

# MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

|                  |                 |
|------------------|-----------------|
| G.O. No. 2109    | Press           |
| 241-242          | <del>Mis.</del> |
| Dated 23-12-1882 |                 |

6/7

Not to be folded or roughly handled

Read the following letter from W. ROBINSON, Esq., Inspector of Police,  
to A. J. ARBUTHNOT, Chief Secretary to Government, Saint George,  
Madras, 6th December 1862, No. 2,93.

submit for the consideration of Government, the acc-  
dence\* on the subject of the  
the Police.

No. 395, dated 1

ice, No. 2,626, da

ated 3rd Decem

1862

The Magistrate of South Arcot wishes  
the Police to obtain the signature of the  
individual summoned on the process, in  
acknowledgment of due service; and that the process so signed, be returned by the Police to  
which is the record.

This had been the practice in many Districts—sustained by the Police on its first intro-  
duction—till the Code of Criminal Procedure laid down precise Procedure on the point in Sections  
71 and 72.

4. I regret to take the same view of the Law as the Magistrate of South Arcot.  
I am satisfied that, to constitute legal service of a Summons, the process must be left with the  
party on whom it is served, and that signature of the party in acknowledgment of service  
be asked for, much less enforced. It will assuredly be invariably refused when they  
obey the Law.

the High Court, a copy of his letter  
g for the guidance of the Magistracy.  
I urge a reference to the Government Law Com.  
The law is quite plain

7

ould not  
and check to the Police

Neglect to obey a Summons is a criminal offence, and should always be  
to substantiate the offence. The consequence would

would rarely then be necessary to produce other evidence besides the  
and executed the process, to establish the offence. The practice would be a harassing  
attendance at Courts to give evidence of the service.

I would therefore strongly urge that the Government should under preparation  
for making neglect of Summons penal, which shall enact that the party on whom service  
shall sign the process and return it to the server. He will duly return the Summons to the  
to the Court issuing it. A duplicate might be left with the party, a reminder if deemed desirable.

From READE, Esq., Magistrate of South Arcot, to Captain J. G. ROBINSON,  
Inspector of Police, South Arcot, Madras, 17th October 1862, No. 395

Mr. G. G. ROBINSON has addressed me on the subject of the serious inconvenience arising from a new  
system adopted by the Police of serving Summonses; no actual case of the kind has come before  
myself, and indeed till now I was not aware that any alteration had taken place in the mode  
of service by the Police of the processes referred to. The hitherto practice has been to take the  
signature of a party to the Summons, the Police Officer returning the same in token of execution,  
and thus the consequences of non-obedience to such process legitimately fell on the party so default-  
ing. Mr. G. G. ROBINSON informs me that in the instances he quotes, neglect of the Summons has  
that under your orders the Summons has been given to, and left with the parties

*Proceedings of the Madras Government, Judicial Department,  
23rd December 1862*

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From C. F. CHAMIER, Esq., Registrar of the High Court of Judicature at Madras; to W. ROBINSON, Esq., Inspector General of M. Police, dated Madras, 3rd December 1862.

I am directed to acknowledge the receipt of your letter dated the 4th instant, requesting the opinion of the High Court on the mode in which a Summons should be served under the Code of Criminal Procedure.

2. In reply I am directed to state that the Chief Justice and Judges do not consider it within their province to express any opinion upon questions submitted to them by the Inspector General of Police, relating to the duties of the Police functionaries who are not subject to the control of the High Court.

(True Copy.)

(Signed) W. ROBINSON,  
Inspector General of M. Police.

No. 242. ORDER THEREON, 23rd December 1862, No. 2,109.

His Excellency the Governor in Council concurs in the opinion of the Inspector General of Police, that under Section 72 of the Code of Criminal Procedure a person on whom a Summons is served cannot legally be required to attach his signature to the Summons.

2. The Governor in Council doubts the expediency of making any alteration in the Law as it stands in this respect.

(Signed) A. J. ARBUTHNOT,  
Chief Secretary.

not aware what instructions you have acted, but it seems to me that authorizing any deviation from the hitherto practice

to whom that party may not himself be present. But when the signature is obtainable, I think it to be taken and the Summons be returned by the Police Constable to the Magisterial Office whom issued. I shall be obliged

received on the subject, and if you are unable to depart from them it will devolve on me to the question is higher authority as I am of opinion that neither law nor usage lend their aid to this new convenience:

Forward General.

whether the wish  
to be.

(Signed)

ROBINSON, Esq., Inspector General of M. P.  
of Judicature, dated Bellary, 4th November 1862

I I  
of the High Court on the accompanying  
from the Magistrate of South Arcot

In serving

3. Before the passing of Act XXI a practice  
to the court different  
show the Summons to the party required to attend, take  
and returning the original process to the Magistrate who

4. Section 34 of Act XXIV of 1859, embodies the Criminal  
Procedure Code, which I think en  
person summoned.

5. However, with reference to the penal provision of the section in question, the practice of obtaining the signature of the party and returning the Summons was temporarily but very generally continued pending the passing of the Criminal Procedure Code.

6. Since the passing into law  
to leave the Summons with the party required to attend. It is obvious that they have power to require a party to sign the Summons. Indeed a very serious assault on a Police Officer has been justified on the plea that he exceeded his powers by refusing resolutely to leave a house till the party sign returned to he sought to serve old practice.

7. The Magistrate of South Arcot wishes the old practice above alluded to. The inconvenience of such a course as a check both in the party defaulting and obvious. advocate its being made law. But I have not met who takes the same view of the law as it now stands as Mr. Reade appears to do. I hesitate to give instructions, which may invalidate the service of the Summons and parties refusing as above instanced, to sign the Summons.

(True Copy.)

(Signed) W. ROBINSON,  
Inspector General of M. Police.

Exd. T. O'Connor.

Mr,  
Your most obedt. Servant.

W. Robertson

Inspector General  
of the Police.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following  
letter from the Inspector  
General of Madras Police

Here under 6<sup>th</sup> December 1862  
N<sup>o</sup> 2934

Order thereon 23<sup>rd</sup> December 1862 N<sup>o</sup> 2109

His Excellency the Governor  
in Council concurs in the  
opinion of the Inspector  
General of Police that under  
Section 72 of the Code of  
Criminal Procedure a person  
on whom a summons is  
served cannot legally  
be required to attach  
his signature to the  
summons.

no former in Council  
doubt the expediency of <sup>making</sup> ~~any~~  
any ~~alteration~~ <sup>in the law</sup> ~~in the law~~  
if ~~any~~ <sup>it may be</sup> ~~it may be~~ <sup>in this report.</sup>  
to the Bill now before the  
Council for enactment

Done

MA

L.  
MA

JP

~~Laws and Regulations will~~  
~~be submitted for the con-~~  
~~sideration of that body~~

W/R

Encl of Order Dec 23<sup>d</sup>

*P. Lee*  
*Industrial 1862. Department.*

No. 21. 7.

PROCEEDINGS OF GOVERNMENT,

*Dated 23 & 24*

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