M.R.O. 1—39,000—16-10-39.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Judicial DEPARTMENT.

| G.O. No. | 1534 | Press / Mis. |
|---|---|---|
| 180 -182 Dated | 24-10- 19 | 1864 |

3/3

***Not to be folded or roughly handled***

*Proceedings of the Madras Government, Judicial Department,*
*24th October* 1864.

Read the following papers:—

No. 180. From J. SILVER, Esq., Magistrate of Tinnevelly; to J. D. SIM, Esq., Secretary to Government, Fort Saint George, dated Tinnevelly, 26th September 1864, No. 362.

I have the honor to request you will obtain for me the opinion of the Advocate General on the following point.

2. A charge is preferred against a European British subject in the Mofussil, of having committed mischief under Section 430 of the Penal Code. The offence is not one triable exclusively by the Court of Session, and the particular offence charged is not of such importance that, in the opinion of the Magistrate, it ought to be tried by the Court of Session, and *cæteris paribus* by the High Court, according to the provisions of Section 226 of the Code of Criminal Procedure. Is such a case punishable by the Magistrate, as the wording of the Section just quoted would seem to imply.

Referred for the Opinion of the Advocate General.

(Signed) J. D. SIM,
*Secretary to Government.*

*4th October* 1864.

No. 181. From J. R. BOYSON, Esq., Government Solicitor, Madras; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Madras, dated 14th October 1864, No. 549.

I have the honor to acknowledge the order of Government noted in the margin, requesting the Advocate General's opinion as to jurisdiction over European British subjects in respect of offences falling within Section 430 of the Penal Code.

Dated 4th October 1864, and made on letter from Magistrate of Tinnevelly to Government of 26th September 1864, No. 362.

2. I have submitted the matter for the consideration of the Advocate General; and,

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

COPY—OPINION.

I am of opinion that where a party accused of an offence in the Mofussil, under Section 430 of the Indian Penal Code, is a British subject, he must be tried by the High Court, or not at all.

(Signed) J. B. NORTON,
*Advocate General.*

10*th October* 1864.

(True Copy.)
(Signed) J. R. BOYSON,
*Government Solicitor.*

No. 182. ORDER THEREON, 24th October 1864, No. 1534.

Ordered that the foregoing papers be communicated to all Magistrates of Districts.

(True Extract.)
A. J. ARBUTHNOT,
*Chief Secretary.*

To the Magistrate of

Erd. J. Tulloch.

Proceedings of the Madras Govt.

Read the following letters —

From the Magistrate of Tinnevelly — date 26 Sept. 64 No. 362.

" the Govt. Solicitor — 14 Oct. — " 549.

Order — 24 October 1864 No. 1534.

Ordered that the foregoing papers be communicated to all Magistrates of Districts.

To the Magistrates of the several Districts &c &c &c