M.R. G. 1—32,690—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 50 Press Mis.

82-83 Dated 11 — 1 — ~~19~~ 1865

45

Not to be folded or roughly handled

No. 82. Read the following letter from P. P. HUTCHINS, Esq., Acting Registrar of the High Court of Judicature at Madras, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 2nd December 1864, No. 71.

I am directed by the High Court to acknowledge the receipt of your letter of the 14th October last, inquiring whether any thing can be done to reduce the large mass of records in the Court House at Madura.

2. Whatever rules may eventually be adopted must, as on the former occasion, be promulgated under the authority of Government, for the High Court have no power to authorize the destruction of any records. Perhaps, in view of the importance of the matter, and the necessity that the rules regarding it should be known to the public, it would not be improper to deal with it by a legislative enactment.

3. The standing order which now regulates the preservation of old records is a Circular letter of the late Sudder Court, dated 11th May 1855. Authority was thereby given for the destruction after twenty years of all records, Civil and Criminal, except exhibits filed in Civil suits, and for the destruction after ten years of the records of Criminal Cases, in which a verdict of acquittal has been recorded, or the sentence has expired.

4. It is, of course, difficult to draw the dividing line in matters of this kind. A judicial record, Civil or Criminal, may at almost any distance of time become of importance, with reference to the character or property of future litigants; but it is a matter of necessity to put some limits to the period of preservation, and, in defining those limits, regard must be had to considerations of general utility only. Looking at the matter generally then, it appears to the High Court that the rules at present in force may be greatly modified with safety and advantage.

5. First, as to the Criminal Records of the Session Courts, the Calendars contain every thing necessary to be preserved beyond the limited period during which the proceedings at the particular trial may be subject to revision. When the time for appealing has gone by, and a reasonable period for making any application to Government as to the sentence has elapsed, there seems to be no reason for further preserving the rest of the record. In the opinion of the High Court every thing but the Calendar may be safely destroyed after three years from the date of the sentence. The same period of three years will be long enough to keep the records of appeals from the Magistracy. The Calendars themselves should be preserved as now for twenty, or at all events for not less than fifteen, years.

6. It is not, however, the Criminal, but the Civil Records with which the Courts are chiefly encumbered. In Civil suits the judgment and decree contain the names and descriptions of the parties, the particulars of the claim, the points determined, the reasons of the determination, and the relief granted, and this is all which need be preserved. The Court are, therefore, of opinion that the entire record, except the judgment and decree, may be destroyed at the end of three years from the final disposal of the suit.

7. There seems to be no necessity to maintain the exception in respect of documentary evidence. After the time for appealing has passed, or the suit has been

finally disposed of, the Court is only the repository of the exhibits for the party who produced them, and any document of value may be obtained and preserved by the party himself, under Sections 135 and 136 of the Code of Civil Procedure. Three years will be ample time for this purpose, provided the rules on the subject are made sufficiently public.

8. It appears to the Court to be of great importance that the rules to be adopted should be of the simplest character possible, not only that they may be generally understood by parties interested, but chiefly that they may be easily acted on, and not demand very much of the time and labor of the ministerial servants. With this object, the Court have fixed the period of three years throughout. The result of their recommendations, if adopted, will be that, unless special orders to the contrary be given by the Judge, all records, except the Calendars of criminal trials and the judgment and decree in Civil suits, will, as a matter of course, be destroyed after three years. The period will run in Criminal cases from the date of sentence, and in Civil actions from the *final* disposal of the suit by the original or Appellate Court, as the case may be.

9. I am instructed to add that the Chief Justice does not entirely concur in these recommendations. In his opinion, the written Statements and all points or issues raised for decision should be preserved, in addition to the judgments and decrees in Civil suits; and he would fix the period for preserving the written evidence and documents at 12 and 6 years, according as the suit does or does not involve an interest in immoveable property.

No. 83. ORDER THEREON, 11th January 1865, No. 50.

The Governor in Council is disposed to concur in the opinion of the majority of the Judges that three years is a suitable and sufficient time for the retention of those parts of the records which are not required to be permanently retained, and in regard to the description of documents which should be destroyed after that period; and he resolves to request that the Honorable the Judges will be good enough to issue a Circular Order on the subject, for the guidance of the lower Courts.

2. His Excellency in Council presumes that the issue of the proposed Circular will obviate the necessity of supplying additional bureaus to the Madura Court.

(True Extract).

Chief Secretary.

To the Legislative Department.
" Honorable the Judges of the High Court.
" Civil and Session Judge at Madura.

Exd. J. H. L

Pers (P. 22. 27)

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Acting Registrar of the High Court of Judicature at Madras.

(Here enter 2d December 1864. No 71)

Order thereon 11th January 1865. No 50.

The Governor in Council concurs in the suggestion made in the 2d paragraph of the foregoing letter, that the Regulations for the destruction of records in Civil and Criminal Cases should be made the subject of a legislative enactment. A Bill will accordingly be introduced into

into the Legislative Council, for the purpose of regulating the time after which such records may be destroyed, and for specifying the description of documents which are to be permanently retained.

2. The Governor in Council is disposed to concur in the opinion of the majority of the Judges that three years is a suitable and sufficient time for the retention of those parts of the records which are not required to be permanently retained, and in regard to the description of documents which should be destroyed after that period; and as

His Excellency in Council presumes that

the Legislative Department } despatch 18/
The Hon'ble the Judges of the High Court } despatch 19/
the Civil & Sessions Judge at Madura } despatch 18/

5

the passing of the proposed legislation will obviate the necessity of supplying additional bureaus to the Madura Court.

Vol 1865. Department.

No. 57

PROCEEDINGS of GOVERNMENT.

F.C.K. 442
— " — 29/07.

Dated 11 may 1865

82 53