

*Proceedings of the Madras Government, Judicial Department,
15th October 1867.*

No. 127. Read the following letter from the Magistrate of the Town Police Court, to the Chief Secretary to Government, Fort Saint George; dated Madras, 11th October 1867, No. 77.

I beg to state that, in a report forwarded by me to Government, under date

Proceedings of the Madras Government, Judicial Department, dated 24th June 1859, No. 859.

24. There is another subject to which I would respectfully beg to call attention. Although it may be considered irrelevant to the matter under reference, yet I look upon it as important, and I would fain press the same upon the kind attention of the Government.

25. In England, under a special Statute, the Justices of the Peace are prohibited from administering what are called extra-judicial oaths or affidavits, under a severe penalty; but in this Presidency Town, in the absence of all Law on the subject, the Magistrates are required to administer them.

26. I would here beg to refer to paragraphs 5 and 6 of the Extract from Minutes of Consultation, dated 12th March 1857, No. 303, Judicial Department, from which it will be seen that Mr. Daniel Elliott, late Madras Member of the Legislative Council, is of opinion that it is uncertain whether there is any legal authority for the Magistrates to administer such oaths or affidavits; and the Government have been pleased to resolve, under date the 17th April 1857, to address the Government of India on this important subject; and, although upwards of two years have elapsed, yet no decision appears to have been come to.

27. I would also respectfully beg to observe that by the administration of such extra-judicial oaths and affidavits, the Magistrates are liable to a criminal information; and there is another important point connected with this subject, viz., that, in the event of parties forswearing themselves in such extra-judicial oaths and affidavits, they cannot be indicted for perjury.

the 10th June 1859, connected with the working of the late Police Act, No. XIII of 1856, in paragraphs 24, 25, 26, and 27 (as per margin), I brought to notice the fact of the Magistrates of the Presidency Town being often required to administer what are called extra-judicial oaths or affidavits. Since then, I am not aware that any steps had been taken to settle this important point; but I now find, in a late number of the *Athenæum and Daily News* Paper, dated 26th September 1867, that the point was raised in Calcutta, and the opinion of the Advocate General there has been obtained, and which appears to have been forwarded to Government here. I have the honor to request that you will be pleased, with the permission of His Excellency the Governor in Council, to cause a copy to be furnished to each of the Presidency Town Magistrates, for their information, as I believe the Magistrates of the Provinces

have already been supplied with the same.

No. 128. ORDER THEREON, 15th October 1867, No. 1643.

Ordered that a copy of the Proceedings of Government, dated the 10th ultimo, No. 1474, embodying the opinion of the Advocate General, Calcutta, regarding extra-judicial affidavits, be furnished to each of the Magistrates of the Town of Madras.

(True Extract).

Chief Secretary.

To the Magistrate of the Town Police Court, }
do. Vepery do. } with No. 1474.
do. Royapettah do. }

Erd. J. H. Burns.

Contos 20-21
 17/3/57
 37-38
 21/4/57

29-37
 24/6/57

133-134
 15/8/67

15 Oct. 1867 N^o 1643-

Ordered that a copy of
 the Proceedings of Joven.
 : ment dated the 16th ultimo
 No. 1474, embodying the
 opinion of the Advocate
 Joven. - Jalcutha regarding
 Jyten - judicial affid.
 : vth, be furnished to each
 of the Magistrates of the
 Town of Buenos.

To the Magistrate
 of the Town of Buenos
 do ~~Felices~~ do ~~Benjamin~~ do ~~with N^o 1474~~ do ~~18/10~~

MADRAS RECORD OFFICE.

Government of Madras.

Indian DEPARTMENT.

G.O. No.	1643	Press
		~~Mis~~
Dated	15-10-1867	

Not to be folded or roughly handled

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