

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. <i>855</i>	Press ~~Mis.~~
<i>-12-</i>	
Dated <i>3.6.1863</i>	~~19~~

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
3rd June 1863.*

No. 12. Proceedings of Government, dated 3rd June 1863, No. 855.

His Excellency the Governor in Council requests that the Honorable the Judges of the High Court will favor him with their views as to the expediency or otherwise of extending the provisions of the Code of Criminal Procedure, Act XXV of 1861, to the Town of Madras. There is no apparent reason why the present system, under which one law of Criminal Procedure is in force in the Presidency Town, and another in the Provinces, should be continued. One consequence is, that the time of the High Court is taken up at the quarterly Sessions with numerous petty cases, which, in other parts of the Presidency, are disposed of by the Magistracy. Some of them by Subordinate Magistrates of the 2nd Class.

2. It seems desirable that the Town Magistrates should be invested with the powers given by the Code to functionaries of that grade, and that the time of the Judges should be reserved for the more important duties which properly devolve on them. It may be objected that the application of the Code to the High Court on its Original side, will render necessary the abolition of the Grand Jury, and in reducing the number of Jurors from 12 to a maximum number of 9, and making the verdict depend on the concurrence of a certain number, and not on the unanimous opinion of all the Jurors, will introduce a system of procedure which it is not expedient to apply to the trials of European British subjects; but these are objections to which the Governor in Council is not disposed to attach much force, and which in his opinion would be counterbalanced by the advantage of assimilating the system of Criminal Procedure throughout the Presidency. The Madras Judicial Commissioners in the report presented by them to Government in 1859, when urging the creation of the office of a Public Prosecutor which has recently been sanctioned, expressed their opinion that "the abolition of the Grand Jury and the uniting of the Grand and Petty Jury pannels would be an expedient measure."

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

Exd. T. McMootry.

Comm.
Jud. Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Dated May 1863 A.D.

His Excellency the Governor in Council requests that the Honorable the Judges of the High Court will favor him with their views, as to the expediency or otherwise, of extending the provisions of the Code of Criminal Procedure, Act XXX of 1861, to the Town of Madras. There is no apparent reason why the present system, under which one law of Criminal Procedure is in force in the Presidency town, and another in the Provinces, should be continued. One consequence is, that the time of the High Court is taken up at the quarterly Sessions with numerous petty cases which in other

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that grade, and that the
time of the Judges should
be reserved for the more
important duties which

It may be urged that
the ~~application of the~~ ^{the rights of} ~~rights of~~ ^{protection} British subjects
for ~~the trial of~~ ^{the trial of} ~~European~~ ^{British} subjects
which ~~reduces~~ ^{reduces} the number
of jurors from 12 to 9 and
making the verdict to
depend on a ~~majority~~ ^{majority of a jury}, and
not on the unanimous
opinion of the jurors,
would be ~~inexpedient~~ ^{inexpedient}.
But this is an objection
to which the Governor in
Council

True but

speed - not a
bare majority that is

I should be disposed
to omit this. But
in many cases
up the backs of a
(in default) ^{Queen's}
Judges. I will
be sufficient to draw
their attention to the
point that in many
cases seem to be
overlooked.

Council would be disposed
to attach but little force,
considering, as he does, that
in principle, the system
if going trial laid down
by the code is far preferable
to that which has hitherto
obtained in the English
Courts. With these remarks,
the Governor in Council
will commit the subject
to the consideration of the
Judges.

I should omit this because
I am by no means certain
that I concur in the
view uncially.

In the Honble the Judges of the
High Court.

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Jus. Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Dated 3^d June 1853 No. 855.

His Excellency the Governor in Council requests that the Honorable the Judges of the High Court will favor him with their views as to the expediency or otherwise of extending the provisions of the Code of Criminal Procedure, Act ~~xxx~~ of 1851, to the Town of Madras. There is no apparent reason why the present system, under which one law of Criminal Procedure is in force in the Presidency town, and another in the Provinces, should be continued. one consequence is, that the time of the High Court is taken up at the quarters, & is consumed with numerous petty cases, which, in other parts of the

W.D.
S.D.
J.P.

Dated

PROCEEDINGS OF GOVERNMENT

No.

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Magistrates of the 2nd
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It may be objected that
the application of the
Code to the High Court
on its original side, will
render necessary the aboli-
tion of the Grand Jury,
and in reducing the number
of jurors from 12 to a
maximum number of 9,
and making the verdict
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ctions to which the Governor
in Council is not disposed
to attach much force,
and which in his opinion
would be counterbalanced
by the advantage of as-
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of criminal procedure
throughout the Presidency.
The Madras Judicial
Commissioners in the report
presented by them to Govt.
in 1859, when urging the
creation of the office of a
Public Prosecutor which
has recently been sanctioned,
expressed their opinion that
the abolition of the Grand
Jury and the meeting of the Grand
and Petty Juries, panels would be
"an expedient measure,"
"that this strengthening
of

~~"of the body from which
the group that actually
tried the case must be
selected, would go far to
remove the complaint of
their decisions being affected
by class prejudice."~~

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To the Honble the Judges
of the High Court. } dated 5

Printed
 Judicial 1863. Department.

No. 855

PROCEEDINGS OF GOVERNMENT,

Dated 3^d June 1863.

Sept 4 1860.

*Adopting the views of the
High Court as to the expediency
or otherwise of extending
the provisions of the Act
of Criminal Procedure to
the Court of Sessions.*