M.R.O. 1—39,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1372-73 Press Mis.-

110-112

Dated 17-9- 19 1864

4/5

Not to be folded or roughly handled

No. 110. Read the following letter from E. C. BAYLEY, Esq., Secretary to the Government of India; to J. D. SIM, Esq., Secretary to the Government of Fort Saint George, dated Simla, 22nd August 1864, No. 2153.

Home Department.
Judicial.

In acknowledging the receipt of your letter, No. 1040, dated the 12th ultimo, with enclosures, relative to the construction of Section 224 of the Penal Code, or the Section which makes escape from legal custody punishable, I am directed to observe that the point is one of importance and that the Governor General in Council is glad to have had his attention drawn to it.

2. The Governor General in Council, however, is not altogether satisfied that the construction of the Sessions Judge of Ootacamund and the Advocate General of Madras is correct. Without pronouncing a confident opinion the Governor General in Council is inclined to think that in the definition clause "a thing made punishable by this Code" may be taken to include "a thing recognized as punishable by this Code," and that this view is to be preferred to a construction inconsistent with the comprehensiveness of the Code. It is worth noticing that the definitions of "special law" and "local law" follow immediately after that of "offence."

3. If indeed it should hereafter appear that the legal consequences apprehended by the above gentlemen may really be expected to follow, there must without doubt be action on the part of the Legislature.

4. But the Governor General in Council is much disinclined to propose premature and piece-meal amendments of a body of law such as the Penal Code, and suggests that the Government of Madras should move the High Court to call up the point for decision whenever an opportunity offers itself under Sections 403, 404 or 405 of the Code of Criminal Procedure. The power of the Court to do this will, of course, depend on the mode in which the point hereafter arises.

No. 111. Ordered thereon, 17th September 1834, No. 1372.

Communicated to the Sessions Judge of Ootacamund, and to the Advocate General.

2. Ordered that the correspondence on the subject be furnished to the Chief Justice, with reference to the suggestion in the last paragraph of the foregoing letter.

(Signed) J. D. SIM,
Secretary to Government.

No. 112. To the Honorable Sir C. H. SCOTLAND, Knight, Chief Justice of the High Court of Judicature, Madras, dated Fort Saint George, 17th September 1864, No. 1373.

I am directed to transmit to you the annexed copy of a letter from the Government of India, dated 22nd ultimo, No. 2153, together with copies of the correspondence noted in the margin, on the subject of the construction of Section 224 of the Penal Code, or the Section which makes escape from legal custody punishable, and to request that the question may receive the attention of the High Court on occasion arising, as suggested by the Government of India.

Proceedings, 27th April 1864, No. 600.
" 12th July " " 1039.

(Signed) J. D. SIM,
Secretary to Government.

Exd. J. Tulloch.

No. 1372-977 dt. 6/12/24.

Communicated to the Sessions Judge of Ootacamund, & to the Advocate General.

2. Ordered that the correspondence on the subject be furnished to the Chief Justice, with reference to the suggestion in the last para. of the foregoing letter.

The Sessions Judge of Ootacamund.
" Govt. Solicitor.
" Inspector Genl. of Police.
} despd 21/12/24

desp. 21/9

Judicial.

No. 1373

The Hon'ble Sir Colley Harman Scotland, Kt.
Chief Justice of
H. M's High Courts of Judicature
Madras.

Hon'ble Sir—

I am directed to transmit to you the annexed copy of a letter from the Govt. of India, dated 22nd Ult°. No. 2153, together with copies of the correspondence noted in the margin, on the subject of the construction of s. 224 of the Penal Code, or the section which makes escape from legal custody punishable, & to request that the question may receive the attention of the High Court on occasion arising, as suggested by the Govt. of India.

Pros: 27 April 64 No. 600.
" 12th July —— 1039.

Fort St George
7th Sept. 1864

We have the honor &c

Judicial 1864 Department

No. 1373.

To

The Honble

The Chief Justice of the

High Court of Judicature

Madras

Dated 17 September 1864

Recd. 15/9/67.