M.R.O. 1—39,000—16-10-13.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 758 Press Mis.

-134-

Dated 15 — 5 — 1863

6/6

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 19*th May* 1863.

No. 124. To the Secretary to the Government of India, Home Department, (Legislative,) dated Fort Saint George, 19th May 1863, No. 756.

I have the honor, by order of His Excellency the Governor in Council, to forward the Act specified in the margin, which was passed by the Madras Council for making Laws and Regulations on the 9th May 1863, and to request that you will submit it to His Excellency the Viceroy and Governor General for his assent.

An Act to prevent damage to the Madras Pier, to regulate the Traffic, and to provide for the levying of Tolls upon the same.

2. Two copies of the enactment in the form in which it was introduced into the Council, and of its Statement of Objects and Reasons, are enclosed.

3. The present Act has been altered in accordance with the views expressed by His Excellency the Governor General in his Minute of the 13th August 1862, disallowing the former Madras Pier Act. In all cases where the offences stated in the Act are already punishable under the Penal Code, the penalties provided for by that Code have been strictly followed. In such cases the Section of the Code has been named, and the punishment recited, so as to make the Act complete in itself, and to give the fullest information to those who are likely to be affected by it.

4. In some instances the acts forbidden, though such as it is expedient to proscribe, do not necessarily, or at all, come within the terms of the Penal Code. For example, most of the Acts referred to in Section IV would come under the definition of cheating. But if the person on whom the demand was made knew that it was unauthorised, and paid merely to avoid delay, without being deceived, the offence of cheating would not be made out. So many of the acts forbidden by Section V, would constitute the offence of obstructing a public servant, within the terms of Section 186 of the Penal Code; while other acts, in the same Section, would not amount to that offence, or to any other under the Code. It has, however, been considered advisable that all the acts referred to in those Sections should be rendered penal. The Council has, therefore, followed the course pointed out by the Secretary of State in the Despatch referred to in the margin, where he says "in these cases, the general rule should be to place such offences under penalties already assigned in the Code to acts of a similar character."

From the Right Honorable the Secretary of State, to His Excellency the Governor General of India in Council, No. 25, dated 1st December 1862, p. 2.

5. The offences which are made punishable under Section XIV, could not be brought under the Penal Code, either directly or approximately. The necessity for such legislation, under the local and peculiar circumstances of the case, will, it is hoped, be deemed to justify the course now pursued.

6. That part of Section VII of the former Act which was objected to in paragraph 2 of the letter from the Secretary to the Government of India quoted in the margin, has been omitted in the corresponding Section (S. VI) of the Act now submitted.

From the Secretary to the Government of India, Home Department, to the Acting Chief Secretary to Government, Fort Saint George, No. 4,187, dated 15th August 1863.

7. This Act, it will be observed, is to come into operation on the 1st day of September 1863, and I am, therefore, directed to request, that the orders of His Excellency the Governor General and Viceroy, with reference to it, may be communicated to this Government before that date.

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

Exd. T. McMootry.

dupd-19
By H. M. S. Sydney.

No 756. Judicial Dept

To

The Secretary to the
Government of India.
Home Deptt (Legislative)

Legislative.

Sir,

I have the honor, by order of His Excellency the Governor in Council, to forward ~~copy of~~ the Act specified in the margin, which was passed by the Madras Council for making Laws and Regulations on the 9th May 1863, and to request that you will submit it to His Excellency the Viceroy and Governor General for his assent.

An Act to prevent damage to the Madras Pier, to regulate the Traffic, and to provide for the levying of Tolls upon the same.

2. Two copies of the enactment in the form in which it was introduced into the Council and of its Statement of objects and reasons, are also enclosed.

3. The present Act has been altered in accordance with

Secretary to Govt

with the views expressed by His Excellency the Governor General in his Minute of the 13th August 1862, disallowing the former Madras Pier Act.

In all cases where the offences stated in the Act are already punishable under the Penal Code, the penalties provided for by that Code have been strictly followed. In such cases the section of the Code has been named, and the punishment recited, so as to make the Act complete in itself, and to give the fullest information to those who are likely to be affected by it.

4. In some instances the acts forbidden, though such as it is expedient to proscribe, do not necessarily, or at all, come within the terms of the Penal Code. For example, most of the acts referred to in Section IV would come under the definition of Cheating.

But

But if the person on whom the demand was made knew that it was unauthorized, and paid merely to avoid delay, without being deceived, the offence of Cheating would not be made out. So, many of the acts forbidden by Section V, would constitute the offence of obstructing a public Servant, within the terms of Section 186 of the Penal Code; while other acts, in the same section, would not amount to that offence, or to any other under the Code. It has, however, been considered advisable that all the acts referred to in those Sections should be rendered penal. The Council has, therefore, follow-ed the course pointed out by the Secy of State in the Despatch referred to in the margin, where he says "In these cases, the general rule should be to place such offences under penalties already assigned

From the Rt Honble the Secy of State to H.E. the Governor Genl of India in Council, No 35, dated 1st December 1862 p. 2.

assigned in the Code to acts of a similar character."

5. The offences which are made punishable under Section XIV, could not be brought under the Penal Code, either directly or approximately. The necessity for such legislation, under the local and peculiar circumstances of the case, will, it is hoped, be deemed to justify the course now pursued.

6.* With reference to the remarks of the Secretary of State in para 4 of the Despatch previously referred to, I am directed to observe, that the Governor in Council considers that His Excellency the Governor General, by the Despatch referred to in the margin, sanctioned the introduction of this Bill, if amended so as to meet his former objections.

7. That part of Section VII of the former Act which was objected

* Para 2. "As a general rule, for the guidance of the Local Councils, it would probably be expedient, and this appears also to be your own view, that all bills, containing Penal Clauses, should be submitted for your previous sanction."

2. No 508, dated 22d January 1863. From the Secy to the Govt of India Home Deptt, to the Chief Secy to the Govt of Fort Saint George.

From the Secy to the Govt of India, Home Deptt, to the Actg Chief Secy to Govt, Fort Saint George, No 4187, dated 13th August 1862.

objected to in para 2 of the letter from the Secretary to the Government of India quoted in the margin, has been omitted in the corresponding section (S. VI) of the Act now submitted.

8. This Act, it will be observed, is to come into operation on the 1st day of September 1863, and I am, therefore, directed to request, that the orders of His Excellency the Governor General and Viceroy, with reference thereto, may be communicated to this Govt before that date.

Fort St. George
19th May 1863.

H.P.
15/5/63.

Geo. Gray

Judicial 1863 Depart.

No. 756.

To The Secy. to the Govt.
of India
Home Dept.

Dy 19 May 63.
P.R. 1489.

Forwarding the revised
Madras Rice Bill with
certain explanations
for the assent of the
Governor General.