

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	306	Press <u>Mis.</u>
Dated	26. 2. 1918	

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Not to be folded or roughly handled

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26th February 1867.

No. 231. Read the following letter from the Honorable Sir ADAM BITTLESTON, Kt., Acting Chief Justice of Her Majesty's High Court of Judicature, Madras, to the Right Honorable the Governor in Council, Fort Saint George; dated Madras, 4th January 1867.

I have the honor to acknowledge the receipt of the letter of the Chief Secretary to Government, dated the 27th November last, calling my attention to a letter addressed to the Chief Justice, under date 12th October 1864, relative to the Books of Record in the Madras Court of Small Causes.

2. Upon reference to the previous correspondence on this subject, I find that, on the 28th April 1864, the Judges of the Madras Court of Small Causes furnished the Government with a complete list of the records of that Court, divided into 28 Classes, numbered consecutively from 1 to 28; and that they recommended the destruction of those numbered 2, 3, 10, 14, 25, and 28, but the preservation of all the rest. I will, throughout this letter, for convenience sake, refer to the different descriptions of records by the numbers in that list.

3. On the 16th May 1864, the Judges of the Court of Small Causes, in compliance with the request of the Government, stated, in detail, their reasons for thinking it necessary to retain all the books and records, excepting those specifically enumerated above.

4. Those reasons were, 1st, that, as to all, excepting four of the 28 Classes, they were matters of record to which reference might be necessary; secondly, as to those numbered 11 and 26, that they were Warrants upon which the plaintiffs had entered satisfaction; thirdly, as to those numbered 12 and 27, that they were documents put in by, and belonging to, suitors, which ought to be delivered out whenever applied for.

5. On the 7th June 1864, the correspondence between the Government and the Court of Small Causes was transmitted to the Chief Justice, who was requested to favor the Government with his opinion whether a larger reduction might not be made in the mass of records than was proposed by the Judges of the Court of Small Causes. The Chief Justice intimated to the Government his impression that a larger reduction might be made, but, before expressing a decided opinion upon the subject, desired further information respecting the nature of those records; and steps were subsequently taken to procure that information.

6. Upon the receipt of Mr. Arbuthnot's letter now under reply, I requested Mr. Hutchins, the Registrar on the Appellate Side of the High Court, to communicate personally with Mr. Busteed, the present Chief Judge of the Court of Small Causes, and ascertain his views upon the question on which the Government had requested the opinion of the Chief Justice, and also to obtain an inspection of the records. I have also myself had a personal interview with Mr. Busteed; and the result is that we have agreed that the records numbered 2, 3, 4, 5, 6, 8, 9, 10, and 11 may be altogether destroyed; and also 14, 25, and 28, excepting so far as they relate to proceedings in suits not yet finally determined.

7. Mr. Busteed sees no objection to the destruction of the Books of Proceedings, numbered 1; but adverting to the statement made in the letter of the Judges of the Court of Small Causes, dated 16th May 1864, and to the fact that the Court has room enough to retain them without inconvenience, I think it better that the Proceedings

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of the Commissioners should be preserved; but not further back than the year 1800. As the Courts of Requests were established in 1753, it is probable that the destruction of all the Books of Proceedings earlier in date than 1800 will get rid of a considerable part of the 280 volumes of these Proceedings which now exist; and this being the only record which will be left of the suits in that Court, my suggestion is more in accordance with the principle on which the High Court have acted, with respect to the records of the Civil Courts in the Mofussil, as explained in the letter of Mr. Hutchins to the Chief Secretary to Government, under date 2nd December 1864, than the total destruction of all these records would be. As to the records numbered 7 and 12, Mr. Busted objects to their destruction, as did the then Judges of the Court of Small Causes, in their letter of the 16th May 1864. The record No. 7 is a book containing a list of Exhibits put in by parties, and the receipts of the parties upon the return of the Exhibits. Very few appear to have been returned, and there are about 34 volumes of these document books. The documents themselves are kept in bundles; and these bundles of documents are No. 12 in the list of records. The objection made to their destruction is that they belong to the parties, and ought to be returned whenever applied for. But the Courts are not bound to preserve Exhibits for ever; and if the parties who have produced them have sufficient notice that, unless applied for within a certain period, they will be destroyed, their destruction after that period is no wrong to parties who have chosen not to withdraw them. The High Court, with the sanction of Government, have fixed three years from the final determination of the suit, as the period beyond which Exhibits need not be preserved in the Civil Courts in the Mofussil; and if the preservation of these documents in the Court of Small Causes involved any serious inconvenience, owing to want of space, I see no reason why a similar rule should not be applied to that Court; but as the ground of inconvenience does not exist, I think that the objection expressed by the Judges of the Court ought certainly to prevail.

8. As regards the Warrants (No. 11), the reason for their preservation, stated in the Judge's letter of the 16th May 1864, that satisfaction is entered thereon, seems to me sufficiently answered by the fact that all these Warrants are more than 12 years old; and having Mr. Busted's concurrence in this view, I feel the less difficulty in expressing my opinion that these old Warrants may be destroyed.

9. Of the records of the existing Court of Small Causes, the first on the list is No. 13 which is a complete Register of all the proceedings in each suit. There are already about 550 volumes of it; but I concur with the Judges of the Court that these should be preserved. The observations already made with reference to No. 1 apply with greater force to No. 13. Mr. Busted also thinks that Nos. 18 and 27 should be preserved. These are the document books, and the suitors' documents, similar to those in the Commissioners' Court, numbered 7 and 12; and for the reason already assigned respecting those numbered 7 and 12, I do not recommend the destruction of those records at present. Of the remaining records, there are none which could be safely destroyed immediately upon the determination of the suits to which they relate; but, with respect to all of them, certain periods of time may be fixed, after which their preservation ceases to be a matter of importance; and, with the concurrence of Mr. Busted, I suggest the following periods, as those after which the several records hereinafter specified may res

*Pro: 1864 April 1865 ch: 185
- 30 May - ch: 22-28.
- 7 June - ch: 75-75.
- 5 Sept - ch: 15-15.
- 27 Oct - ch: 82-83.
- 27 Nov 1865 ch: 293-
- 11 Jan 1865 - ch: 82-83.*

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tively be destroyed, viz., as to those numbered 16, 19, 22 and 26, the period of 12 years; as to those numbered 15, 17, 21 and 24, the period of 6 years; and as to those numbered 20 and 23, the period of 2 years—such periods to be calculated from the final determination of the suits to which such records relate.

10. I do not mean to say that these periods of time might not be shortened in some instances, if the necessity for a further reduction of the quantity of records should arise; but I submit my present recommendation to your Excellency in Council, in the belief that, if carried out, it will prevent for a very long time any inconvenient accumulation of records in the Madras Court of Small Causes.

11. There is, I am informed, one Press, containing daily cause lists, not mentioned in the list of records; and I presume that there can be no objection to the destruction of these, at least once a year.

12. Before despatching this letter, I thought it better to send a draft of it to Mr. Busteed, and by his permission I forward, herewith, for the information of your Excellency in Council, a copy of his reply.

From T. M. BUSTEED, Esq., First Judge of the Court of Small Causes, to the Honorable Sir ADAM BITTLESTON, Kt., Acting Chief Justice of H. M.'s High Court of Judicature, Madras; dated Madras, 26th December 1866.

I have read over your draft letter to the Government respecting the records of the Small Cause Court. I have no alteration to suggest upon it. It seems to me in all respects quite correct, and its recommendations calculated to place the state of our records on a sufficiently satisfactory footing. On consideration, I am glad that you have recommended the preserving of the Record Books of the old Court of Commissioners to the extent to which you have done so.

2. With respect to Exhibits, we shall have no trouble with them in future, for I shall direct that, from and after the 1st of next year, all parties filing Exhibits shall have notice that they will be required to come and receive them back upon the suit being disposed of, and that the Court will not keep them beyond a certain limited period if they fail so to do.

No. 232. ORDER THEREON, 26th February 1867, No. 306.

The Governor in Council concurs in the recommendations contained in the foregoing letter, and directs that the several descriptions of records of the Madras Court of Small Causes be dealt with as proposed by the Honorable the Acting Chief Justice.

2. Under this order, the records numbered 2, 3, 4, 5, 6, 8, 9, 10, and 11 will be altogether destroyed.

Nos. 14, 25, and 28 will also be destroyed, excepting so far as they relate to proceedings in suits not yet finally determined.

No. 1 will be destroyed for years prior to A. D. 1800.

The daily Cause Lists will be destroyed once a year.

Nos. 16, 19, 22, and 26; 15, 17, 21 and 24; 20 and 23 will be destroyed after the periods of 12, 6, and 2 years, stated at the close of paragraph 9.

Nos. 7, 12, 13, 18 and 27 will be preserved.

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3. The Judges of the Court of Small Causes will report to Government when the destruction of the records has been completed. The waste paper should be sent to the Superintendent of Stationery.

(True Extract).

Chief Secretary.

To the Judges of the Court of Small Causes, Madras.

Exd. J. H. Burns.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

*Read letter from the
Honble. the Chief Justice
of the High Court of Judicial
Matters of Madras*

(Dated 14th Jan'y 1870)

Order: 26th February 1867 No. 305

*The Governor in Council
concur in the recom-
mendations contained in
the foregoing letter and
directs that the several
descriptions of records
of the Madras Court
of Small Causes be dealt
with as proposed by the
Honble. the Chief Justice.*

*Under this order
the records numbered
2, 3, 4, 5, 6, 8, 9, 10 & 11 will be
altogether destroyed.*

2. Nos 14, 25, 328 will also be destroyed excepting as far as they relate to proceedings in suits not yet finally determined

3. No 1 will be destroyed for years prior to A.D. 1800

4. The books containing daily course lists will be destroyed once a year.

5. Nos 16, 19, 22 & 26; 15, 17, 24 & 26; 20 & 23 will be destroyed after the period of 12, 6, & 2 years as stated at the close of para 9.

6. Nos 7, 12, 13, 18 & 27 will be preserved.

7. The judge of the Court of Small Causes will report to Court when the destruction of the records has been completed. The Court papers should be sent to the report of the returning officer.

Handwritten note:
The books to be destroyed are Nos 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

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No. 226

PROCEEDINGS OF GOVERNMENT.

File 2531.

Dated 28th January 1857.