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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	1708	Press
		Mis.
Dated	21-12-1872	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
21st December 1872.*

No. 162. Read the following:

OPINION.

The accompanying Notification will ~~be~~ ^{be} ~~the~~ ^{the} ~~objects~~ ^{objects} designated by His Excellency in the Proceedings of 19th December 1872.

2. The combined operation of Section 23 and the ~~last~~ ^{last} clause of Section 24 of the Code go far to render any Notification superfluous. The present Notification is, I think, all that is necessary to secure that the transition from the old Code to the new may be effected without inconvenience.

3. It would be easy, if His Excellency thought proper, to draw up detailed instructions pointing out the various changes effected by the Act, new powers such as those conferred on Sessions Judges and Magistrates over European British subjects in Chapter V., or new provisions such as that as to offences under local or special laws in Section 8. Such a statement would, however, necessarily be voluminous, and I question whether it be possible to convey the information desired in a simpler form than is done in the Act, and it might have the effect of diverting the attention of officers from the Act itself. I have, accordingly, restricted the Notification to cases in which, but for its provisions, officers might be in doubt as to their jurisdiction.

4. The power to try summarily, which the Government can confer under Section 23, has in no instance been given. This power would be useful in districts in which there is a press of work, and may be conferred by the Local Government on any Magistrate of the first class.

It is questionable whether the power to hear appeals under Section 29 might not with advantage be conferred on all first-class Magistrates of Divisions of Districts, ex-officio, under Section 29. At present these powers are only continued to such officers as at present enjoy them.

(Signed) H. S. CUNNINGHAM,

Advocate General.

16th December 1872.

No. 163. ORDER THEREON, 21st December 1872, No. 1705.

Ordered that the following Notification be published in the *Fort St. George Gazette* :—

NOTIFICATION.

With reference to Act X. of 1872 (The Code of Criminal Procedure), His Excellency the Governor in Council is pleased to issue the following Notification under the provisions of the said Act, to take effect from January 1st, 1873.

2. Every Officer who is at present the Magistrate of a District will be the Magistrate of the District within the meaning of Section 35.

3. Every* Officer who is at present invested with local jurisdiction in a Division of a District will be a Magistrate of a Division of a District within the meaning of Section 40.

4. All Officers who have been empowered to hear appeals, under Section 412 of Act XXV. of 1861, will hereafter exercise corresponding powers under Section 268.

* This includes Joint Magistrates, Head Assistant Magistrates, and Deputy Magistrates in independent charge; also Cantonment Magistrates (*Vide* Section 4, Madras Act I of 1866).

*Proceedings of the Madras Government, Judicial Department,
21st December 1872.*

5. All Officers who have been authorized to exercise "the powers of a Magistrate," as defined by Act XXV. of 1861, shall be deemed to be Magistrates of the First Class within the meaning of Section 19, and, as such, in addition to the powers conferred by Section 26, are hereby invested with the following powers, viz.:

- (1.) Power to make over on complaint, &c., to a Subordinate Magistrate. (Section 44.)
- (2.) Power to issue process for person within jurisdiction who has committed an offence outside Magistrate's local jurisdiction. (Section 157.)
- (3.) Power to sell suspicious or stolen property. (Section 417.)
- (4.) Power to make orders, &c., in local nuisance cases. (Section 521.)

6. All Officers who have been invested with the powers of a "Subordinate Magistrate of the First Class," as defined by Act XXV. of 1861, shall be deemed to be Magistrates of the Second Class within the meaning of Section 19, and, as such, in addition to the power conferred on Magistrates of that grade by Section 24, are hereby invested with the following power, viz.:

Power to commit for trial. (Section 143.)

7. All Officers who have been invested with the powers of a "Subordinate Magistrate of the Second Class," as defined by Act XXV. of 1861, shall be deemed to be Magistrates of the Third Class within the meaning of Section 19, and, as such, are hereby invested with the following power, viz.:

Power to commit for trial. (Section 143.)

It will be observed that His Excellency in Council has not interfered with the power conferred by the Code on District Magistrates of investing their Subordinate Magistrates with such of the additional powers specified therein as they may deem advisable in each case. The necessary action in this matter will be taken by the Magistrates of Districts, and the powers conferred by them shall be notified in the District Gazette.

9. His Excellency, the Governor in Council is hereby pleased to delegate to all Magistrates of Districts the powers conferred by Section 40; and all such Officers are hereby further empowered, under Section 49, to authorize any Magistrate subordinate to them to hear complaints within such local limits as to them shall seem fit, subject to the proviso in the said Section contained. All alterations of existing arrangements made by the District Magistrate under the authority hereby conferred shall be notified in the District Gazette for general information.

10. Under Section 88, the following places are for the present appointed for the confinement of European British subjects sentenced to imprisonment:—

- The Madras Penitentiary.
- The European Prison at Ootacamund.
- The Central Jail at Rajahmundry.
- " Salem.
- " Coimbatore.
- " Trichinopoly.
- " Vellore.
- " Cannanore.

*ment, Judicial Department,
r 1872.*

expressly provided
Before Sessions Courts, the Jury shall, as heretofore, consist of

13. As regards all other matters in respect to which the Code contemplates the issue of orders by the Local Government, the attention of all Officers concerned is drawn to the concluding clause of Section 2 of the Act, which expressly provides that all Notifications published and orders made under any Section of any Act repealed by the Code shall be deemed to have been published and made under the corresponding Section of the present Act.

(By Order of the Right Honourable the Governor in Council.)

W. HUDLESTON,
Chief Secretary.

Exd. J. Wright.

Notification

With reference to the new Code of Criminal Procedure, His Excellency in Council is pleased to issue the following notification, to take effect from January 1st 1873.

1. Every Officer who is at present a Sessions Judge will be a Sessions Judge within the meaning of Section 16.
2. Every Officer who is at present a Magistrate of the District, will be a Magistrate of the District within the meaning of Section 30. 30
3. *Every Officer who is, at present invested with local jurisdiction in a division of a District, will be a Magistrate of a Division of a District within the meaning of Section 20. 40

Those Officers who have been empowered to hear Appeals under Sec. 412 of the old Code will now exercise corresponding powers under Sec. 266. (or if it is wished to invest all Magistrates

* Note.
N.B. This includes
Joint Magistrates,
Head Assistant
Magistrates and
Deputy Magistrates
in Independent Charge.

and all other
Magistrates
in the District

and all other
Magistrates
in the District

29/1/28 11/11
29-11-28 11/11

GOVT. OF MYSOR
JUDICIAL.

Date: December, 21st.

G.O., 21st December 1872, No. 1705.

DECEMBER.
Nos. 162-163.

File 250 of 73.

Directing that a Notification be published in the Fort St. George Gazette, conferring certain powers on the Magistrate under the provisions of the New Code of Criminal Procedure.



18-12-09 ✓
16-5-11 ✓
22-1-12 ✓
6-9-14 ✓
9-6-14 ✓
2-12-15 ✓
12-12-15 ✓
20-11-17 ✓
27-1-22 ✓

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[Faint handwritten notes on the right page, mostly illegible.]

Magistrates of a Division with these powers,
 "His Excellency in Council is further
 pleased to invest all such Officers
 with the power to hear Appeals under
 Section 266".

Every Officer at present empowered
 to exercise the powers of a Magistrate
 will be a Magistrate of the First
 class within the meaning of Section 26.

In addition to the powers conferred
 by Section 26, His Excellency in Council
 is pleased hereby to invest such Officers
 with the following powers.

- (1) Power to make over cases taken up
 on Complaint, &c., to a Subordinate
 Magistrate (S. 44).
- (2) Power to hold inquests (S. 135.)
- (3) Power to entertain Complaints of
 offences, and receive Police Reports (S. 141).
- (4) Power to issue process for person
 within jurisdiction who has
 committed an offence outside
 Magistrate's local jurisdiction (S. 157).
- (5) Power to sell suspicious or stolen
 property (S. 417).

The following powers are conferred on the Magistrate of the first class by Section 24 of the present Code. viz.
 (1) Power to hold inquests (S. 135).
 (2) Power to entertain complaints and receive Police Reports in cases in which he has jurisdiction to try or to commit for trial (S. 141).
 (3) Power to commit for trial (S. 143).

*It is to be observed that, under this Modification, Magistrates of the first class will not be empowered to exercise the powers referred to in 27(a), 4, 6 & 7. This, it is believed, is the work of Govt.

- (6) Power to issue order to prevent⁹ obstruction &c. (S. 518.)
- (7) Power to issue order prohibiting repetition of nuisance (S. 579).
- *(8) Power to make Orders, &c., in local nuisance cases (S. 521).

Those Officers who have been empowered to hear Appeals under Section 412 of the old Code will now exercise corresponding powers under S. 266 of the present Code.

5. All Officers who are at present Subordinate Magistrates of the first class will be Magistrates of the second class.

In addition to the powers conferred on such Magistrates by Section 24, His Excellency in Council is pleased hereby to invest them with the following powers. viz.

- (1) Power to hold inquests (S. 135).
- (2) Power to entertain complaints and receive Police Reports in cases in which he has jurisdiction to try or to commit for trial (S. 141).
- (3) Power to commit for trial (S. 143).

+ It is to be
observed that
this Resolution
does not
impose on
Magts of the
2nd class
the powers
referred to
in Sec 25(3).

(4) Power to issue order to prevent obstruction
Sec (S. 578).

* (5) Power to issue Order prohibiting
repetition of nuisance (S. 579).

6. All Officers who are at present
Subordinate Magistrates of the Second
Class will be Magistrates of the
third Class.

In addition to the powers conferred
on such Magistrates by Section 22,
His Excellency in Council is pleased
hereby to invest them with the
following powers. viz.

(1) Power to hold inquests (S. 135).

(2) Power to entertain Complaints of
offences in cases in which he has
jurisdiction to try or to commit
for trial (S. 141).

(3) Power to commit for trial (S. 143).

(4) Power to issue order to prevent
obstruction, Sec, (S. 578).

(5) Power to issue order prohibiting
repetition of nuisance (S. 579).

* I might not difficulty be occasioned to delegate to all Magistrates of the District the powers conferred by the Govt - appointed A Section 40: and every Magistrate of Sub Collector and the Magistrate of the District is hereby empowered under appointed B Section 49, to authorize any Magistrate to be Magistrate subordinate to him to hear Complaints of the Division?

within such local limits within the District as to the Magistrate of the District shall seem fit, subject to the proviso in the said Section contained.

8. Under Section 8 the following places are appointed for the confinement of European British Subjects sentenced to imprisonment viz.

1. ...
2. ...
3. ...
4. ...
5. ...
6. ...
7. ...
8. ...
9. ...
10. ...

9. Under Section 112 the following form is prescribed for the entry of the

Under the 112, 117, & 127, the substance of the
 charges, then under Section 112, it is charged to
 a person who reports the same to the Police Officer
 in charge of a Police Station, or to the
 Magistrate.

the substance of Complaints to an Officer
 in Charge of a Police Station.

(This form has, I believe, been
 settled in the Police Department)

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 10/10/61

10. Under Section 117 Reports of the
 Substance of a Complaint or information
 are to be submitted through

Under Section 117
 11. Under Section 127 Reports of
 investigations by a Police Officer -
 shall be in the following form. viz.
 Name of the person
 Address of the person
 Nature of the complaint
 Date of the complaint
 Name of the Police Officer
 Name of the Magistrate
 Name of the Police Station
 Name of the District

11. Under Section 127 Reports of
 investigations by a Police Officer -
 shall be in the following form. viz.

12. Under Section 233. Trials before the Court of Session will continue to be by jury in that District in which such Trials are now by Jury.

Under Section 236 In Trials by Jury before the Court of Session the Jury will consist as heretofore of five jurors.

13. Under Section 311 His Excellency directs that the punishment of whipping in the case of persons of or over 16 years of age shall be on the back with a Cat-o-nine tails.

14. Under Section 319 (the Inspector General of Jails) is empowered to give orders for the removal of persons sentenced to transportation to such place as it from time to time directed by the Governor General in Council.

15. Under Section 335 Officers will continue to take down the evidence of witnesses in the language in which they were directed under Section 196 of the old Code to take it down. Application for directions under the Section

Section are to be made as heretofore
through the High Court.

15. Every Officer hereafter appointed to
be Magistrate of a Division of a
District, or Magistrate of the first,
second or third class, will respectively
exercise the powers heretofore conferred
on the Office or Class to which he
is appointed

Notification

with reference to Act X
(The Code of Criminal Procedure)
of 1872. His Excellency the
Governor in Council is
pleased to issue the fol-
lowing Notification under
the provisions of the said
Act, to take effect from
January 1st 1873.

2. Every Officer who is
at present the Magistrate
of a District, will be the
Magistrate of the District
within the meaning of
Section 35.

3. Every Officer who is
at present invested with
local jurisdiction in a
division of a District,
will be a Magistrate
of

N.B. This includes Joint Magis-
trates, Head Assistant
Magistrates, Deputy Magis-
trates in independent
charge; and Cantonment
Magistrates (vide Sec 4
Act I of 1866 Madras)

of a Division of a District
within the meaning of
Section 40.

4. All Officers who
have been empowered
to hear Appeals under
Section 112 of Act 25 of
1861 will ^{hereafter} now exercise
corresponding powers under
Section 266.

5. All Officers who have
been authorized to exercise
"the powers of a Magistrate"
as defined by Act XXV
of 1861 shall be deemed
to be Magistrates of the
First Class within the
meaning of Section 19, and
as such, in addition to
the powers conferred by
Section 26, are hereby
invested with the fol-
lowing powers - viz,

Power

(1) Power to make over
cases taken up on com-
plaint, &c. to a Subordi-
nate Magistrate. (Sec 44)

(2) Power to issue process
for person within jurisdic-
tion who has committed
an offence outside Magis-
trate's local jurisdiction.
(Sec 157)

(3) Power to sell suspicious
or stolen property (Sec 117)

(4) Power to make orders
in local nuisance
cases. (Sec 52)

6. All officers who
have been invested with
the powers of a Subordinate
Magistrate of the First
Class as defined by Act
XXV of 1861 shall be deemed
to be Magistrates of
the Second Class within
the

The meaning of Section 19
and as such in addition
to the powers conferred
on Magistrates of that
grade by Section 24, are
hereby invested with the
following powers viz.

Power to commit for
trial (Sec. 143)

7. All officers who
have been invested with
the powers of a Subordinate
Magistrate of the Second
Class as defined by Act
25 of 1861 shall be deemed
to be Magistrates of the
third Class within the
meaning of Section 19,
and as such in addition
to the powers conferred
on Magistrates of that
grade by Section 22, are
hereby invested with the
following

following power viz.
Power to commit for
trial (Section 143)

8. It will be observed
that His Excellency in
Council has not interfered
with the power conferred
by the Code on District
Magistrates of investing
their Subordinate Magis-
trates with such of the
additional powers speci-
fied therein as they
may deem advisable in
each case. The necessary
action in this matter
will be taken by the
Magistrates of Districts
and the powers conferred
by them shall be noti-
fied in the District
Gazette.

9. His Excellency
The

The Governor in Council
is hereby pleased to
delegate to all Magistrates
of Districts the powers
conferred by Section 40,
and all such officers are
further hereby empowered
under Section 49 to autho-
rize any Magistrate subor-
dinate to them to hear
complaints within such
local limits within the
District as to the Magis-
trate of the District shall
seem fit subject to the
proviso in the said
section contained. All
alterations of existing
arrangements made by
the District Magistrate
under the authority
hereby conferred shall
be notified in the
District

District Gazette for
general information

10 Under Section 80
the following places are
for the present appointed
for the confinement of
European British Subjects
sentenced to imprisonment

The Madras Penitentiary

The European Prison at
Botacammund.

The Central Jail, Rajahmundry
Salem.

Chimbatore.
Tiruchendur
Vellore

Tammanore.

11. Every officer here-
after appointed to be
a Magistrate of a Divi-
sion of a District,
or Magistrate of the
first

First, Second, or Third
class, will respectively
exercise the powers
hereinbefore conferred
on the office or class
to which he is appointed
unless otherwise expressly
provided by Government
in the Order of appoint-
ment.

12. As regards all
other matters in respect
to which the Code con-
templates the issue of
orders by the local
Govt. the attention of
all officers concerned
is drawn to the con-
cluding clause of Sec. 2
of the Act which expressly
provides that all noti-
fications published
and

and orders made under
any Section of any Act
repealed by the Code
shall be deemed to have
been published and
made under the cor-
responding Section of
the present Act.

Ch. J. B.

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Notification

With reference to the new Code of Criminal Procedure, His Excellency in Council is pleased to issue the following notification, to take effect from January 1st, 1873.

1. Every Officer who is at present a Sessions Judge will be a Sessions Judge within the meaning of section 16.

2. Every Officer who is at present a Magistrate of the District, will be a Magistrate of the District within the meaning of section 30.

3. Every Officer who is at present invested with local jurisdiction in a division of a District, will be a Magistrate in independent of a Division of a District within the meaning of section 28.

Those officers who have been empowered to hear appeals under section 412 of the old

* Note

N.B. This includes Joint Magistrates, Head Assistant Magistrates and Deputy Magistrates in independent charge.

and Court of Sessions (G.O. Secy. to Govt. 1.9.73)

2000

James D.

24 Dec 1872

27 Jan 1873

old Code will now exercise corresponding powers under section 266. (or if it is wished to invest with Magistrates of a Division within those powers, His Excellency in Council is further pleased to invest all such officers with the power to hear appeals under section 266.)

Every Officer at present empowered to exercise the powers of a Magistrate will be a Magistrate of the first class within the meaning of section 26.

In addition to the powers conferred by sections 26, His Excellency in Council is pleased hereby to invest such officers with the following powers: viz.

- (1) Power to make over cases taken up on complaint &c. to a subordinate Magistrate (s. 44).
- (2) Power to hold inquests (s. 135).
- (3) Power to entertain complaints of offences and receive Police Reports (s. 141).
- (4) Power to issue process for persons within

within jurisdiction who has committed an offense outside Magistrates local jurisdiction (s. 157).

- (5) Power to sell suspicious or stolen property (s. 417).
- (6) Power to issue order to prevent obstruction &c. (s. 518).
- (7) Power to issue order prohibiting repetition of nuisance (s. 319).
- (8) Power to make orders &c. in local nuisance cases (s. 521).

It will be observed that under this notification, Magistrates of the first class will not be empowered to hear appeals under section 412 of the old Code will now exercise corresponding powers under section 266 of the present Code. This, it is believed, is the wish of Govt.

Those officers who have been empowered to exercise the powers referred to in 27 (2, 4, 6 and 7) will not be empowered to hear appeals under section 412 of the old Code will now exercise corresponding powers under section 266 of the present Code.

All officers who are at present Subordinate Magistrates of the first class will be Magistrates of the second class.

In addition to the powers conferred on such Magistrates by section 24, His Excellency in Council is pleased hereby to invest them with the following powers: viz.

- (1) Power to hold inquests (s. 135).

(2) Power to entertain complaints and receive Police Reports in cases in which he has jurisdiction to try or to commit for trial. (s. 141).

(3) Power to commit for trial. (s. 143).

(4) Power to issue order to prevent obstruction, &c. (s. 518).

(5) Power to issue order prohibiting repetition of nuisance (s. 519).

67 All officers who are at present Subordinate Magistrates of the second class will be Magistrates of the third class.

In addition to the powers conferred on such Magistrates by section 22, His Excellency in Council is pleased hereby to invest them with the following powers viz.

- (1) Power to hold inquests. (s. 135).
- (2) Power to entertain complaints of offences in cases in which he has jurisdiction to try or to commit for trial (s. 141).
- (3) Power to commit for trial. (s. 143).

4. Power

It will be observed that this Notification does not confer on Magistrates of the 2nd class the power referred to in section 25.

Might not be difficultly be occasioned if under s. 49, the Govt. appoints a Sub Collector, the District is hereby empowered under section 49 to authorize any Magistrate appointed B subordinate to him to hear complaints to be Magistrate of the Division?

(4) Power to issue order to prevent obstruction, &c. (s. 518).

(5) Power to issue order prohibiting repetition of nuisance (s. 519).

7. His Excellency in Council is pleased to delegate to all Magistrates of the District the powers conferred by section 40 and every Magistrate of the District is hereby empowered under section 49 to authorize any Magistrate subordinate to him to hear complaints within such local limits within the District as to the Magistrate of the District shall seem fit, subject to the proviso in the said section contained.

8. Under section 8 the following places are appointed for the confinement of European British Subjects sentenced to imprisonment viz. The European Jail at Bhasmunda as all European jails.

It will be observed that H.E. in Council has not interfered with the powers conferred on the District Magistrate by the Code or the Code of procedure. He has only authorized the District Magistrate to appoint other Magistrates to act as his substitutes in such cases as may be referred to him.

9. Under section 112 the following form is prescribed for the entry of the substance of complaints to an officer in charge of a Police station.

(This form has, I believe, been settled in the Police Department.)

10. Under section 117 Reports of the substance of a complaint or information are to be submitted through

11. Under section 127 Reports of investigations by a Police officer shall be in the following form viz.

12. Under section 233. Trials before the Court of Session will continue to be by jury in that District ^{and} in which such trials are now by jury.

Under section 236. In trials by jury before the Court of Session the jury will consist as heretofore of five jurors.

13. Under section 311, His Excellency directs that the punishment of whipping in the case of persons of or over 16 years of age shall be on the back with a cut-o-nine tails.

14. Under section 319 (the Inspector General of Jails) is empowered to give orders for the removal of persons sentenced to transportation to such place as at from time to time directed by the Governor General in Council.

15. Under section 335 officers will

will continue to take down the evidence of witnesses in the language in which they were directed, under section 196 of the old Code to take it down. Application for directions under the section are to be made as heretofore through the High Court.

15. Every officer hereafter appointed to be Magistrate of a Division of a District, or Magistrate of the first, second or third class, will respectively exercise the powers hereinbefore conferred on the office or class to which he is appointed.

Under the provisions of the Act of 1873, the powers of the Magistrate of the first class are to be exercised by the Magistrate of the first class, and the powers of the Magistrate of the second and third classes are to be exercised by the Magistrate of the second and third classes respectively.

As regards all other matters, the Magistrate of the first class is to exercise the powers of the Magistrate of the first class, and the Magistrate of the second and third classes are to exercise the powers of the Magistrate of the second and third classes respectively.

Under the provisions of the Act of 1873, the powers of the Magistrate of the first class are to be exercised by the Magistrate of the first class, and the powers of the Magistrate of the second and third classes are to be exercised by the Magistrate of the second and third classes respectively.

Under the provisions of the Act of 1873, the powers of the Magistrate of the first class are to be exercised by the Magistrate of the first class, and the powers of the Magistrate of the second and third classes are to be exercised by the Magistrate of the second and third classes respectively.

1. The accompanying Notification will, I believe, effect the objects designated by His Excellency in the Proceedings of 12th December 1872.

2. The combined operation of Section 10 and the last clause of Section 2 of the Code go far to render any Notification superfluous, and the present Notification is I think all that is necessary to secure that the transition from the old Code to the new may be effected without inconvenience.

3. It would be easy, if His Excellency thought proper, to draw up detailed instructions pointing out the various changes, effected by the Act, new powers such as those conferred on Sessions Judges and Magistrates over European British Subjects in Chapter V, or new provisions such as that as to offences under local or special laws in Section 8. Such a Statement would however necessarily be voluminous, and I question whether it

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it be possible to convey the information desired in a simpler form than is done in the Act: and it might have the effect of diverting the attention of Officers from the Act itself. I have accordingly restricted the notification to cases in which, but for its provisions, Officers might be in doubt as to their jurisdiction.

4. The power to try summarily, which the Government can confer under S. 223, has in no instance been given. This power would be useful in districts in which there is a press of work, and may be conferred by the Local Government on any Magistrate of the 1st class.

5. It is questionable whether the power to hear Appeals under Section 226 might not with advantage be conferred on all first Class Magistrates of Divisions of Districts, ex officio, under Section 29. At present these powers are only continued to such Officers as at present enjoy them.

H. J. Cunningham
A. G.

16. 12. 72.

21st Decr 1872 No 1905

Ordered that the following *Noticings*
be published in the *Star* of 1st Jan 1873

There out 20 Nov 72

will be out 21