M.R.O. 1—32,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1796 Press ~~His.~~

149-151 Dated 13-12- 19 1864

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
13th December 1864.

Read the following papers :—

No. 149. From V. H. LEVINGE, Esq., Magistrate of Madura, to J. D. SIM, Esq., Secretary to Government, Fort Saint George ; dated Madura, 12th November 1864, No. 396.

I have the honor to request the attention of the Government to Act XVII of 1840, and Act VII of 1852, conferring powers on the Magistrates and the Heads of Police for punishing petty offences against the Salt Laws, from which it will be seen that the maximum punishment a Magistrate can inflict in such cases is a fine not exceeding 50 Rupees, or imprisonment not exceeding 30 days.

2. As the Sub-Magistrates of the 2nd Class are now authorized by the Criminal Procedure Code to inflict punishment to that extent, I beg the instructions of Government whether 2nd Class Sub-Magistrates can exercise the powers conferred upon a Magistrate by Act XVII of 1840 in such cases. I believe great inconvenience would be felt if all such petty cases had to be sent to Magistrates of the 1st Class, or to Magistrates having full powers.

Referred to the Government Solicitor for the opinion of the Advocate General.

FORT SAINT GEORGE,
22nd November 1864.

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

No. 150. From J. R. BOYSON, Esq., Government Solicitor, Madras, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated 28th November 1864, No. 617.

I have the honor to acknowledge the Order of Government noted in the margin, relative to powers of Sub-Magistrates of the 2nd Class under Act XVII of 1840.

Dated 22nd November 1864, and made on letter from the Magistrate of Madura to Government of 12th idem, No. 396.

2. I submitted the papers for the consideration of the Advocate General, with whom I have also conferred; and,

3. I now forward a copy of his Opinion, and return the order above noted.

COPY—OPINION.

I do not think that Sub-Magistrates can take up offences under Act XVII of 1840. The words of that Act are express. Jurisdiction is by it conferred on "the Magistrate of the District," and him alone.

2. Although the point is not directly referred to me, and indeed it arises only incidentally upon the letter of the Magistrate of Madura, it may be convenient if I state my opinion that Tahsildars cannot now take cognizance of offences under Act VII of 1852. They are no longer "Head of Police," although they exercise Magisterial functions.

3. The position of the Magistracy and the Police has so entirely altered since Act VII of 1852 was passed, that I think the proper course is to pass a short Act repealing Act VII of 1852, and giving the jurisdiction conferred by that Act upon Heads of Police to 2nd Class Magistrates. By the same Act, the powers conferred by Act XVII of 1840 upon the Magistrate of the District might be extended to 1st and 2nd Class Magistrates.

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

28th November 1864.

(True Copy.)

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

Legislative do

Proceedings of the Madras Government, Judicial Department,
13th December 1864.

No. 151. ORDER THEREON, 13th December 1864, No. 1796.

The Governor in Council directs that the Advocate General's Opinion be communicated to the Magistrates of Districts, and also to the Revenue and Legislative Departments, in which latter Department steps will be taken for the introduction of a Bill, as suggested by the Advocate General. It will also be considered whether there are any other instances in which it may be desirable to give express jurisdiction to Taluq Magistrates, now that these officers are no longer Heads of District Police.

(True Extract.)

A. J. ARBUTHNOT,
Chief Secretary.

To the Magistrate of
„ Revenue Department.
„ Legislative do.

Exd. J. H. Burns.

Judicial Department.

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PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letters:—

From the Magistrate of Madura — Entd 12 Nov. 64 No. 396.
" the Govt. Solicitor — 28 do — " 617.

Order — 13 December 64 No. 1796.

The Governor in Council directs that the Advocate General's Opinion be communicated to the Magistrates of Districts, & also to the Revenue & Legislative Depts. in which latter Dept. steps will be taken for the introduction of a Bill as suggested by the Advocate General. It will also be considered whether there are any other instances in which it may be desirable to give express jurisdiction to Taluq Magistrates now that these

The Law Member to communicate on suggested Bill by the Advocate General

There are a few instances in which it may be desirable to give express jurisdiction to Taluq Magistrates

The Magistrates of Revenue Dept. Legislative do

The several Depts

Dept. 15th

Dept. 20 Dec 64

1864. Department.

No. 1796.

PROCEEDINGS of GOVERNMENT.

Dated 13 Dec 1864

Relative to Powers of Sub Magistrates of the 2nd Class under Act XVII of 1840.

149 & 152.