

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	15	Press Mis.
21-22 Dated	5-1-	19 1865

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,

5th January 1865.

No. 21. Read the following letter from D. F. CARMICHAEL, Esq., Collector of Vizagapatam, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Vizagapatam, 3rd November 1864, No. 639.

On receipt of the Order of Government, Marine, No. 211, of 14th ultimo, I communicated with the Session Judge, in reference to the remark made by the Government that, "with the Judge and Magistrate both in the Commission of the Peace, it might not be necessary to empower the Master Attendant of Vizagapatam to exercise jurisdiction under the Boat Rules;" for I remembered to have heard the Judge say, incidentally, that the functions of Judge were incompatible with those of a Justice of the Peace.

2. It will be seen, from the Session Judge's reply, that he is of opinion that that is so. He suggests that the Government should declare that all the powers under the Boat Rules may be exercised by a 1st Class Subordinate Magistrate, chiefly, on the ground that parties sentenced under these rules by a Justice of the Peace would practically be without appeal, a writ of *certiorari* being their sole remedy.

3. For my part, I strongly urge the propriety of giving the jurisdiction to a Master Attendant, wherever he is deemed qualified. The offences are such as occur for most part under his eyes, such as demand instant remedy, and such as a seafaring man can best determine,—to wit, over-crowding and over-loading of boats, landing and shipping beyond certain limits, refusing to ply without satisfactory reason. The punishments are slight, except in cases where life is endangered, or where the boatmen in smuggling resist lawful search; in these, six months' imprisonment can be awarded.

4. There is no Justice of the Peace at Bimlipatam, and I am the only one (excluding the Judge) here. I am absent four months of the year; and I beg to add that, when I am present, I shall be very glad to be free from exercising control over the boats, *first*, because I have plenty to do besides, and, *secondly*, because the Master Attendant, being always on the beach, and having experience as a sailor, can do the work so much better.

5. I trust, therefore, that the Government will be pleased to create the Masters Attendant of Vizagapatam and Bimlipatam Justices of the Peace, to exercise jurisdiction under the Boat Rules. Their names in full are, respectively,

Captain William Larkins Pascal.

Captain Robert William Meppen.

From C. COLLETT, Esq., Session Judge of Vizagapatam, to D. F. CARMICHAEL, Esq., Collector of Vizagapatam; dated Vizagapatam, 2nd November 1864, No. 65.

In reply to your letter,* dated 27th ultimo, No. 619, I have the honor to state that I lately

* Enclosures 4. Herewith returned.

had occasion to express an opinion that the Criminal Procedure Code nowhere contemplates a Session Judge acting as a Justice of

the Peace. I formed this opinion on the terms and arrangements of the Sections in Chapter II, and on the fact that an appeal lies, in certain cases (those commonly occurring up country) from a Justice of the Peace to the Court of Session.

2. It might, of course, be a very serious matter to suitors if the business arrangements of the Civil Court, which are always made from one to two months beforehand, were liable to be displaced by the Civil Judge having to sit as a Justice of the Peace from time to time.

*Proceedings of the Madras Government, Judicial Department,
5th January 1865.*

3. Cases, under Act I of 1859, as pointed out by the Advocate General, must be tried by a Magistrate. As to the Port Boat Rules of 1847, there seems to me to be a remedy, which it would be both easy and desirable to introduce. These rules were issued under Act IX of 1846, and the Government might, by acting in accordance therewith, issue a new rule that all the powers given by the rules of 1847 to a Justice of the Peace may, in future, be also exercised by a Magistrate with full powers, or a Sub-Magistrate of the 1st Class. The punishments, to which parties are by these rules liable, are all within the ordinary jurisdiction of a Sub-Magistrate of the 1st Class.

4. This change seems desirable as (1) the parties to be dealt with will almost always be Natives, and (2) these persons, if sentenced by a Justice of the Peace, will practically be without appeal, and there is no reason why sentences under these rules should not be subject to the ordinary rules as to appeal. In some cases the sentence may be six months' rigorous imprisonment.

5. I may note that the draftsman of the rules does not seem to have thought of there being any distinction between a Justice of the Peace and a Magistrate. In two places, as Rule VI and again in Rule XV, he has used the word "Magistrate," evidently as if exactly synonymous to "Justice of the Peace."

No. 22. ORDER THEREON, 5th January 1865, No. 15.

Under the circumstances stated by the Collector of Vizagapatam, the Governor in Council resolves to appoint the Master Attendant at Vizagapatam, Captain William Larkins Pascal, and the Master Attendant at Bimlipatam, Captain Robert William Meppen, to be Justices of the Peace, for the town of Madras and the Presidency of Fort Saint George, and the several Provinces and places subordinate thereto.

2. Cases which may arise, not cognizable by these Officers, must be dealt with by the Magistrate in the usual course.

(True Extract).

Chief Secretary.

To the Magistrate of Vizagapatam.

„ Superintendent of Marine.

Ed. J. H. Burns.

Chief Secretary

No. 345

J

Secretary of Vizagapatam

Dated 3rd November 1864

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*Under the circumstances stated
by the Collector, 'see no objection'
in issuing the Master Attendants
at Vizagapatam and Bimlipatam
with the jurisdiction of Justices of
the Peace that they may act under
the Boat Rules -*

*But this only meets on part
the difficulty originally represented
by Mr C. L. 28 Sep 65*

There still remain cases of breach
of discipline - to be dealt with
under Act 1. 1859 and then are
cognizable only by a Magistrate &
not a Justice of the Peace.

There must be taken up by the
Magistrate of the District or one
of his Assistants - having full
powers when they suit &
occure whilst they may happen
to be at Vizag or Beaulieu.
In this case I suppose such
cases cannot be tried at all

W

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following
letter from the collector
of Vizagapatam.

(Recd letter 3^d Nov. 1864 No. 4059)

Order thereon 5th January 1865 No. 13.

Under the circum-
stances stated by the
collector of Vizagapatam,
the Governor in Council
resolves to appoint the
Master Attendant at
Vizagapatam Captain William
Larkins Pascal, and the
Master Attendant at

Bimnapuram.

W

Bimlipatam Captain Robert
William Steppon to be
Justice of the Peace for
the town of Madras and
Presidency of Fort St. George, and the several
places subordinate thereto.

2. Cases which may
arise not cognizable by
these officers must be
dealt with by the Magis-
trate in the usual course

To the Magistrate of Madras { Steppon
1st of Dec 3

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via A865 Department.

No. 15.

PROCEEDINGS of GOVERNMENT.

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JEB. 1120/65.
1696/89.

Dated 5 January 1885.

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