

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 712	Press
146.147	~~Mis~~
Dated 16 - 5 - 19 1884	

Not to be folded or roughly handled

4/5

Proceedings of the Madras Government, Judicial Department,
16th May 1864.

No. 143. Read the following Proceedings of Government in the Military Department, dated 7th May 1864, No. 1538.

Communicate the opinion of the Advocate General of Calcutta, regarding the mode of promulgating the new Mutiny Act of 20th April 1863. } (Vide Proceedings Military Department, dated 7th May 1864, Nos. 137 and 138.)

No. 147.

ORDER THEREON, 16th May 1864, No. 712.

To be recorded.

(Signed) A. J. ARBUTHNOT,

Chief Secretary.

Exd. T. O'Connor.

To

The Secretary to the Government of India, Military Department.

SIR,

I am directed to submit, for the consideration of the Government of India, the following reference regarding the promulgation of the present Mutiny Act* for Her Majesty's Army.

*20th April 1863.

2. The last Section of it enacts that it shall be and continue in force in all other places than those named (India not being named) "from the 1st February 1865 inclusive until 1st February 1866; provided always, that this Act shall, from and after the receipt and promulgation thereof in General Orders in any part of Her Majesty's Dominions or elsewhere beyond the Seas, become and be in full force, any thing therein stated to the contrary notwithstanding."

3. It has been usual for the Commander-in-Chief in India, to announce the receipt of and promulgate the Mutiny Act for Her Majesty's Army in his General Orders, fixing the date from which the same shall come into force in India. But as regards Her Majesty's Indian Forces, the separate Act,* formerly applicable to these Forces, itself fixed the date from which its provisions were to have effect, and the same was duly announced in General Orders by Government.†

* *Mutiny Act*, 12 & 13 Vic., Cap. 43, (1849.)

Do. 20 & 21 Vic. Cap. 66, (1857.)

† *Madras G. O. G.* 18th December 1849, No. 237.

12th February 1858, No. 55.

General Order by Government of India, 5th February 1858, No. 204.

4. The present Mutiny Act for Her Majesty's Army is applicable to the Indian Forces also. The Act not only concerns the Army, but is an Authority to all Courts of Justice. Such Courts are required to admit, as *prima facie* proof of any fact of a public nature intended to be notified, any Act of State or Official communication of the Government appearing in the Gazette, but are not similarly bound to recognise an order of the Commander-in-Chief. Under these

Act of Legislative Council of India 2 of 1855, Section 8.

circumstances, I am instructed to enquire whether the receipt and promulgation of the Mutiny Act in question will be announced in General Orders by the Government of India, and the required announcements in respect to the commencement of the operation of Acts of the Imperial Parliament 26 and 27 Vic., Caps. 48 and 57 similarly made.

FORT SAINT GEORGE, }

18th December 1863. }

I have the honor to be,

Sir,

Your most obedient servant,

Secretary to Government.

3

MILITARY DEPARTMENT.
PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers:—

From the Secretary to the Government of India, Military Department, Fort William, 13th April 1864, No. 400; to the Secretary to Government, Military Department, Fort Saint George.

With reference to your letter, No. 4035, of the 18th December 1863, regarding the mode of promulgation of the new Mutiny Act for the European Forces in India, I am desired to transmit, for the information of the Government of

* Dated 28th March 1864.

Fort Saint George, a copy of a communication* from the Advocate General on the subject.

2. I am desired, however, to refer to my letter, No. 606, of the 19th February last, to the Judge Advocate General, copy of which was forwarded to you with the docket from this Office, No. 607, of the same date, intimating that a reference had been made to the Right Honorable the Secretary of State on the subject, and that pending the result of which, the publication of the Annual Mutiny Act of 1863 would be postponed.

From the Advocate General, Calcutta, 23th March 1864; to the Secretary to the Government of India, Military Department.

I have the honor to acknowledge the receipt of your letter, No. 83 of 3rd February, requesting my opinion as to the proper mode of promulgating the new Mutiny Act of 20th April 1863.

2. It is clear that by the expression "General Orders" in the last Section of the Act must be understood General Orders by the Commander-in-Chief; and therefore the Act must be brought into force by a General Order of His Excellency, promulgating the same and declaring it to be in force. But the point adverted to in paragraph 4 of the letter from the Secretary to the Government of Madras, of 18th December last, is one of considerable practical importance. I think it will be advisable that, contemporaneously with the issue of the General Order by the Commander-in-Chief, there should be published for general information, in the Gazette of each Presidency, a Government Order notifying that the Commander-in-Chief has, by General Order, of even date, promulgated the Act and that as and from that date the Act is in force. This Notification will be an official communication of the Government to the effect, and will therefore be *prima facie* proof that the Act has come into operation.

ORDER, No. 1538, 7th May 1864.

Communicated to the Commander-in-Chief and Departments.

(True Extract.)

Marshall
Secretary to Government.

To the Adjutant General.

„ Judge Advocate General.

„ Government Solicitor.

• „ Controller of Military Accounts.

„ Estate Department.

„ Judicial Department. *With 5 separate Copies.*

hist of 25 May.

Chas. L. 1884, Report
Proceedings of our 3rd conf.
in the vicinity of Pitts-
No 1538

Dec 17th } May 1884.
Dec 2/10 }

February

5 June 1884

No 903

Communicate the following
with the present journal of the
- and the regarding the work
of the committee on the
meeting of 17th April 1884.
No 112 - 16 May 1884.
To be recorded.

146. 147.