

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

133-134	G.O. No. 1474	Press
		~~Mis.~~
	Dated 10-9-1867	

2/3-11

Not to be folded or roughly handled

9/11

*Proceedings of the Madras Government, Judicial Department,
10th September 1867.*

Read the following:—

No. 133. Letter from the Secretary to the Government of India, to the Secretaries to the Government of Bengal, North-Western Provinces, and Punjab; to the Chief Commissioners of Oude, Central Provinces, and British Burmah; to the Commissioner of Mysore; and to the Resident at Hyderabad; dated Simla, 19th August 1867, No. 3601-8.

Home Department.
Judicial.

I am directed to forward, for ^{the}_{your} information of His Honor the Lieutenant Governor, the annexed extract, paragraphs 2, 3, and 4, from a letter, dated the 1st ultimo, from the Advocate General, to the Secretary to the Government of India in the Military Department, and to state that the Governor General in Council entirely concurs in the opinion expressed therein.

2. ^{His Honor}_{You} will doubtless take steps to make it known as far as may be requisite.

No. 3610.

Copy of the above letter, and of its enclosure, forwarded to the Government of Fort Saint George for information, and such orders as may be deemed necessary.

(Signed) E. C. BAYLEY,
Secy. to the Govt. of India.

EXTRACT from a letter, dated the 1st ultimo, from the Advocate General, to the Secretary to the Government of India, Military Department.

2. The taking by Magistrates and Justices of the Peace of extra-judicial affidavits and declarations is a practice which is by no means uncommon in this country, and which cannot be too strongly reprobated. At best, such documents are wholly useless, being inadmissible in evidence in any Court of Justice, and acquiring no additional validity whatever from the form of an oath and a Magistrate's signature having been adopted. But beyond this there is always the danger that documents purporting to be so attested, may be regarded by persons unacquainted with the ordinary principles of law as having an intrinsic validity which they do not really possess, and that the documents may be accordingly misused.

3. Putting out of question those cases in which, under particular Statutes, declarations before a Magistrate or Justice are, for particular purposes, made evidence, no such functionary has any power to take affidavits not entitled in a cause. A Justice of the Peace has [save as aforesaid] nothing to do with affidavits, and if a Magistrate has Civil Judicial powers, he cannot take an affidavit otherwise than in the course of a civil cause depending before him.

4. I must add, with regard to the particular case of ————'s affidavits, that the Magistrate, even if he had had the legal power, ought not to have given the sanction of his attestation to documents which, on the face of them, disclosed an attempt to interfere with the lawful action of the Military authorities.

No. 134. ORDER THEREON, 10th September 1867, No. 1474.

Ordered that the foregoing papers be communicated to the several Magistrates in the provinces for their information.

(True Extract).

To the Magistrate of

Exd. J. Tulloch.

Chief Secretary.

10 Sept 1874. No 1174.

Ordered that the printing
papers be communicated
to the several Magis-
trates in the Provinces
for their information.

11/11

To the Magistrate
of all Districts
Editorial Table

Judicial 1874 (24th)

11/11/74

Proceedings of the
Magistrate Court

Ordered 10th Sept 1874
of 21/7/74
of 11/11/74

No. 3601/8

FROM

E. C. BAYLEY, Esq.,

Secretary to the Government of India,

TO

*The Secy to the Govt. of Bengal
" " of the M. W. Provinces
" " of the Punjab*

Home Dept.

*The Chief Commissioners of Oude, Central Prov. & British Burma
The Commissioner of Mysore
The Resident at Hyderabad.*

Judicial.

SIMLA, the 19th August 1867.

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of India in the Military Department, and to state that the Governor General
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(True Extract.)

Secretary to the Government of India.

circulate for
 information
 L. B. 10900/14

1674/1

5504
1294

133.134

Judicial 1837
 Dec. 10 1837

from
 Henry J. 10/10/37

No 3670

936/62

2/19 Aug
 1844

1 Evidence

200/71

No 10908

Forward specimen of the
 above named school's
 - keep the practice of the
 taking & making of the
 - judicial affidavits and
 declarations

Feb. 21/10
 537/62

Write on 10/10/37