

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	2009	Press
		~~Mis.~~
Dated	9—12—1918	1867

12/13

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
9th December 1867.*

No. 85. Read the following letter from the Acting Magistrate, Madras District, to the Chief Secretary to Government, Fort Saint George; dated Sydapet, 19th November 1867, No. 245.

I have the honor, with reference to the enclosed extract of a letter from the Joint Magistrate, to request the orders of Government on the point raised therein.

2. In the month of October, Mr. Burnell sentenced fourteen men to imprisonment for one and the same offence, and all for the same period.

3. The prisoners were committed to the Jail at Chengleput under a single warrant of commitment for the fourteen men.

4. The Superintendent of the Jail received them into custody, but requested the Joint Magistrate to furnish him with a separate warrant for each individual, in substitution for the single warrant under which they were committed; he quoted, in support of the request, an order from the Inspector General of Jails, requiring Superintendents to report the names of all Magistrates who failed to furnish separate warrants of commitment for every prisoner sentenced to imprisonment.

5. Mr. Burnell considered that he was not authorized to substitute the warrants as requested, and declined to do so.

6. The Superintendent addressed me on the subject, as Magistrate of the District, and I pointed out to Mr. Burnell that the late Civil and Session Judge, Mr. Phillips, when in charge of the Jail, had requested that a separate warrant of commitment should be issued for every prisoner sent to the Jail, and that I considered it quite unobjectionable to issue the individual warrants applied for in substitution for the single one originally issued by him.

7. Mr. Burnell, however, feels a difficulty in doing this without authority, and has requested me to refer the question.

8. I am not aware of any ruling or order expressly authorizing the amendment of an informality in such a document as a Jail warrant, but I cannot see how it can possibly be illegal to do so, provided no alteration in the term or mode of imprisonment be made, and provided nothing detrimental to the interests of the prisoner occurs in consequence of the amendment; nor can I doubt that the date of the original warrant should be entered in the amended one.

9. I would also solicit a decided order on the subject of issuing a separate warrant with each prisoner sent to Jail, as well as on the two questions raised in the extract from Mr. Burnell's letter.

Extract from a letter dated 15th November 1867, No. 254, from Mr. BURNELL, the Acting Joint Magistrate of the Madras District.

I also have to request that you will be good enough (should you see fit) to obtain a decisive ruling on the points raised by me in my last letter on this subject, viz:—I. Can a warrant or warrants be substituted for another warrant already issued on a previous date? II. If such a substitution can legally be made, what date should be given on the subsequent warrant—the date of the original warrant, or the date on which the substituted warrant is issued?

No. 86. ORDER THEREON, 9th December 1867, No. 2009.

With reference to the correspondence above recorded, the Governor in Council directs that the Acting Joint Magistrate be instructed to issue separate warrants, in

Proceedings of the Madras Government, Judicial Department,
9th December 1867.

lieu of the single warrant, in the case of the fourteen prisoners sentenced by him in October last, the date of the original warrant being entered in each of the separate warrants.

2. The Magistrate will inform the Acting Joint Magistrate that a separate warrant should invariably be issued in respect of every individual sentenced to imprisonment.

(True Extract).

Chief Secretary.

To the Magistrate of the Madras District.

" Inspector General of Jails.

Erst. J. H. Burns.

P. 29/1.5

Madras District
Magistrate's Office Dated
Sydapat 19th November 1867

From

G. Thornhill Esq. Ag Magistrate, Madras District

To

The Hon'ble R S Ellis C.B. Chief Secretary to
Government Fort St George

Sir,

I have the honor, with reference to the enclosed Extract of a letter from the joint Magistrate, to request the orders of Government on the point raised therein.

2. In the month of October Mr Bunnell sentenced 14 men to imprisonment for one and the same offence and all for the same period.

3. The Prisoners were committed to the jail at Chingleput under a single warrant of Commitment for the fourteen men.

4. The Superintendent of the Jail received them into custody but requested

wrong

requested the joint magistrates to furnish him with a separate ^{applies request} warrant for each individual, in substitution for the single warrant under which they were committed; he quoted in support of the request an order from the Inspector General of the jails requiring superintendents to report the names of all magistrates who failed to furnish separate warrants of commitment for every prisoner sentenced to imprisonment.

5 Mr Bunnell considered that he was not authorized to substitute the warrants as requested and declined to do so.

6 The Superintendent addressed me on the subject as magistrate of the District, and I pointed out to Mr Bunnell that the late Civil (and

any officer may correct a mistake made by him, and if it is a mistake of fact, he is not liable.

whether usual

with

he had the authority of the District Judge

and

and

and Sessions Judge Mr Phillips when in charge of the jail had requested that a separate warrant of commitment ^{should be issued} for every prisoner sent to the jail, and that I considered it quite unobjectionable to issue the individual warrants applied for in substitution for the single one originally issued by him.

7 Mr Bunnell, however, feels a difficulty in doing this without authority, and has requested me to refer the question.

8 I am not aware of any ruling or order expressly authorizing the amendment of an informality in such a document as a jail warrant, but I cannot see how it can possibly be illegal to do so provided no alteration in the term or mode of imprisonment be made, and provided nothing detrimental to the interests of the prisoner occurs.

as

no consequence of the amendment; nor can I doubt that the date of the original warrant should be entered in the amended one.

I would also solicit a decided order on the subject of issuing a separate warrant with each Prisoner sent to jail as well as on the two questions raised in the Extract from Mr. Bunnell's letter.

all the
warrant
with
the
warrant.

I have the honor

to be, Sir,

your most obedient servant

Wm. Allen
Magistrate.

Certainly I can
 understand if an
 error

the original date

See above -

“ I also have to request that you
“ will be good enough, (I should you see fit)
“ to obtain a decisive ruling on the points
“ raised by me in my last letter on
“ this subject, viz **I** Can a warrant or
“ warrants be substituted for another
“ warrant already issued on a previous
“ date? **II** If such a substitution can legal-
“ ly ^{be} made, what date should be given on
“ the subsequent warrant? The date of
“ the original warrant? or the date on
“ which the substituted warrant is issued?”

/ True Extract /

Respectfully
To Magistrate
Madras District
South

cont'd

Cobb
 17 Dec
 C2
 27- 85-

[illegible]

Memo. for rules (1)

Sec. 22. and form C. Code
of Civil Procedure seems to
contemplate ~~as~~ a separate
warrant for each person
committed to jail, and
there is a manifest convenience
as regards the jail records
in this course.

There would seem no objection
to introducing ^{the fourteen} ~~these~~ warrants
in the case in question for

Done at Golden Grove, N.Y.
at the County Court of Madison
County, N.Y. on the 10th day of
August 1894.

George D. D. D. D. D.
Judge of the County Court

The general warrant
issued by Mr. Bussell
the joint magistrate at
Chungliff -

The dates should correspond
of course with the original
warrant, & a note made
in each that they are
substituted in a particular

date, for the original warrant
Is it necessary to refer
the question to the Governor
General?

21st Nov. 67

See separate
book ✓

11071

The reference was an unnecessary one, I think, and had I seen Mr. Thomhill, I would not have referred it. For the same reason I would not trouble the Adjt General with it.

Undoubtedly a sailor is fully justified in demanding a separate warrant for each convicted Prisoner who is sent into jail to undergo a sentence passed on him.

The system of issuing "lump" warrants for several convicted Prisoners on whom the same sentence has been passed, has been, I think, attended with serious embarrassment.

If it be required to substitute a new warrant for one already issued, to enter in the new warrant ^{fresh} a date, such date must of course be the date entered in the original.

warrant; otherwise a Prisoner
ought be detained in confinement
beyond the proper period.

Strictly speaking, the word "warrant"
is misapplied in this correspondence.
What ought to accompany a
Prisoner when he is made over to ~~the~~
Saler for the purpose of undergoing
a sentence, is a copy of that sentence
in the form prescribed in the case
of magisterial trials, by Clauses
12 and 14 Section 382 C. Crim.
Proc. - But I don't find in the
Code any form of ^{the} "warrant" added
to a ~~factor~~ ^{prisoner} ~~sent~~ with the
sentence of the Prisoner.

Practically no doubt, Form C of
the appendix to the Code has been
made to serve both purposes & hence
it is that the term "warrant" is used.
But Form C, in point of fact,
has been sent only to a person

- not sentenced - but who "is charged"
with an offence & for whom temporary
custody is wanted -
I doubt whether Section 22 of the Code
bears upon the question raised. It
seems to relate to the extent of punishment
of the several criminal jurisdictions
established under the Code.

W.D.

I think Mr. Russell is quite
wrong and that in his
I have substituted separate
warrants for his lump warrant
is supported by the requirements
of the Code. I must tell him
so now.

Certainly separate warrants
should be substituted at once
N.P.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from
the *Acting* Magistrate of the Madras Distt.

Here enter 19th Nov. 1867, No 265.

Order thereon 9 Decr 1867 No 2009.

With reference to the
correspondence above recorded,
the Governor in Council
directs that the *Acting*
Joint Magistrate be in-
structed to issue separate
warrants in lieu of the
single warrant in the
case of the fourteen prisoners
sentenced by him in
October last, the date
of the original warrant
being entered in each of
the separate warrants.

2. The ~~Acting~~ Magistrate
will inform the *Acting*
Joint

Joint Magistrate that a
separate warrant should
invariably be issued
in respect of every in-
dividual sentence of
imprisonment.

To the Magistrate of the
Madras District. }
"Respectful of duty" }
1/2

John D.
1867. Department.

No. 2009

PROCEEDINGS OF GOVERNMENT.
OF 1867.

Dated 9th of March 1867.