M.R.O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 994-995 Press
~~Mis.~~
55-58

Dated 9-8-~~19~~1860

12/13

Not to be folded or roughly handled

ONS

No. 55. Read the following letter from H. FORBES, Esq., Member of the Legislative Council, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Fort William, 13th July 1860.

As it is probable that the Penal Code will be brought before a Committee of the whole Council as soon as the Bills to impose new Taxes are disposed of, and that the consideration of the Criminal Procedure Code will be resumed as soon as the Penal Code is passed, I have the honor to request an early reply to the 15th paragraph of my letter of the 13th of March last, regarding the designation to be in future given to the Heads of District Police and to Village Moonsiffs, in those Districts in which Act XXIV of 1859, has been introduced.

2. In the 1st Section of Act XXIV of 1859, the word "Magistrate" is interpreted to mean "all persons within their respective jurisdictions, exercising all, or any, of the powers of "a Magistrate," and includes therefore the Tahsildars and Village Moonsiffs. It may be sufficient therefore for the purpose of securing to those Officers the continuance of the powers which, in the end of the 15th paragraph of your letter above referred to, is justly said to be so essential, to insert in Section 317 of the Code, the words "or of the Magistrates as defined in Section I of Act XXIV of 1859," after the words "Presidency of Madras," in the first Clause of the Section. The powers of the Heads of Villages and Heads of Village District Police will thus be preserved, both in the Districts in which Act XXIV has yet to be introduced, and in those in which it is already at work, in the former by the words already in the Section, and in the latter by those I propose shall be inserted.

3. I request that I may, at the same time, be informed if the Government have any objection to the Heads of District Police, under whatever designation may be given to them, committing cases direct to the Session Court. In the 10th paragraph of your letter of the 11th of January last, No. 35, it is said that "Session cases should be forwarded by the Magistracy of the "District direct to the Sessions Court. The Magistrates being no longer vested with the "immediate direction of the Police in the performance of its detective duties, renders such a "course unobjectionable."

4. The word Magistracy in the part of your letter which I have quoted, was probably intended to apply only to the European Magistracy, but, as I see no objection to the extension of the privilege to the present Heads of District Police, and as I have never discovered any advantage in Session cases passing through the Court of the Subordinate Judge or Principal Sadr Amín, I propose, unless the Government should object, to endeavour to alter the Law in this respect as the Criminal Procedure Code passes again through a Committee of the Council.

5. As the constitution and powers of the Criminal Courts, will not come into question on this occasion, I do not trouble the Government on the other parts of your letter of the 11th of January and my reply of the 13th of March.

No. 56. From Lieutenant M. W. CARR, Personal Assistant to the Inspector General of Madras Police, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 31st July 1860, No. 611.

With reference to Order of Government, dated 18th April 1860, No. 460, I have the honor to forward, by order of the Inspector General of Police, copy of a letter to his address from J. D. Mayne, Esquire, Barrister at Law.

From JOHN D. MAYNE, Esq., Barrister at Law, to W. ROBINSON, Esq., Inspector General of Madras Police, dated July 30th, 1860.

1. I have to acknowledge the receipt of your letter of the 25th July, forwarding an extract from the Proceedings of Government in the Judicial Department, dated 18th April, No. 460, and requesting my opinion upon the question contained therein.

2. I think it very doubtful whether the words in Section 317 of the proposed Criminal Procedure Code are extensive enough to apply to all Officers exercising functions under Act XXIV of 1859. It is at all events better to put the point beyond dispute.

3. I would therefore suggest that the first clause of Section 317, should be amended, by adding after the words "Presidency of Madras" the words "or of any person appointed or acting under the authority of Act XXIV of 1859."

(True Copy.)
(Signed) M. W. CARR, Lieutenant,
Personal Assistant to the Inspector General,
of Madras Police.

No. 57. ORDER THEREON, 9th August 1860, No. 994.

In paragraph 1 of the above letter, the Member for Madras requests an early reply to the 15th paragraph of his letter of the 15th March last, regarding the designation to be in future given to the Heads of District Police and to Village Moonsiffs, in those Districts in which Act XXIV of 1859, has been introduced.

2. In their Order of 18th April 1860, No. 460, passed on Mr. Forbes' letter, the Government intimated that, in their view, in the Districts into which Act XXIV, 1859, had been introduced, the above Officers might be termed respectively Talook Magistrates and Village Magistrates. Instructions to the like effect were also issued in the Revenue Department, 29th May 1860, No. 879, on review of a letter from Mr. Pelly.

3. On reconsideration, however, the Government are inclined to think that Tahsildars, or Officers in charge of Talooks, may in their Magisterial capacity be properly designated Sub Magistrates, and that the same term may be properly applied to Officers in Magisterial charge of a Zemindary, or of a *part* of a Táluq or of a large Town with or without an adjoining tract of country, such Officers as under the old system were called Amildars of Police or Police Ameens. The Magisterial powers of all these Officers should be the same, the difference being only in the extent or nature of their local jurisdiction, as over a Town, Talook, part of a Talook, or Zemindary. For Village Moonsiffs, it does not appear what other appellation can be found than Village Magistrates.

4. In paragraph 3 of his letter of 13th March last, the Member for Madras—in reference to a wish which had been expressed by Government, that an explicit declaration, that the provisions of Act XXIV of 1859 were to be in no way affected by the Criminal Procedure Code, should be inserted in the Code itself, in order that all misunderstanding should be avoided—requested attention to the terms of Section 317 of the Amended Code which, it appeared to him, fully provided for it. Mr. J. D. Mayne, by whom the original draft of the Police Act was prepared, states that he thinks it very doubtful whether the words in Section 317 of the proposed Criminal Procedure Code are extensive enough to apply to all Officers exercising functions under Act XXIV of 1859. It is at all events better to put the point beyond dispute. He therefore suggests that the first clause of Section 317 should be amended, by adding after the words "Presidency of Madras" the words "or of any person appointed or acting under the authority of Act XXIV of 1859." The Government concur in this view and will instruct their Member accordingly.

5. The Government quite agree with Mr. Forbes that Heads of District Police and Sub Magistrates should commit cases direct to the Session Court.

(Signed) T. PYCROFT,
Chief Secretary.

No. 58. To the Member for Madras of the Legislative Council of India, dated Fort Saint George, 9th August 1860, No. 995.

I have the honor to acknowledge your letters, 13th March last and 13th ultimo.

2. With reference to the 16th paragraph of the earlier letter, I am directed to state that the Government think that in the Districts into which Act XXIV, 1859, has been introduced, the Tahsildars, or Officers in charge of Talooks, may, in their Magisterial capacity, be properly designated Sub Magistrates—and that the same term may properly be applied to Officers in Magisterial charge of a Zemindary, or of a *part* of a Talook, or of a large Town with or without an

Proceedings of the Madras Government, Judicial Department,
9th August 1860.

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3. The Government quite agree with you that heads of District Police and Sub Magistrates, should commit cases direct to the Session Courts.

4. As regards Section 317 of the Amended Criminal Procedure to which you drew attention in paragraph 3 of your letter of the 13th March last, I am to reply that the Government have been advised that it is very doubtful whether the words in that Section are extensive enough to apply to all Officers exercising functions under Act XXIV, 1859. As it will be better to put the point beyond dispute, it has been suggested that the first Clause of Section 317 should be amended, by adding after the words "Presidency of Madras," the words "or of any person "appointed or acting under the authority of Act XXIV of 1859." The Government request that these words may be inserted accordingly.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Calcutta. 14th August 1860

My dear Sir Cecil,

I have to day received your public letter of the 9th about the new designation proposed for native Members. It is unfortunate that the Steamer went this morning & that there is no other packet, as I could prefer to communicate with you before writing officially.

On adding to Section 317 of the Procedure Code the words given in the 4th paragraph of your letter, it seems to me that the words "District" or "ought to be taken out of that Section as it now stands. So that the Section may run

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...llowing letters.—
...13th July 1860.)
...31 " " No. 611)

...August 1860 No. 9714.

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2.— In their order of 18th April 1860 No. 1160 passed on Mr. Forbes letter, the Government intimated that, in their view, in the Districts into which

Act

but you can telegraph soon
reply & time to make.

Ecc &
Gandy

Shown to Moreland and
Telegram. Mr Forbes my letter with
his concurrence

To H Forbes Esq
Mem Legislative Council
Calcutta Bengal

Your letter of the 24
ultimo received —
The word District
may be omitted from
Sect 317 of the Criminal
Procedure Code as you
propose — JP

Put this up with
HIS EXCELLENCY the letter referred
to —
SIR C. E. TREVELYAN, K.C.B.

Rec'd 9th Aug 1860

ial Department.

overnment

llowing letters. —

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M. W. Carr, Personal Asstt. to Inspector Genl., Madras Police —— " —— " —— 31st —— " —— " —— No 611)

thereon 9th August 1860 No 991.

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Proceedings of the Madras Government

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To the Inspector General of Police.
" Revenue Department.
" Board of Revenue.
" Foujdari Adalut.
} Disp. 14

Dept. 10th

Judicial.

No. 995.

To the Member for Madras of the
Legislative Council of India.

Sir -

I have the honor to acknowledge your letters, 13th March last & 13th ult.

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Rec'd of Augt
Judicial 1860 Dept. with
No. 994.
Proceedings of Govt
Dated 9th August 1865.
Rec'd 24/8/65.

Issuing orders on the
letter from the Member
for Madras of the Legi
Lative Council of Madras
requesting an early reply
to his reference, regard
ing the observations to
be given to the Revis
of District Police and
the Village Munsiffs in
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Issued 28/8.

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Fort St George
4th August 1860

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No 995.

To

The Member for Madras
of the Legislative Council
of India

Dated 9th August 1866.

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