Revenue Department

GG No 1260 dt 15-9-1858

Back No 11—12

Diary 21-9-1858

No. 11. Read the following Extract from the Minutes of Consultation in the Judicial Department, dated 9th September 1858, No. 1233.

Communicating to the Court of Sudr Udalut and to the Revenue Board a letter from the Member of the Legislative Council for Madras together with a despatch form the Honorable Court which accompanied it with a request that they will respectively report their opinion on the suggestion therein contained regarding the consolidation of existing enactments on each particular subject.

(Vide Judicial Consultation 14th September 1858, Nos. 10-11.)

No. 12. ORDER THEREON, No. 1260; dated 15th September 1858.

Ordered to be communicated to the Board of Revenue for early report.

(Signed) T. PYCROFT,
Chief Secretary.

No. 1233.

Extract from the Minutes of Consultation under date the 9th September 1858.

Read the following letter from H. FORBES, Esq., Member of the Legislative Council; to T. PYCROFT, Esq., Chief Secretary to the Government of Fort St. George, dated Fort William, the 17th August 1858.

SIR,

I have the honor to forward for the information of the Right Honorable the Governor in Council, a copy of a Despatch from the Honorable Court of Directors, dated the 2nd of June 1858, which was communicated to the Legislative Council by the Government of India, on the 23rd Ultimo.

In the latter part of this Despatch it will be seen that the Honorable Court recommend that, in framing new Acts which are to modify existing Acts or Regulations, all that is modified should be repealed and all that is retained should be re-enacted, so that each Act may be complete in itself, and reference to prior Acts be avoided.

The Honorable Court further recommend that the Acts and Regulations in force under each Government should be consolidated under their proper heads, and formed into separate Acts, each complete in itself, as to the subject on which it treats.

The Civil and Criminal Codes which are now before the Council will, in their respective Departments, effect the object which the Honorable Court has in view, and the enactment of the Revenue Code for the Madras Presidency which is under contemplation, will be another most important step taken in the same direction.

The codification of the Laws which are to guide in future the proceedings of the Civil and Criminal Courts, and the whole Revenue administration being thus provided for, it does not occur to me, that there is much room for further condensation, but the Government may probably determine to obtain on so important a question, the opinions of the Board of Revenue and the Sudder Court of Adawlut.

Extract from a Despatch from the Honorable the Court of Directors in the Legislative Department, to the Government of India, dated 2nd June, No. 4 of 1858, paras. 35 to 38.

35. In reviewing from time to time the course of legislation in India, we have been much struck with the inconvenience of legislating, so much as is the case at present, by mere reference to prior and existing laws which are left unrepealed. In cases of extreme pressure and urgency, and when there may not be leisure for a full and more correct framing of the law, a short Act referring to existing Acts or Regulations, repealing, or adding to, or varying them, may be the only course open to the Legislative Council. But in general, and indeed whenever there is time to do it, the best mode of framing a new Act which is to modify existing Acts or Regulations, is to repeal all that it modifies, and embrace in the new Act all that the Act of reference and the Acts or Regulations referred to would, on the other plan of proceeding, include.

36. Again, when an Act is altogether repealed, it would materially assist to a proper understanding of the effect of the repealing law, if it cited the title of the Act which is repealed. As an instance, we may refer to Act IX of 1857, the purport and intent of which it is impossible to ascertain without reference to Act VI of the preceding year. This defect might easily have been obviated by inserting the title of the last mentioned Act either in the preamble or in the enacting Clause of the repealing Act.

37. If the plan of proceeding which we suggest be steadily followed hereafter, our Indian Book of Acts will, so far as the legislation included in it reaches, have as to each separate matter, the oneness and compactness of a code or digest. Otherwise it will grow in time to an oppressive mass of references, which it will be very difficult to follow.

38. In order to give practical effect to the preceding remarks, we suggest that each Member of the Legislative Council representing any Presidency or Lieutenant Governorship of India, be requested to take under his consideration the existing Regulations and Acts in force within the Territories under the Government from which he has received his nomination to Council, and

after digesting them under their proper heads, consolidating them, and correcting the somewhat too vague language and incompleteness of the provisions of many of them, lay them before the Legislative Council in the form of Bills, each complete in itself as to the subject of which it treats. The Legislative Members would thus accomplish a work of great usefulness, which must some day be done and which will increase in difficulty the longer it is postponed.

Order.—Ordered to be communicated to the Court of Sudder and Foujdaree Udalut, and, through the Revenue Department, to the Board of Revenue, who will, in reference to the remarks contained in the last two paras. of Mr. Forbes' letter, report their opinion on the Honorable Court's suggestion regarding the consolidation of existing enactments on each particular subject.

(True Extract and Copy.)

Chief Secretary.

To the Judges of the Court of Sudder and Foujdaree Udalut.
" Revenue Department.

20 spare copies

Exd. F. Cartledge.

Revenue 1858 Sept.
Dft to Govt 21st Sept:

No. 1460

Extract from the Mins.
of Govt: in the Judicial
Department.-

Dated 9th
Recd 14th } September,
1858.
No. 1233.

No. 1260. 15th September 1858.
Rec: from the Bd of Rev: D/ 5th
Feby /59 Cy No. 202 inclo: 15 Feb. 30-31.
Communicating to
the Court of Sudr Udalut
and to the Revs Bd a letter
from the Members of the Legis
lative Council for Madras
together with a Despatch
from the Honorable Court
which accompanied it
with a request that they
will respectively report
their opinion on the suggestion
therein contained regarding the
consolidation of existing
Enactments on each particu
lar subject.

No. 1260.
Ordered to be communicated
to the Bd of Rev: for early report.

Fort St. Geo:
15th September 1858.

3 Copies to the Bd of Rev. Dated 16th
with C. M. C. J. D. No. 1233.

No. 11012.