M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 562	**Press Mis.**
127-128	
Dated 16 — 4 — ~~19~~ 1886	

3/3

Not to be folded or roughly handled

No. 127. Read the following letter from the Joint Magistrate of Salem, to the Chief Secretary to Government, Fort Saint George; dated Mathoor, 11th January 1866, No. 1.

With a view to the opinion of the Advocate General being taken, I have the honor, in accordance with the wishes* of the Magistrate of the District, to submit, direct, a letter of mine, questioning the power of the Subordinate Magistrates of this Presidency to take primary cognizance of offences, and suggesting that this and other difficulties require to be met by Legislation.

* See Enclosure No. 1.

2. It will hardly be necessary for me to state that, though I venture to submit these views for consideration, I do not presume to call them into practice in the face of authoritative rulings.

3. I fear it may be concluded that, because I have not quoted in paragraph 13 the ruling of the High Court, Tabular Statement, 19th April 1864, page 4, I have overlooked it. I, therefore, take the liberty to add that I do not think it would any way affect the argument, for neither a Court of Session nor the High Court is competent to direct a tender of pardon (Section 210) till the case is under trial by the Session Court, and a Subordinate Magistrate would hardly be justified (Section 225) in committing on insufficient grounds, simply because he thought it within the bounds of possibility that one of the prisoners might, before the Session Court, be induced to give King's evidence, for he would not be justified (Section 203) in discovering the prisoner's willingness before he committed the case; and if he was allowed to commit cases on the chance of a confession and tender of pardon, it would open a ready excuse for constantly troubling the Courts of Session with incomplete cases.

4. I have subsequently thought† that I was in error in paragraph 31 of my first‡ letter to the Magistrate of the District, and I am not so self confident as to think I may not be found to have fallen into other errors also; still, I venture to submit my letters, in the hope that there may be found in them something not unworthy of consideration.

† Enclosure, No. 3.
‡ Enclosure, No. 2.

No. 128. ORDER THEREON, 16th April 1866, No. 562.

The Governor in Council directs that the enclosures submitted with the foregoing letter be sent to the Magistrate of Salem, who will exercise his own discretion in regard to addressing Government on the points noticed by the Joint Magistrate. The Government cannot receive communications of this nature from the Subordinate Officers of the Magistracy.

(True Extract).

Chief Secretary.

To the Magistrate of Salem (with enclosures).

Exd. J, H. Burns.

Judicial Department

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Joint Magistrate of Salem Herewith 11th January 1866 No 1

Order thereon 16th April 1866 No 562.

The Governor in Council directs that the enclosures submitted with the foregoing letter be sent to the Magistrate of Salem who will exercise his own discretion in regard to addressing Government on the points noticed by the Joint Magistrate. The Government cannot receive communications of this nature from the subordinate Officers of the Magistracy.

To the Magistrate of Salem - Order sent with enclosures 18/4

Judicial 1866. Department.

No 562

PROCEEDINGS OF GOVERNMENT.

Dated 15 April 1866.