six years. Thus the old and wholesome rule of English Law—that a man must be taken to intend the natural consequence of his own act, and be liable to punishment with reference to such intent—is set aside; and instead thereof the punishment is made to depend, not upon the intent, but upon the accident of its causing hurt or not.

ORDER, No. 756, 6th March 1863.

Ordered that the concurrence of Government in the confirmation by His Excellency the

Private Thomas Peck, 1st Battalion Royal Regiment, for life.

Private Christopher Farrell, 18th Royal Irish Regiment, for six years.

Commander-in-Chief,
of the sentences of Penal
Servitude passed on the
individuals named in the
margin, be affixed to

the Proceedings of the European General Court Martial, submitted with the foregoing letter.

2. Resolved that the foregoing letter be communicated to the Judicial Department, in view to the anomaly in the Law for attempt at murder, pointed out by His Excellency the Commander-in-Chief, being brought to the notice of the Government of India.

(True Extract.)


Secretary to Government.

To the Judge Advocate General, with two Proceedings
in duplicate.

„ Adjutant General.

„ Judicial Department.

10th March 1863

Exd. T. Stubbs.

No. 514 Department:

To

The Secretary to the Government of India.

Home Department.

Sir,

I am pleased to submit for the consideration of the Honble Member in Council the letter

last forwarded, the Army being the same relating to the attention of the Honble Member.

JP

2. The Commander in Chief considering the instructions which made

the Law in a report submitted on the 16th inst. by the Honble Member in Council.

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Section

Criminal act to be

objectionable in principle,
to be determined

Considerate

Code may be

revision.

YH

