

MADRAS RECORD OFFICE.

Government of Madras.

Provincial DEPARTMENT.

G.O. No.	1695	Press
		~~Mis.~~
Dated	29-11-19	85

224-226

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Not to be folded or roughly handled

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Proceedings of the Madras Government, Judicial Department,
29th November 1865.

Read the following papers :—

No. 224. From the Magistrate of Nellore, to the Chief Secretary to Government, Fort Saint George ; dated Nellore, 2nd November 1865, No. 41.

Section 26 of the Code of Criminal Procedure enacts that nothing in the said section shall exempt European British subjects from being tried and convicted before the Supreme Courts of Judicature, for offences committed beyond the local limits of such Courts.

2. Section 42 of the said Code saves Jurisdiction given to Justices of the Peace by 53 George III, Chapter 155, Section 105.

3. I have the honor to request that the Government will be pleased to obtain the opinion of the Advocate General as to the course to be pursued, where it is necessary, to require security from a European British subject, under Section 295 of the Code.

4. If lurking within the jurisdiction of a Magistrate, without ostensible means of subsistence, or without being able to give a satisfactory account of himself, were an offence for which the European British subject was to be tried, a Justice of the Peace, I presume, would not have jurisdiction.

5. But Chapter XIX does not treat cases of vagrancy as offences. In Section 306, the Code describes how the "personal attendance" of "the party informed against" is to be secured ; and, looking at the wording of the whole Chapter, the absence of any reference to European British subject, and the entire omission of any provision for the jurisdiction in such matters of the Magistrate as Justice of the Peace, I have the honor to suggest that the opinion of the Advocate General should further be obtained as to whether it is not competent to any Magistrate, with full powers, to require security for good behaviour from a European British subject.

6. I ask the question, because I have just had a European British subject before me, whose account of himself in the first instance was so unsatisfactory that I proposed to take on myself the responsibility of inferring, for the reasons given, that I had the power that I make the subject of this reference ; and though further inquiry has rendered the exercise of the power unnecessary in this instance, it seems advisable that the question should be authoritatively settled, and I trust, on these grounds, I shall be excused the trouble I am giving.

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

FORT SAINT GEORGE,
11th November 1865.

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

No. 225. From the Government Solicitor, Madras, to the Chief Secretary to Government, Fort Saint George ; dated Madras, 16th November 1865, No. 679.

I have the honor to acknowledge the Order of Government, noted in the margin, relative to the course to be pursued

Dated 11th November 1865, and made on letter from Magistrate of Nellore, to Government, of 2nd idem, No. 41.

where it is necessary to require security from a European British Subject, under

Section 295 of the Criminal Procedure Code.

Proceedings of the Madras Government, Judicial Department,
29th November 1865.

2. I submitted the matter 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 am of opinion that the Magistrate of a District, or any Officer exercising the full powers of a Magistrate, may, as such, require a European British subject to find security for good behaviour, under Section 295.

2. The course to be pursued is laid down in Chapter XIX.

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

16th November 1865.

(True Copy).

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

No. 226. ORDER THEREON, 29th November 1865, No. 1695.

The foregoing papers are communicated to the Magistrates of the several Districts in this Presidency.

(True Extract).

Chief Secretary.

To the Magistrate of

Exd. J. H. Burns.

Read the following:

Letter from Magte of Bellary - 2nd Nov 1865 - No 41
" " Govt Solicitor - 16th do - 679.

29th November 1865 No 1695.

The foregoing papers
are communicated to the Magistrates
of the several Districts in this
Presidency.

There may be a mag
criminal offence a
Magistrate may be held liable
the law for this and
has spent all over
The Magistrates of all Districts
defined in the S.P. Code
may be brought up to
what under Chap 19 C. Code
has no place as an offence
in the S.P. Code