

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1101	Press
		Mis.
Dated	9-8-1918	

Not to be folded or roughly handled

9th August 1865.

No. 65. Read the following letter from C. W. READE, Esq., Magistrate of South Arcot, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Cuddalore, 17th July 1865, No. 58.

By the Orders of Government, No. 970, dated 12th instant, it is ruled that "no officer should be permitted to exercise any of the powers of a Magistrate until they shall have been duly conferred on him by a Notification in the Official Gazette."

2. I desire to point out to Government how great the inconvenience may be, consequent on the strict enforcement of this order, on the occasion of any sudden vacancy in the post of a separate Sub-Magistrate, other than the Head of the Taluq. There will oftentimes be an inter-regnum of several weeks possibly, during which the cases pending will be delayed, and others actually under trial at the time of the vacancy will have to be postponed for an indefinite period, and the prisoners, who might in a few hours have been otherwise disposed of, must be kept in confinement, and the witnesses and other parties in attendance will be subjected to very serious inconvenience. The point is one which I think needs further consideration, if only to determine in what way the evil I speak of may be remedied, supposing the strict letter of the Law, as now laid down, need to be enforced.

3. I have further to ask whether in cases of absence on privilege or other leave by the permanent Sub-Magistracy, for short periods, I am to report the name of the proposed temporary successors, and whether, until Government have defined his powers and conferred them on him by a Notification in the Official Gazette, such temporary officer is not to enter on his functions.

4. I seek this information from Government, in view solely to enable me to make such arrangement for the future in filling up vacancies in this District, permanent or temporary, as shall be productive of the least possible inconvenience to the public in general, and also, as far as may be practicable, to guard the executive administration against any unnecessary hinderance or impediment under the operation of the present orders.

No. 66. ORDER THEREON, 9th August 1865, No. 1101.

The Governor in Council does not perceive anything in the question, submitted in the foregoing letter, which calls for special orders. A sudden vacancy in the Magistracy, or indeed in any other important public Department, must be productive of some private inconvenience, but it is not to be expected that laws or rules can be made to meet every possible occurrence of the kind.

2. It appears to His Excellency in Council that the cases suggested by Mr. Reade will but seldom happen. When a Subordinate Magistrate, separately located, dies, or is peremptorily removed, or quits his station on emergency, it will rest with the District or Division Magistrate to call up and determine cases requiring early disposal, or to direct their transfer to a neighbouring Sub-Magistrate's file, pending the arrival of the successor to the vacant office.

Proceedings of the Madras Government, Judicial Department,
9th August 1865.

3. In respect of paragraph 3 of his letter, Mr. Reade is informed that the Order of the 12th ultimo, No. 970, applies equally to temporary as to permanent appointments. Ordinarily there will be sufficient time to make the necessary application to the Government before granting leave to a Sub-Magistrate, or permitting him to avail himself of it.

(True Extract).

Chief Secretary.

To the Magistrate of South Arcot.

Exd. J. H. Burns.

Judicial Department

No. 1532

From the Magistrate of South Arcot
Dated 17th July 1865.

For Order

The Magisterial arrangements, suggested by the Code of Criminal Procedure, and framed to meet, and, in my opinion, are sufficient for the ordinary condition of things. In his recent letter, the Magistrate of South Arcot has suggested cases of administrative difficulty which will but seldom occur.

Sometimes a sudden vacancy in the Magistracy, or indeed in any other important public department, must be productive of some private inconvenience, but it is far out of the question to attempt before hand to make laws or rules to meet every possible occurrence of the kind. —

a separate Sub Magistrate, from any
cause whatever, he is precluded for
the discharge of his Magisterial duties, it
will rest with the District Magistrate or the
District Magistrate, as the case may be, to
assist himself of the powers he holds
under the (of the) Peace, to call up and
determine any pending case that may
^{require} early disposal. An arrangement
of this kind, or a transfer of this case to
it neighboring Sub Magistrate felt, will
probably diminish or perhaps altogether
remove the hardships to which complainants,
witnesses and accused might be subjected
if the case were left untouched until
the appointment & arrival of a
successor to the vacant office.

In fulfilment of para 3 of the Master's letter,
I observe that the course above indicated
may also be followed, if the officer
to whom leave of absence may be granted,
cannot under the pressure of circumstances
bring out control, he detain at his

Cont-station until the arrival
of his successor. It will however
of course be at the Magistrate's discretion
to propose to post to hand the proper
Magisterial powers to a competent
successor to the intended absence at
any time prior to the actual grant of
leave by the District Magistrate.

Mr. Keane seems always ready to
pick holes in orders and instructions
which when to the Magistrates are
straightforward & clear. I really see
no fair reason why his money's worth
should have been ^{kept} up for special
orders.

28th Aug.

W.D.M.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read letter from the
Magistrate of South
Arcot

Enter 17 July '65 No. 58.

Order - 9th Aug/65 No. 1101.

The Governor in Council
does not perceive any-
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2. It appears to H. E. in Council that the cases suggested by Mr. Reade will but seldom happen. When a Subordinate Magistrate separately located, dies, or is preemptorily removed, or quits his station on emergency, it will rest with the District or Division Magistrate to call up & determine cases requiring early disposal, or to direct their transfer to a neighboring Sub-Magistrate, ^{file} pending the arrival of the successor to

to the vacant office.

3. In respect of para 3 of his letter, Mr. Reade is informed that the Order of the 12th Ult. N^o 970 applies equally to temporary as to permanent appointments. Ordinarily there will be sufficient time to make the necessary application to the Govt. before granting leave to a separate Sub-Magistrate, or permitting him to avail himself of it.

The Magistrate of South Arcot. } Desd^d 11/8.

[illegible]

Dated 9th August 1885

Wm. J. May.
Judicial Department.
1865

No. 1107.

PROCEEDINGS OF GOVERNMENT.

~~No. 100-100000~~