M.R.O. 1—33,000—16-10-29.

# MADRAS RECORD OFFICE.

## Government of Madras.

Revenue DEPARTMENT.

G.O. No. Ms 1008 Press Mis
41-42

Dated 26-7- 1939

***Not to be folded or roughly handled***

## *Proceedings of the Madras Government, Judicial Department, from 23rd to 29th July 1859.*

No. 41. Read the following letter from J. R. BOYSON, Esq., Government Solicitor; to the Chief Secretary to Government, dated July 23rd 1859, No. 1305.

Letter from Magistrate of Rajahmundry, to Clerk of the Crown, 28th June 1859, No. 233, and Order of Government thereon.

1. With reference to the letter noted in the margin, I have the honor to state that in consequence of the *non* arrival at Madras of either prosecutor or witnesses, George Richards and James Wilkins were discharged from custody on the 14th Instant, being the last day of the Criminal Sessions.

2. Sir Adam Bittleston, who presided, deferred discharging the Grand Jury until the 14th Instant, on which day they were called together, in the hope, that the witnesses in question would by that time have reached Madras. Such, however, most unfortunately was not the case and the business of the Sessions being then disposed of, there was no other course open to the Judge than to order the Indictment to be sent to the Grand Jury, who in the absence of any evidence, necessarily found " No Bill" and the prisoners were thereupon discharged.

3. It is much to be regretted that public justice has been thus defeated.

4. Judging from the correspondence between the Magistrate of Rajahmundry and the Clerk of the Crown, (which I have seen,) I incline to think that *no* blame can in fairness be imputed to the witnesses themselves, all of whom were Natives and apparently (and almost of course) left the arrangements for their coming to Madras in the hands of the Magistrate. This is a fortunate circumstance as owing to the fact of their not having been required to enter into any recognizances for their appearing at Madras to give evidence against the prisoners, no legal proceedings could have been taken for punishing any laches on their part, had such occurred.

5. I assume that no such recognizances were taken because I find that in a letter from the Clerk of the Crown to the Magistrate of Rajahmundry, dated the 17th of June, the Clerk of the Crown remarked that neither the Recognizances or the original depositions had been returned to his Office, and the Magistrate of Rajahmundry subsequently forwarded the original depositions to the Crown office; but *without* any recognizances.

6. In a letter from the Magistrate of Rajahmundry to the Clerk of the Crown, dated the 9th Instant, the Magistrate stated that the "*Sydney*" had only arrived at Cocanada that day, on her way to Madras; that as the Sessions had commenced on the 6th Instant, they would certainly be over before the "*Sydney*" could reach Madras; and that under these circumstances, it appeared to him useless to send the prosecutor and witnesses down to Madras by that opportunity.

7. The "*Sydney*" arrived in these roads on the 12th Instant; so the witnesses, if despatched by her from Cocanada, would have been here in sufficient time, as the Grand Jury were not discharged till the 14th Instant.

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No. 42. ORDER THEREON, 26th July 1859, No. 1008.

Ordered to be communicated to the Magistrate of Rajahmundry for his explanation.

2. Mr. Purvis will also state, why he made no communication to Government, relative to these two men when he sent them down to Madras by the *Coromandel*.

(Signed) T. PYCROFT,
*Chief Secretary.*

Exd. F. Cartledge.

remarked that neither the Recognizances or the Original Depositions had been returned to his Office and the Magistrate of Rajahmundry subsequently forwarded the original Depositions to the Crown Office, but without any Recognizances

6. In a letter from the Magistrate of Rajahmundry to the Clerk of the Crown dated the 9th Instant, the Magistrate stated that the "Sydney" had only arrived at Cocanada that day, on her way to Madras, - that as the Sessions had commenced on the 6th Instant they would certainly be over before the Sydney could reach Madras, and that under these circumstances it appeared to him useless to send the prosecutor and witnesses down to Madras by that opportunity.

7. The "Sydney" arrived in these Roads on the 12th Instant - so the witnesses if dispatched by her from Cocanada would have been here in sufficient time as the Grand Jury were not discharged till the 14th Instant.

I have the honor to be
Sir,
Your Most Obedient Servant

J Moyston

Govt. Sol.

Proc. of Govt. 29 July

Judicial 1859 Sept. 11

From

The Government Solicitor

To

The Chief Secy. to Govt.

Date 23 July

Received 26

No. 1305

Enclosure

No. 1209.

Report with reference to order of Government on letter from the Magistrate of Rajahmundry to the Clerk of the Crown 28th June 59 No. 233. that no Bill was found against George Richards and Jaime Wilkins, who were committed by the Magistrate of Rajahmundry to take their trial at the Criminal sessions of the Supreme Court and explaining the circumstances that led to such result.

With an Order.

List of Enclosures

41 & 42.

List

No. 1008. 26th July 1859.

Ordered to be communicated to the Magistrate of Rajahmundry for his explanation

He will also state why he made no communication to Govt. relative to the matter mentioned when he sent such documents to Madras by the Coromandel

The Magistrate of Rajah.
" Supt. Police & the Attorney
" Govt. Solicitor

Desp. 27th