M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1402 Press ~~Mis.~~

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Dated 1-9- 1863 10.

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Not to be folded or roughly handled

Read the following papers:—

No. 4. From the Honorable H. L. ANDERSON, Chief Secretary to the Government of Bombay; to the Secretary to the Government of Fort Saint George, Madras, dated Bombay Castle, 15th April 1863, No. 817.

A question having arisen as to whether it is competent for a person appointed by the District Magistrate, to act for a Tahsildar or Mahalkurry, dying or leaving his station suddenly, to exercise the powers of a Subordinate Magistrate under Act 25 of 1861, pending his formal appointment by Government, I am desired by the Honorable the Governor in Council to request that you will be so good as to favor this Government with information as to what is the practice prevailing in the Madras Presidency in such cases.

No. 5. From H. BIRDWOOD, Esq., Officiating Under Secretary to the Government of Bombay; to the Secretary to the Government of Fort Saint George, dated Bombay Castle, 9th July 1863, No. 1,892.

With reference to my letter, to your address, No. 817, dated the 15th April 1863, I am directed by the Honorable the Governor in Council to forward, for submission to the Government of Fort Saint George, the accompanying copy of a letter, No. 1,891, addressed this day to the Secretary to the Government of Bengal.

From H. BIRDWOOD, Esq., Officiating Under Secretary to the Government of Bombay; to the Secretary to the Government of Bengal, dated Bombay Castle, 9th July 1863, No. 1,891.

I am directed to acknowledge the receipt of your letter, No. 3,380, dated the 7th May last, in which you state that "no such Officer as Tahsildar, a Mahalkurry, is employed in the provinces under the control of the Bengal Government."

2. I am now desired to send to you the accompanying copy of a letter, No. 595, dated the 29th May last from the Police Commissioner, Northern Division, and to explain that in this Presidency the Collectorates are divided into Districts called Talookas, and that a Mamlutdar (or Tahsildar) is the Officer in revenue charge of a Talooka. He is the Officer called a Komavisdar in Chapter II of the Bombay Regulation XVI of 1827, and is in revenue matters immediately subordinate to the Assistant Collector, who generally has charge of several Talookas. In some Talookas the work is too much for a Mamlutdar, and in such cases a Mahalkurry is appointed to the charge of a portion of the Talooka known as a Mahal, but he is in revenue matters subordinate to the Mamlutdar. It has been the practice for Mamlutdars and Mahalkurries to exercise Magisterial powers, and before the Penal Code and Code of Criminal Procedure came into operation these powers were exercised under the provisions of Chapter V of the Bombay Regulation XII of 1827. These provisions apply primarily to Mamlutdars (who in their Magisterial capacity used to be called "District Police Officers,") but were extended to Mahalkurries by Act XX of 1835. Under the new Codes, Mamlutdars and Mahalkurries have generally been appointed Subordinate Magistrates of the 2nd Class, and their appointments have invariably been published in the Government Gazette.

3. His Excellency the Governor in Council trusts that the above explanation will enable the Government of Bengal to favor this Government with the information which it was the object of Mr. Under Secretary West's letter, No. 816, dated the 15th April last to elicit. What His Excellency in Council would wish to know is the mode of procedure in Bengal in regard to the conferring of Magisterial powers on the Officers who correspond to the Mamlutdars and Mahalkurries of this Presidency, whether such Officers exercise revenue in conjunction with Magisterial powers or Magisterial powers only.

(True Copy.)

(Signed) H. BIRDWOOD,
Offg. Under Secy. to Government.

Proceedings of the Madras Government [illegible]cial Department,
1st September 1863.

From B. H. ELLIS, Esq., Commissioner of Police, Northern Division; to the Honorable H. L. ANDERSON, Chief Secretary to Government, Bombay, dated Matheran, 29th May 1863, No. 595.

In Mr. Shaw Stewart's letter, No. 3,418 of the 27th October 1862, it was ruled that all Officers who may be invested with any of the powers of a Magistrate should be specially appointed by name, and the appointment notified in the Government Gazette.

2. Government will have observed that I have very frequently had to trouble them with these applications. If each appointment require separate publication, inconvenience must not unfrequently occur during the time which necessarily elapses before the orders of Government can be published.

3. I may remind Government also that whenever a Mamlutdar, or first Carcoon is absent for a month or shorter period on leave, the services of a Magistrate are lost, unless the *locum tenens* has already been Gazetted has having Magisterial powers; for the officiator, though able to perform all other duties, cannot dispose of Magisterial work until he is Gazetted.

4. It seems to me, therefore, that if the requirements of the Law be satisfied by a publication, once for all, of the offices which the Governor in Council considers ought to carry with them ex-officio certain Magisterial powers, it would be better in many respects to issue such a Notification, and to limit the applications to Government to cases in which the Magistrate and Police Commissioner concur in thinking that higher powers may be bestowed specially on any individual.

5. I am of opinion that this course may be followed without legal objection, for I have not observed in the Calcutta Gazette the frequent nominations which would be necessary, if the same system were adopted in the Bengal Presidency. As both Presidencies are under the same Law, the Bengal procedure, if more convenient, ought to be followed here.

No. 5 A. To the Chief Secretary to the Government of Bombay, Judicial Dopartment, dated Fort Saint George, 1st September 1863, No. 1,412.

In acknowledging the receipt of your letters of the 15th April and 9th July last, Nos. 817 and 1,892, inquiring what is the mode of procedure in this Presidency in regard to conferring Magisterial powers on the Officers in this Presidency who correspond to the Tahsildars and Mahalkurries of the Bombay Presidency, I am directed to inform you that it is not the practice in this Presidency for the Government to notify in the Official Gazette the names of all Officers invested with any of the powers of a Magistrate under Act XXV of 1861, or to pass any formal order investing the Subordinate Magistrates of the 2nd Class with the powers given by the Act.

2. Shortly before the Act in question became Law, a Notification was issued in the Fort Saint George Gazette, declaring that from and after the 1st January 1862, all persons holding Magisterial offices therein named, would have authority to exercise the powers specified against the names of these offices in relation to Section 22, Act XXV of 1861. In this Presidency the Officers corresponding to the Tahsildars and Mahalkurries of the Bombay Presidency are designated as Tahsildars or Talook Magistrates and Sub-Magistrates, and all such Officers by the Notification in question (a copy of which is enclosed) are vested with the powers of a Subordinate Magistrate of the 2nd Class.

3. The appointment of Tahsildars and Sub-Magistrates rests with the Collector and Magistrate of the District, and any person appointed to one of these offices, either temporarily or permanently, is considered to be invested with the powers of a Subordinate Magistrate of the 2nd Class by virtue of the Notification above referred to.

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

Exd. T. McMoo

Judicial Department.

No. 1412

To

The Chief Secretary to the Government
of ~~India~~ Bombay

Judicial Department.

Sir,

In acknowledging the
receipt of your letters of the
15th April and 9th July
last Nos 817 and 1892, inquiring
what is the mode of procedure
in this Presidency in regard
to conferring Magisterial
powers on the Officers in
this Presidency who corres-
pond to the Tahsildars
and Mahalkurries of the
Bombay Presidency, I am
directed to inform you
that it is not the practice
in this Presidency for the
Government to notify in
the Official Gazette
the

the names of all Officers invested with any of the powers of a Magistrate under Act XXII of 1817, or to pass any formal order investing the Subordinate Magistrates of the 2nd Class with the powers given by the Act.

2. Shortly before the Act in question became Law, a Notification was issued in the Fort St George Gazette, declaring that from and after the 1st January 1812, all persons holding Magisterial Offices therein named, were held have authority to exercise the powers specified against the names of those Offices in relation to Section 22, Act XXV of 1817. In this Presidency the Officers corresponding to the Tahsildars and Mahalkurries of the

the Bombay Presidency are designated as Tahsildars or Taluk Magistrates and Sub Magistrates, and all such Officers by the Notification in question (a copy of which is enclosed) are vested with the powers of a Subordinate Magistrate of the 2nd Class.

3. The appointment of Tahsildars and Sub Magistrate and Magistrate of the District and any person appointed to one of these offices, either temporarily or permanently, is considered to be invested with the powers of a Subordinate Magistrate of the 2nd Class by virtue of the Notification above referred to.

Fort St George
1st Sept. 1813

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judicial 10th Sept.

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To
The Chief Secy to the Govt
of Bombay.

Dated 1st Sept 1863.

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