

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 525	Press
70-72	Mis.
70-72	
Dated 28.4.1860	19

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
for the month of April 1860.*

Read the following papers :—

No. 70. From Lieutenant Colonel H. COLBECK, Senior Magistrate of Police, to T. PYCROFT, Esq., Chief Secretary to Government, dated 25th April 1860, No. 6.

I have the honor to state that about two months ago, I committed the prisoners named in the margin to take their trial in the Supreme Court upon the charge of stealing and harbouring children under the age of ten years, but in consequence of some flaw in the Indictment drawn by the Clerk of the Crown, they were acquitted.

3. The Commissioner of Police however has again sent to me in custody the above prisoners upon the same charge with a view to their re-committal by me.

4. But I confess I have very grave and serious doubts upon my mind as to the legality of such a course and am unwilling to involve myself in so serious a responsibility unless supported by the opinion of the Law Officers of the Government.

5. I have the honor to request therefore the permission of the Honorable the Governor in Council to obtain an emergent opinion upon this case with the smallest delay possible.

Referred for the opinion of the Advocate General.

(Signed) T. PYCROFT,
Chief Secretary.

26th April 1860.

No. 71. From J. R. BOYSON, Esq., Government Solicitor, Madras, to the Chief Secretary to Government, dated 27th April 1860, No. 411.

I have the honor to acknowledge the Order of Government, (in original), noted in the margin.
Order of Government, dated 23th April 1860, and made on letter from the Senior Magistrate of Police to Government, dated 25th idem, No. 6.

2. I submitted it for the consideration of the Advocate General with whom I have also conferred thereon.

3. I now forward a copy of his opinion and return the Order above noted.

COPY—OPINION.

I am of opinion that there are no grounds for any objection on the part of any Police Magistrate to recommit in these cases, upon the same proof as was adduced in the first instance.

The prisoners could not have been convicted upon the Indictments preferred against them inasmuch as they did not charge any legal offence. The prisoners therefore were never in jeopardy on these Indictments; and as evidence would have been useless, the Counsel instructed by the Clerk of the Crown very properly offered none.

Had I been aware of the fact in time, I should have appeared, and moved to enter a Nolle Prosequere, and then, but for the grand Jury's having been discharged so early, fresh Indictments might have been sent up. This shews the expediency of reverting to the practice always observed by the late Chief Justice of never discharging the Grand Jury till the termination of the Sessions.

I intend to appear and prosecute in these cases myself at the next Sessions.

(Signed) THOS. SYDNEY SMYTH,
Advocate General.

April 26th, 1860

(True Copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

Proceedings of the Madras Government, Judicial Department,
for the month of April 1860.

No. 72.

ORDER THEREON, 28th April 1860, No. 525.

Ordered to be communicated to the Magistrate of the Royapettah District, in reference to his letter of the 25th instant.

(Signed) T. PYCROFT,
Chief Secretary.

Read letter from Lt. Col. H. Colborne
re: surveying interests of the
Govt. Solicitor - April 28th 1860

Here letter 28 April 1860 No. 525.

Order thereon 28 April 1860, No. 525.
Ordered to be communicated
to the Magistrate of the Royapettah
District in reference to his letter
of the 25 inst.

T. Pycroft
Chief Secretary

Mag^r. Royap. District
with an Enclosure & original Dec^r 28th
letter No. 525.

26-5-60
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