

Judicial (1895) Department.

ORDINARY PRINTED.

G.O., No 1897

Dated 9th Sept 1895

INDEXED.

[Despatch Abstract.]

BILLS --- LEGISLATIVE

Communicating to the Hon. the Judges of the High Court, the Advocate-General and certain officers, for opinion, Bill to amend the Code of Criminal Procedure, 1882; and directing the publication of the Bill with the statement of Objects and Reasons in the Fort St. George Gazette in English and all vernaculars.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	4643		1895				

9TH SEPTEMBER 1895, No. 1897, JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper :—

From J. M. MACPHERSON, Esq., Officiating Secretary to the Government of India, Legislative Department, to the Chief Secretary to the Government of Madras, dated Simla, 23rd August 1895, No. 1542.

I am directed to forward herewith forty copies of the papers noted on the margin, and to request that the Governor in Council will favour the Government of India in this department with an expression of his opinion on the provisions of

A Bill to amend the Code of Criminal Procedure, 1882, with Statement of Objects and Reasons. the Bill, and with the opinions of the Hon'ble the Judges of the High Court and of such selected officers and other persons as the Governor in Council may think fit to consult on the subject.

2. I am also to request that the Bill and Statement may be published in the *Fort St. George Gazette* in English and in such other languages as the Governor in Council may deem proper, and that the dates of publication of both may be communicated in your reply.

3. The reply to this letter should be sent in by the 1st December next.

ORDER—dated 9th September 1895, No. 1897, Judicial.

Communicated to the Hon'ble the Judges of the High Court, the Advocate-General and the officers noted in the margin, for favour of an expression of opinion.

- | | |
|-------------------------|--------------------|
| 1. Mr. G. T. Mackenzie. | 4. Mr. W. J. Tate. |
| 2. " L. Moore. | 5. " T. Weir. |
| 3. " E. J. Sewell. | 6. " J. A. Davies. |

2. The Bill with the Statement of Objects and Reasons will be published in the *Fort St. George Gazette* in English and all vernaculars, and the Superintendent, Government Press, will report the dates of such publications without delay.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Hon'ble the Chief Justice, with C.L.
" the Government Solicitor.
" all Translators to Government.
" the Superintendent, Government Press.
" the Officers named in paragraph 1.
Gazette.

Govt. of {1895} Madras.
JUDICIAL.

Issued

Recd.

Encl.

9th September 1895, No. 1897.

SEPTEMBER.

Bills—Legislative.

Communicating to the Hon'ble the Judges of the High Court, the Advocate-General and certain officers, for opinion, Bill to amend the Code of Criminal Procedure, 1882; and directing the publication of the Bill with the Statement of Objects and Reasons in the *Fort St. George Gazette* in English and all vernaculars.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to give effect to such of the recommendations made by the Jury Commission of 1894 as have been approved by the Government of India and Her Majesty's Secretary of State.

2. Section 1, sub-section (1), of the Bill purports to amend section 269 of the Code of Criminal Procedure, 1882, so as to require the previous sanction of the Governor General in Council when it is desired by a Local Government under that section to extend or restrict the system of trial by jury.

3. By sections 1, sub-section (2), 2, 6 and 7 the necessary amendments in the Code are proposed in order to enable a Local Government to declare that in certain districts special jury lists shall be prepared and the services of special jurors utilized in any case triable by jury if the Sessions Judge, on application made to him or of his own motion, so directs. It is provided that the jurors borne on such special lists shall be persons selected from the ordinary jury lists on account of their superior qualifications, and also that service as a special juror shall be taken into account merely as service on a common jury and shall not entitle a juror to exemption from serving in his turn with common jurors.

4. Section 5 of the Bill makes an addition to section 319 of the Code with the object of empowering a Local Government, when necessary, to declare that jurors or assessors may be summoned from an area other than the "district in which they reside."

5. In view of the difficulty experienced by Sessions Judges in bringing the minds of juries into contact with the various essential considerations on which in many cases depends the return of a proper verdict as to the offence (if any) committed, it is proposed by section 3 of the Bill to amend section 303 of the Code so as to empower the Judge to require from the jury, either before or after, or both before and after, the return of their verdict, separate findings on any issues of fact which he may consider material.

6. Section 307 of the Code it is desired to amend by section 4 of the Bill in order to define more precisely the duties of a Sessions Judge and of the High Court, respectively, in cases in which the former disagrees with the verdict of a jury.

The 12th August, 1895.

ALEX. EDW. MILLER.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

Bill to amend the Code of Criminal Procedure, 1882.

(Statement of Objects and Reasons.)

G. C. Press, Simla.—No. 242 L. D.—22-8-95.—350.

A
BILL
TO

Amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:— X of 1882.

1. (1) In the first sentence of section 269 of Amendment of sec. the said Code, after the tion 269, Act X, 1882. word "may" where it "first occurs the words "with the previous sanction of the Governor General in Council," and after the word "may" where it next occurs the words "with the like sanction," shall respectively be inserted.

(2) After the first sentence of the same section the following shall be inserted, namely:—

"The Local Government may also by like order declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offence shall, if the Judge, on application made to him or of his own motion, so directs, be by jurors summoned from a special jury list, and may revoke or alter such order."

2. In section 276 of the said Code, before the Amendment of sec. word "thirdly" the word tion 276, Act X, 1882. "and" shall be repealed, and to the same section the following shall be added, namely:—

"and

fourthly, in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325A."

Substitution of new section for section 303, Act X, 1882. 3. For section 303 of the said Code the following shall be substituted, namely:—

"303. (1) Save as otherwise in this section provided, the jury shall be given on each charge. Special verdict on questions of fact may, however, be required and questions may be asked of jury. be at liberty to return a general verdict of 'guilty' or 'not guilty' on the charge, or, if there be more than one charge, on each of the charges, on which the accused is tried; and the Judge shall so direct them.

(2) Instead of directing the jury generally to return a verdict on any charge, the Judge may require them to return a special verdict consisting of separate findings on any particular questions of fact which he may desire, and he shall thereupon determine whether, in accordance with such findings, the accused is to be recorded

1895

Judge Dept.

Section No. 1

To

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as having been convicted or acquitted by the jury on that charge, or, if such findings affect more than one charge, on each of such charges.

(3) After a general verdict has been returned, if the Judge is in doubt whether it is one with which he should or not express disagreement, he may, notwithstanding such verdict, require the jury further to return a special verdict on any question or questions of fact on which he may desire their opinion, and shall, after the receipt of such special verdict, finally determine whether to agree or disagree with the general verdict of the jury.

(4) After a special verdict has been returned under the provisions of sub-section (2) or sub-section (3), if the Judge requires any further information on any particular questions of fact to enable him to determine whether to express agreement or disagreement with such verdict or whether such verdict amounts to one of acquittal or conviction, he may require the jury to return a further special verdict as to such questions of fact, and after the receipt of such further verdict he shall finally determine whether to express agreement or disagreement with the jury or whether the verdict is to be recorded as a verdict of acquittal or conviction, as the case may be.

(5) In any of the foregoing cases, if the Judge is in doubt as to the meaning of the verdict returned by the jury, he may ask them such questions as may be necessary to ascertain what their verdict is, provided that he shall not in any case inquire of the jury their reasons for any verdict, or whether they have believed or disbelieved any particular witness.

Every such question and the answer thereto shall be recorded."

4. (1) In section 307 of the said Code, for the words "so completely that he considers it" the words "and is clearly of opinion that it is" shall be substituted.

(2) In the same section, for the words "but it may" the words "and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury," shall be substituted.

5. To section 319 of the said Code the following words shall be added, namely:—

"or, if the Local Government, on consideration of local circumstances, has fixed any other area in this behalf, within the area so fixed."

6. After section 325 of the said Code the following section shall be inserted, namely:—

"325A. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be

by special jury, the Sessions Judge, and the Collector of such district or other officer as aforesaid, shall prepare, in addition to the revised list herebefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury."

7. In section 326 of the said Code, after the Amendment of sec. words "the said revised list" the words "or the said special list" shall be inserted, and the words "on the revised list" shall be omitted.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

A
BILL
TO
Amend the Code of Criminal Procedure,
1882.

(Sir Alexander Miller.)

G. C. Press, Simla.—No. 148 L. D.—22-8-95.—350.

No. 1542.

FROM

J. M. Macpherson
Offg. Secretary to the Government of India,
Legislative Department,

TO

THE CHIEF SECRETARY TO THE GOVERNMENT OF

Madras.

Dated Simla, the 23rd August 1895.

SIR,

I AM directed to forward herewith 40 copies of the papers noted on the margin, and to request that the Governor in Council will favour the Government of India in this Department with an expression of his opinion on

A Bill to amend the Code of Criminal Procedure, 1882, with Statement of Objects and Reasons.

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2. I am also to request that the Bill and Statement may be published in the *Fort St. George* Gazette in English, and in such other languages as the Governor in Council may deem proper, and that the dates of publication of both may be communicated in your reply.

3. The reply to this letter should be sent in by the 1st December next.

I have the honour to be,

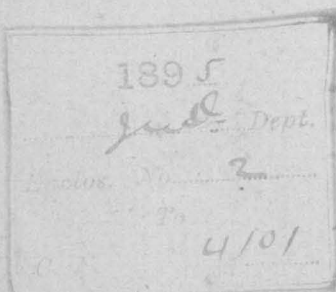
SIR,

Your obedient Servant,

J. M. Macpherson
Offg. Secretary to the Government of India.

[C. G. DE S.]

G. C. Press, Simla.—No. 503 L. D.—16-3-92.—100.



4/01
Judg Sept

10: 28.2.94 ms
1747/8: 28.8.93 sc
1622: 16.5.93 sc
2364: 28.9.94 sc

5700 28.2.94 ms

From
The Govt of India,
Leg. Dept

Dr 1542

Dated 23rd
Recd 29th } Aug. 1895.
Reg?

enclos. 2 with 39 p.c. of each
enclo.

Subject.

Forward: Copies of Bill to amend
the Code of Criminal Procedure
1882.

30/8

Indy file please; on the latest
as re made by Juries.

30/8
(w.o)

Humb

29th September 1895, No 1897.

Order
P.S.

19/9/95

Communicated to the Honble the Judges
of the High Court, the Advocate General and
the officers noted in the margin ^{in favor of} for an expression
of opinion.

- * 1 Mr. G. T. Mackenzie 4 Mr. W. J. Tate.
- 2 " L. Moore 5 " J. Wain
- 3 " E. J. Sewell 6 " W. M. Davies

2. The Bill with the statement of objects
and Reasons will be published in the Fort St.
Gazette in English and all vernac-
-ulars; and the Supt. Govt. Press, will
report the dates of such publications without
delay.

19/9/95

To
The Honble the C.J. with C.L. 6
" Govt. Solicitor. 3
All Translators to Govt. 5
Supt. Govt. Press. 3
Officers named in para (1). 36.

Gazette. 16/9/95

Note.
30/8/95 If the officers consulted in S.O. of 16 May 93, Nos. 1622 & 1623
on the various proposals of the Jury Commn., Messrs Benson &
Roe are now on file.

First copy sent to Press.

returned for signature.

Despatched in print.

READ AGAIN G.O., No.
189

DATED

CURRENT No.

CLOSURES TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO,

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

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- A = Print in full.
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- P = Print abstract only.
- Q = Print heading only.

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