(1) Number of pages — 4 —

(2) Date of repair 1.9.87

(3) Initials of the Referencer

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial — DEPARTMENT

G.O. No. / B.P. No.		Press. / Mis.
	1658	
114-115		
Dated	15 — 12 — 1860	198 .

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Not to be folded or roughly handled.

Archives —I 10,006-9 80

Proceedings of the Madras Government, Judicial Department,
15th December 1860.

Read again letter from the Commissioner of Police, dated 26th July 1860, No. 80, and recorded in Proceedings of Government of 2nd August 1860, No. 967.

No. 114.—Read also the following from the Advocate General, dated 13th December 1860.

OPINION.

I regret that I have been unable earlier to peruse the Code of Regulations prepared by Colonel Boulderson, Commissioner of Police, for the guidance and government of the Police Force of the Town of Madras, but Government are aware that my time has been fully occupied of late.

2. I have conferred with Colonel Boulderson on the subject, and have gone through the Code very carefully; it appears to me very clear, full, judicious, and comprehensive, and its directions concerning matters of a legal nature are in strict conformity with the law. In one part only, page 16, the Chapter about "Offices," Sections 6 and 8, I have made a few additions in the margin, respecting the cases in which Constables are authorized to break open doors. I would also observe, that, the subject of these Sections being the same as that of Sections 5 and 6 in the preceding Chapter, about "Instructions concerning the Police Officers in general," it would tend to greater clearness, and be less likely perhaps either to mislead, or to escape the notice of those for whose instruction the Code is intended, if these Rules were brought together embodied in one Chapter. For instance, Sections 6 and 8 in the Chapter about "Offences," seem to fall as much under the head of "Instructions to Police Officers in general" as Sections 5 and 6 of that Chapter. If it were considered advisable to notice the subject again in the Chapter on Offences, it might be done somewhat as follows:—"The following are the Offences respecting "which a Constable, if refused admission, is justified in breaking open doors in order to effect "an arrest."

3. Section III of the part relating to the "Duties of the Deputy Commissioner of Police" and Section 2 of the "Instructions to Police Officers in general," are very correct, and refer to a matter of much importance, and which I am not sure is generally understood.

4. The Police ought not to detain any person in their custody for above twenty-four hours without taking or sending him before a Magistrate. In cases of a serious nature it will no doubt be often impossible for the Police to complete the case against the prisoner within so short a space; but the law does not expect them to do so. In such cases an intelligent Inspector should attend before the Magistrate, and apply for a remand, from time to time, to enable him to obtain further evidence to complete the case, and such remand it is the duty of the Magistrate to grant.

5. The duty however of a Magistrate of Police extends much beyond this. The Police generally, and particularly the Inspectors, can hardly be expected as yet to approach the efficiency of the London Police, and they therefore stand in greater need of assistance from the Magistrate of Police. If a Magistrate of Police finds that a case is brought before him which is incomplete, he should (besides questioning the witnesses, whether Police Officers or others, so as to clear up any ambiguities, and to elicit any thing which, whether from ignorance or design, they may have left untold) direct the Inspector's attention to the hiatus in the chain of evidence, inquire what has been done, and what probability there is of further investigation eliciting further evidence; and if he sees there is any such probability, he should of his own accord remand the prisoner for such time as he shall consider reasonable, and direct the Inspector to prosecute such inquiries and researches as he, the Magistrate, shall consider most likely to elicit further evidence. In fact he should not consider his duty to be *merely* judicial, and that he has *merely* to listen to such evidence as the Police may bring before him, and to discharge the prisoner if a *complete* case is *not* made out against him *at once*.

6. I make these remarks because I have had reason to know that such a view has been taken of the duties of a Magistrate of Police, than which nothing can be more erroneous. Amongst other bad consequences, its direct and natural tendency is to tempt the Police Officers to keep a prisoner in their custody until they think they have a complete case against him, whereas no subject ought to be detained in the custody of the Police above 24 hours (except when Sunday intervenes) without his being brought before a Magistrate.

7. If this Code is supported in this spirit by the Magistrates of Police, and duly observed by the Police Force, it is calculated to be a most useful guide to them, and a valuable boon to the community of Madras, highly creditable to the care, industry, and intelligence, of Colonel Boulderson, and his late Deputy Mr. T. G. Clarke.

(Signed) THOS. SYDNEY SMYTH,
Advocate General.

December 13th, 1860.

No. 115. ORDER THEREON, 15th December 1860, No. 1,658.

Resolved that a copy of the above letter and its original enclosure be forwarded to the Commissioner of Police, in reference to Proceedings of Government, 2nd August last, No. 967, and that he be requested to revise the Code in accordance with the suggestions of the Advocate General, and have it printed in one of the Town Presses.

(Signed) T. PYCROFT,
Chief Secretary.

Mad. F. Cartledge.

Judicial Department.

Proceedings of the Madras Government.

Read again letter from the Commissioner of Police, dated 26th July 1860 No 80, and recorded in Pro: of Govt of 2d August 1860 No 967.

Read also the following letter from the Advocate General / Received 13th Dec 1860 /

Order thereon 15th December 1860 No 1658.

Resolved that a copy of the above letter, and its original enclosure be forwarded to the Commissioner of Police in reference to Pro: of Govt 2d August last No 967, and that he be requested to revise the Code in accordance with the suggestions of the Advocate General, and have it printed in one of the Town Presses.

To, The Comr of Police