

MADRAS RECORD OFFICE.

Government of Madras.

Medical DEPARTMENT.

G.O. No.	754	Press ~~Mis.~~
Dated	9-5	19-1887

102-104

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Not to be folded or roughly handled

754

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

Read the following papers :—

No. 102. From Major C. S. HEARN, Commissioner of Police, Madras, to the Chief Secretary to Government, Fort Saint George ; dated Madras, 16th April 1867, No. 47.

I have the honor to bring to notice certain points in connection with Act XII of 1867, as applied to the Town of Madras.

2. Throughout the Act, the Superintendent of Jail or Jails is the only Officer named as authorized to receive, detain, or discharge prisoners. By Section 6, the personal endorsement of the Superintendent would seem to be required on every Warrant returned to the issuing Court after the discharge of a prisoner.

3. The Superintendent, Presidency Jail, Calcutta, is a Medical Officer, on a salary of Rupees 800 per mensem, who probably resides at or near the Jail, which includes within its precincts the Criminal Jail, the Civil Jail, and the House of Detention for prisoners under trial or remand ; but in Madras, the Penitentiary or Criminal Jail (including House of Detention) is situated more than a mile from the office of the Commissioner of Police (who has been appointed Superintendent of Jails), while the Civil Jail is at a distance of more than three miles from the same office.

4. Practically, therefore, the Keepers of these Jails must receive and discharge prisoners, reporting the same afterwards to the Superintendent of Jails ; but as no such officer as the Keeper appears to be contemplated in the Act, I should be glad to have it authoritatively decided whether or not the Keepers may be permitted to exercise these functions, on the responsibility of the Superintendent of Jails.

5. Since the passing of this Act, the Warrants from the different Magistrates' Courts have been worded in various forms : some are addressed to the Superintendent of Jails and to the Keeper of the Penitentiary ; some to the Keeper of the Penitentiary alone ; others are addressed to the Superintendent of Jails alone, but contain a farther precept in the body of the commitment to "the Keeper of the said Jail" (no Jail having been previously specified) to receive the prisoner. I would suggest, therefore, that forms of Warrant should be drawn out by the Law Officers of the Crown, to be used by all Magistrates. I enclose specimens of the different forms of Warrant hitherto used in the Royapett Police Court, in one of which I observe that the Penitentiary is styled the "House of Correction." I am of opinion myself that the Warrants should be addressed to the Superintendent of Jails, and to the Keeper of the Penitentiary (by whom the Warrants and prisoners are really received), if the terms of Act XII of 1867 will admit of it.

6. Then, as to endorsing Warrants on the discharge of prisoners :—There is no difficulty with regard to Criminal Warrants, because the Penitentiary is only one mile from the office of the Commissioner of Police, where all prisoners on discharge are registered as offenders. The Civil Jail, however, is at a great distance. A large majority of prisoners in this Jail are confined under Warrants from the Small Cause Court, and sometimes several prisoners are discharged, on payment of debt, at different times in the course of a day. It is practically very inconvenient that such Warrants should have to be sent nearly four miles across Madras for the endorsement of the Superintendent of Jails previous to return to the Court of Issue, which is ordered to be made forthwith. The endorsement of the Superintendent of Jails must be made entirely on the responsibility of the Keeper, since the former Officer

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can have no personal knowledge as to whether a prisoner has been discharged or not. I request, therefore, that the opinion of the Law Officers may be taken whether the Keeper may be permitted to sign the certificate of endorsement, under the orders of the Superintendent of Jails. The civil debtors confined under Warrants from the High Court are comparatively so few, that the same amount of inconvenience does not arise; but if the endorsement of the Keeper may be permitted at all, I conclude that it will suffice for the High Court Warrants also. When a prisoner is received into the Civil Jail, the fact of his receipt is endorsed on the Warrant, which is at once returned to the Court, in order that diet money may be drawn. If this endorsement also should require the signature of the Superintendent of Jails, very great delay and inconvenience would be caused.

7. With reference to Section 14 of the Act, I request to know by whom prisoners delivered to the Superintendent for intermediate custody are to be brought before the Court or Judge at the next sitting, *i. e.*, whether it is the duty of the Superintendent so to produce them, by means of the Jail Establishment, or whether the Officers of the Court should proceed to the Jail, receive the prisoners in intermediate custody, and produce them before the Court or Judge by whom the Warrant was issued.

8. I would observe that the present title of the Keeper of the Criminal Jail is "Superintendent of the Penitentiary", and his immediate subordinate is termed the Deputy Superintendent. As these designations somewhat clash with the title of Superintendent of Jails, I would suggest that the Penitentiary Officers be hereafter termed Keeper and Deputy Keeper respectively.

Referred to the Advocate General, for his opinion.

FORT SAINT GEORGE,
26th April 1867.

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

No. 103. From the Acting Government Solicitor, Madras, to the Chief Secretary to Government, Fort Saint George; dated Madras, 27th April 1867, No. 260.

I have the honor to acknowledge the Order of Government noted in the margin, with its enclosures, referring, for the opinion of the Advocate General, certain points connected with the operation of the Presidency Jails Act 1867 (No. XII of 1867) within the Presidency of Madras.

2. I have submitted them for the consideration of the Acting Advocate General; and

3. I now forward a copy of his Opinion on the subject, and return the order and enclosures above noted.

OPINION.

With reference to paragraph 4 of Major Hearn's letter, I am of opinion that the Keepers of the Jails are the proper persons to receive, detain, and discharge prisoners; but they will do so, not on their own responsibility, but on that of the Superintendent of Jails, as his subordinates.

2. All Warrants, Magisterial or otherwise, should be addressed to the Superintendent of Jails, unless those issued under Section 3 of the Act. The Keeper of the Jails has no longer any legal

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position which the authorities can recognize. Warrants are drawn up and issued by the Magistrates upon their own responsibility, and, beyond expressing the above as my opinion, I do not think that I can properly assume to draw up any particular form of Warrant as that which they should use.

3. Section 6 of the Act renders it imperative on the Superintendent personally to sign the certificates required by that Section; he cannot delegate this duty to any other person. The word "forthwith," of course, means with all reasonable expedition. If, therefore, all certificates requiring his signature are sent to him at the close of each day, and are returned by him the next day, this will amply satisfy the requirements of the Law.

4. With reference to Section 14 of the Act, I think that persons lodged with the Superintendent of Jails for intermediate custody must be brought before the Court at its next sitting by the same Officer whose duty it would have been to bring the party before the Judge, had he been sitting when the arrest was made, that is, by the Officer who made the arrest; the Warrant directs him to produce the debtor, &c., before the Court, and till this has been done the Warrant has not been obeyed.

5. The proposed change of name for the Penitentiary Officers seems unobjectionable.

(Signed) J. D. MAYNE,
Acting Advocate General.

26th April 1867.

(True Copy).

(Signed) H. J. BROCKMAN,
Acting Government Solicitor.

No. 104.

ORDER THEREON, 9th May 1867, No. 754.

Resolved that the opinion of the Acting Advocate General be communicated to the Commissioner of Police.

2. The change of designations suggested in the concluding paragraph of Major Hearn's letter is sanctioned.

(True Extract.)

Chief Secretary.

To the Commissioner of Police.
,, Acting Government Solicitor.

Exd. J. H. Burna

and Keeper of the House of Correction.

Madras }
to Wit.)

WHEREAS

of Madras

was this day duly convicted before the undersigned Magistrate of Police
for the Town of Madras aforesaid for that

and it was thereby adjudged that the said

for said offence should be imprisoned in the House of Correction and there kept
to hard labour for the space of These are therefore to command
you the said to take the said

and safely

convey to the said House of Correction and there to deliver to the Keeper thereof together
with this precept and I do hereby command you the said Keeper of the said House of Correction
to receive the said into your

custody in the said House of Correction there to imprison and keep to hard labour for
the space of and for your so doing this shall be your

sufficient Warrant. Given under my hand and seal this day of

186 at Madras aforesaid.



Magistrate of Police.

Madras, }
to Wit. }

Peace in and for the Town of Madras to
and to the Keeper of the
Town of Madras :

Esquire, one of Her Majesty's Justices of the

in the said

These are to command you the said
said Majesty's name forthwith to convey and deliver into the custody of the said Keeper of the
said
of

in Her

the bod

charged before me the said Justice on
on suspicion that the said

did

but in as much as the material evidences against the said

have not yet been procured, but may be produced on the
You the said Keeper of the said
required to receive the said

are hereby

into your custody in the said
day of

until

next the

when you are hereby required to bring the said

before me at the Royapet Police Court, or before such other Justice of the Peace for the said
Town of Madras as shall be then and there present, to be re-examined and further dealt with
according to Law. Herein fail you not.

in the

Given under my hand and Seal this
year of Christ 186 at Madras aforesaid.



Justice of the Peace.

To

and the Keeper of

Madras
to wit.

WHEREAS

of Madras

185

was on the day of

duly convicted before the undersigned Magistrate of Police for the Town of Madras aforesaid for that

and it was thereby adjudged that the said

should for such his offence forfeit and pay the sum of Company's Rupees

and should also pay to the said

the sum of Company's Rupees

for his costs in that behalf and it was

thereby ordered that if the said several sums should not be paid forthwith the same should be

levied by distress and sale of the goods and chattels of the said

and it was thereby also adjudged that in default of sufficient distress the said

should be imprisoned in the

and there kept to hard labour for the space of

unless the said several sums and all costs

and charges of the said distress should be sooner paid: and whereas the said

being so convicted as aforesaid and being requir-

ed to pay the said sums of Company's Rupees

hath

and Company's Rupees

not paid the same or any part thereof but therein hath made default. And whereas afterwards

on the said

day of

185

the said Magistrate of

Police issued a Warrant to

To

*Sheriff of the Town of Madras and
its Dependencies, and to the Keeper
of Her Majesty's Gaol there and to*

Constable of Police.

*Madras
to Wit.*

WHEREAS

stand charged before the undersigned Magistrate of Police and Justice of the Peace in and for the Town of
Madras aforesaid upon the

commanding him to levy the said sums of Company's Rupees
and Company's Rupees
by distress and sale of the goods and chattels of the said
and whereas it appears to me as well by the return of the said Con-
stable to the said Warrant of Distress as otherwise that the said Constable hath made diligent
search for the goods and chattels of the said
that no sufficient distress whereon to levy the several sums abovementioned could be found. These
are therefore to command you the said
to take the said
and him safely to convey to the said
in Madras aforesaid and there deliver
to the Keeper thereof together with this Precept and I do hereby command you the
said Keeper of the said
into your custody in the said
there to Imprison and keep
to hard labor for the space of
unless the said several sums and all the costs and charges of
the said distress amounting to the further sum of
you the said Keeper and for your so doing this shall be your sufficient Warrant. Given under
my hand and seal this
day of
shall be sooner paid unto
185 at Madras aforesaid.



Magistrate of Police.

These are therefore to command you the said
forthwith to take the said

safely to convey to Her Majesty's Gaol in and for the Town of
Madras aforesaid and to deliver
to the Keeper thereof together with this Precept
and I do hereby command you the said Sheriff and the Keeper of the said Gaol and each of you to receive
the said

into your custody in the said Gaol and
shall be thence delivered by due course of
safely keep in your said Gaol until

Given under my hand and seal this
186 at Madras aforesaid.



Magistrate of Police and Justice of the Peace.

To

Sheriff of the Town of Madras and
its Dependencies and to the Keeper
of Her Majesty's Gaol there and to
and

Madras }
to wit. } complaint on

WHEREAS on the

day of instant
was made before the undersigned Magistrate
of

of Police for the Town of Madras aforesaid by
that

And whereas the said

was this day brought and appeared before me the undersigned Magistrate of Police for the Town
of Madras aforesaid to answer unto the said complaint and I have ordered and adjudged and
do hereby order and adjudge that the said

André Brouard May 1892

9 May 1867 N^o 454.

Resolved that the opinion
of the Acting Advocate
General be communicated
to the four members of
Panel.

The change of design
twice suggested in the
concluding paragraph of
Major Kearns's letter is
sanctioned.

for the Commissioner of Public Lands } dep^d 11/4/5-
Ag. Joint Solicitor - }