

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	356-357.	Press Mis.
26-29		
Dated	6. 3 -	1863 10

7/8

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
6th March 1863.*

Read the following papers:—

No. 26. From C. W. READE, Esq., Magistrate of South Arcot; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated Cuddalore, 19th February 1863, No. 6.

I have the honor to solicit the Orders of Government in compliance with the request of my Sub-Collector Mr. Whiteside to the effect that his name may be included in the revised list of Justices of the Peace for the Madras Presidency, when next prepared in the Sheriff's office.

2. I beg to forward copy of a letter from Mr. Whiteside on the subject with the original enclosures received with it. These latter papers show that Mr. Whiteside has taken the oaths as a Justice of the Peace as required by Law under Section CXII, Regulation II, A. D. 1820, and Act XVI of 1841; but it seems that the precise course laid down in those enactments for subscribing such oaths, has not been observed strictly, they should have been taken before a Civil or Criminal Court and there registered.

3. I presume the informality now brought to notice will hardly be held to vitiate the qualification of Mr. Whiteside to act in the Commission of the Peace, but on this point I seek the instructions of the Government, and I desire to know whether it be requisite that Mr. Whiteside be formally nominated by Government, and do again take the oaths before the Court here, or whether it be sufficient that the oaths already on record in the North Arcot Magistrate's office be deposited in the Civil and Session Court at Chittoor.

4. Mr. Whiteside having already exercised the powers of a Justice of the Peace, a difficulty might arise if his authority were now called in question merely because of the informality noticed; and therefore it might be advisable to rectify the mistake and to require Mr. Whiteside to retake the oaths in strict conformity with the provisions of the Law I have quoted, and which it will be seen expressly limit the authority of administering them, to the Civil and Criminal Courts of a District as distinct from the inferior Judicial tribunals.

5. I await the orders of Government on this matter for Mr. Whiteside's guidance.

From W. S. WHITESIDE, Esq., Joint Magistrate of South Arcot; to C. W. READE, Esq., Magistrate of South Arcot, dated Virdachellum, 11th February 1863, No. 32.

When looking over the list of Justices of the Peace for this Presidency lately published by the Clerk of the Crown in the Fort Saint George of the 10th January 1863, page No. 103, and subsequent issues, I observed that my name did not appear therein, and recollecting that I had taken the oath as Justice of Peace about 5 years ago, when Assistant Magistrate of North Arcot, I procured from the present Officiating Magistrate of that District copies of the form of oath taken by me and of the attestation of the Justice of the Peace (Mr. Whittingham) before whom I made oath, and have now the honor to forward the documents to you.

2. You will observe that the oath is dated 15th March 1858. I had then completed one year's service in the Provinces, and I qualified as Justice of the Peace under the orders of Mr. Whittingham, then Magistrate of North Arcot. I was not then aware that the permission of Government was required before such oaths could be taken; nor indeed was Mr. Whittingham apparently, for it seems that he omitted to make any report of his having instructed me to qualify as Justice of the Peace, and took no steps to procure the issue, in due form, of a Commission of the Peace in my name.

3. Since then I have repeatedly exercised the powers of Justice of the Peace and inflicted punishment as such. I may especially allude to the cases of Bombardier Smith, whom I committed for trial before the late Supreme Court in Madras in the early part of 1859, on a charge of murder, when I was Head Assistant Magistrate of Tanjore, and of

* 27th February 1861, No. 285.

Captain A. E. Bowen of the 19th Regiment N. I., whom I tried under the special Orders* of Government when Acting Joint Magistrate of Nellore, in March 1861, on the charge of flogging several Natives near Ongole, and it is probable that I may from time to time be required to make similar trials.

*Proceedings of the Madras Government, Judicial Department,
6th March 1863.*

4. As many of the gentlemen whose names are now enrolled on the Commission of the Peace have finally quitted this country, it is probable that a revision of the lists may shortly be made, and I therefore lose no time in thus addressing you, in view to your taking the necessary steps to obtain the issue of a Commission of the Peace in my name at an early date.

(True Copy.)

(Signed) C. W. READE,
Magistrate.

FORT SAINT GEORGE,
25th February 1863.

Referred to the Advocate General.

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

No. 27. From JOHN ROBERT BOYSON, Esq., Government Solicitor, Madras; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Madras, dated Madras, 26th February 1863, No. 120.

1. I have the honor to acknowledge the Order of Government noted in the margin, and the papers which accompanied it, relative to Mr. W. S. Whiteside's competency to act as a Justice of the Peace, and the method of his now qualifying.

2. I have submitted the papers for the consideration of the Advocate General, and have also conferred with him thereon, and I now forward a copy of his opinion.
3. I also return the order and papers above noted.

3. I also return the order and papers above noted.

COPY-OPINION.

COPY—OPINION.

Government should apply through the Clerk of the Crown that a Supplementary Commission do issue appointing Mr. Whiteside to be a Justice of the Peace, and then Mr. Whiteside should qualify and take the oaths in any Civil or Criminal Court of his District. The less attention is directed to his former acts the better.

26th February 1863.

(Signed) T. SYDNEY SMYTH,
Advocate General.

(True Copy.)

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

No. 28. ORDER THEREON, 6th March 1863, No. 356.
The Advocate General's opinion will be

2. Ordered that application be made for the issue of a Commission of the Peace on behalf of Mr. Whiteside.

3. On being apprized of its having issued Mr. Whiteside will qualify before the Sessions Judge of Cuddalore.

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

No. 29. To the CLERK of the CROWN, dated Fort Saint George, 6th March 1863, No. 357.

His Excellency the Governor in Council having duly nominated and appointed Mr. W. S. Whiteside, Sub-Collector and Joint Magistrate of South Arcot, to be a Justice of the Peace within and for the Presidency of Fort Saint George, and the several Provinces and places thereto subordinate, I am directed to request that with the sanction of the Honorable the Judges of the High Court, a Commission of the Peace on his behalf may be issued, in conformity with the provisions of Act VI of 1845.

2. Mr. Whiteside will qualify before the Civil Court of Cuddalore.

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

Exd. T. McMootry,

11-2-63-

4. ✓ 5.

I William Sautey
 Hereto do Sincerely promise
 and swear that I will be faithful
 and bear true allegiance to
 her Majesty Queen Victoria
 So help me God
 Signed Wm Sautey
 I William Sautey
 do swear that I will
 and truly serve our Sovereign
 Lady the Queen in the Office
 of Secretary of the Peace
 and for the Law of the Peace
 and Presidency of the Peace
 George and the Peace Subordinate
 thereto that I will keep and
 cause to be kept all ordinances
 and Statutes made for the
 good of our Sovereign Lady
 the Queen and for the good
 of the Peace and for the increase
 of the same and from the

quick rule, and Government
of her Majesty's Subjects, and
people, with all the power of
the articles thereof, and then
the said Council of Madras
patronage and Presidency
of Fort St George, and the
places subordinate thereto
as well within Liberties
as without, according to
the force, form and effect
of the same, and that all
Charters and provisions, all
persons offending against
the forms of those ordinances
and statutes, or any of them,
within the said Council of
Madras, and Presidency
of Fort St George, and
places subordinate thereto,
as according to the forms
of those ordinances, and
statutes shall be forthwith

to be done, and that all
crimes to come before me
all those persons who
shall threaten any of Her
Majesty's people, launching
their persons, or burning
their houses, to find justice,
security for the peace and
from their good behaviour
towards Her Majesty and her
Subjects, and if they shall
refuse to find security
then that I will cause them
to be kept in prison, and
in some of the Prisons
of the said Council of Madras
and Presidency of Fort
St George, and the places
subordinate thereto
they shall find security,
and further that I will do
and cause to be done,
as far as in me lieth
and every other such and
acts, matters and matters

thing and things in particular
and all and whatsoever,
in general, which, under
and by virtue of the Statute,
in that case made and
provided or by any other
Law or Laws, Statutes or
statutes, may or ought
lawfully to be done, or
caused to be done, by any
Justices of the Peace, or
Justices of the Peace jointly
or severally, for and within
the said County of Madras
and Presidency of Fort Saint
George, and the places
thereto subordinate and
further that shall diligently
apply in &c. to the keeping
of the Peace of our Sovereign
Lady the Queen, as also
the ordinances and statutes
and all and singular other

the premises, and perform
and fulfil the same, in
forms aforesaid, doing
therein that which it shall
appertaineth according to
the Laws and Statutes
for that purpose made
and provided.

So help me God
Signed W. Whitson
Sworn before me at Court
under 33 George III Chaf
52 this 15 day of March 1858

Signed C. Whittingham
Justice of the Peace
(True copy)

J. Vack
Acting Magistrate

W. P. S.

Judicial Department.

Feb 27 1863.

My dear Arbutnot
 Whiteside, Ill.
 I send you an Official
 regarding this. You will
 find in your Office the
 usual form of letter asking
 for the issue of a Supple-
 mission and if you
 will let me know when this
 letter is dispatched to the
 Clerk of the Court at New
 if my Office will take
 care that the matter is
 at once properly attended

Governor in Council having
 pointed Mr. W. S. -
 Sub Collector &
 State of South
 Peace within and for the Pre-
 sorge, and the several Pro-
 subordinate, I am directed
 mission of the Peace on his
 in the High Court in con-
 s of Act VI of 1845.

side
 Civil Court
 re.
 &c,

March 1863.

Yours.

W. S. -

Sub Collector

State of South

6
Judicial Department.

No. 354

The Clerk of the Crown.

~~The Registrar of the~~

~~High Court.~~

SIR,

His Excellency the Governor in Council having duly nominated and appointed Mr. W. S. Whiteside, Sub Collector & Joint Magistrate of South Arcot, to be a Justice of the Peace within and for the Presidency of Fort St. George, and the several Provinces and places thereto subordinate, I am directed to request that a Commission of the Peace on his behalf may be issued ⁺ ~~from the High Court~~ in conformity with the provisions of Act VI of 1845.

2. Mr. Whiteside will qualify before the Civil Court of Cuddalore.

I have, &c,

Fort Saint George,
6 March 1863.

Deputy.

This is to be
sent under your
address to the
Joint Magistrate.

26629

ditto of 17th March
1854

1854 30th March
Lundwich 1854 30th March

1854

2nd Bank of the House

27th March 1854
1854 5/11