

(1) Number of pages 28
(2) Date of repair - 3 - 87
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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial DEPARTMENT

G.O. No.	1673	Press.
B.P. No.		Mis.
Dated	29-10-1875	1975

A.K
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No. 1673.

FROM

THE HON. D. F. CARMICHAEL,
Officiating Chief Secretary to the Government of Fort St. George,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
 HOME DEPARTMENT.

SIR,

In reply to your letter (Judicial No. 983), of the 25th June ultimo, respecting the Bill to extend parts of the Code of Criminal Procedure to Police Courts in the Presidency Towns, I have the honor, by desire of His Excellency in Council, to enclose a tabulated statement, showing the differences between the Bill and the suggestions of this Government which still exist, and to state that the Madras Government are still desirous of the latter being fully complied with.

I have the honor to be,

Sir,

Your most obedient servant,

OOTACAMUND,
 29th July 1875.

Officiating Chief Secretary.

Bill to extend parts of the Criminal Procedure Code to Presidency Town Magistrates Courts.

The views of the Madras Government on Chapter VII. of the High Courts Criminal Procedure Bill were recorded in G.O., 6th March 1874.

No. 884, Judicial Department.

Chapter VII. of that Bill proposed the extension

of certain parts of the Criminal Procedure Code to the Presidency Town Magistrates' Courts. That Chapter, however, has been altogether omitted from the Act itself; and the subject is now being dealt with in a separate Bill, which when passed will be entitled "*The Presidency Police Magistrates' Act.*"

2. The Magistrates of the Presidency Town and the Inspector-General of Police were at issue in respect to the Police powers to be invested in the Magistrates. The Magistrates were for having all the powers of a District or First-Class Magistrate; and the Inspector-General deprecated this, because, as he contended, it would materially affect the constitution of the Police of the Presidency Town, and involve violent changes in the relations existing between the Magistrates and the Police.

3. The following tabulated statement shows the proposals that have been submitted and how far they have been met in the Presidency Magistrates' Bill:—

*Proposals of Madras Magistrates.**How provided for in Bill, and Remarks of Government.*

I. The powers of the Police Magistrates to be so defined as to admit of those parts of the Code to be acted on as made reference to the *Magistrate, Magistrate of the District, Magistrate of a Division of a District, Magistrate of the first class, &c.*

These two proposals are met by Section 4 of the Bill, which runs—

II. In applying Section 63 of the Code, *Presidency Town* to be substituted for *District*.

"In the parts of the Code so applied, the expressions 'Magistrate,' 'Magistrate of a District,' 'Magistrate of a Division of a District,' 'Magistrate of the first class,' 'a competent Magistrate,' 'Magistrate having jurisdiction,' and every other expression appli-

Proposals of Madras Magistrates.

How provided for in Bill, and Remarks of Government.

III. Chapter VII. of the Code relating to jurisdiction over European British subjects, to be omitted. [The Magistrates wished this distinction to be abolished, because the Native Magistrates would have no jurisdiction at all, and a great deal of time would be wasted in trying questions of pedigree].

IV. The procedure in Chapter XVI. (Trial of Summons Cases) to be made applicable to all cases heard and determined by the Police Magistrates.

V. Every Police Magistrate to be invested with the powers of summary trial conferred by Section 225 of the Code on Benches of Magistrates.

VI. Chapter XXXVI. of the Code (Dispersion of Unlawful Assemblies) and Section 539 (Procedure in Miscellaneous Cases and Proceedings) to be added.

4. The Government approved of the whole of these proposals, with the exception of the first. On this point they agreed with the Inspector-General of Police, and deprecated any alteration other than (as was originally intended by the Imperial Legislature) assimilating, as far as possible, the judicial procedure of Police Magistrates with that prescribed for the Magistracy in the Mofussil, leaving untouched the procedure of the Police in these towns. The following table shows the proposals of the Madras Government and how they have been provided for in the Bill:—

Proposals of Madras Government.

How provided for in Bill, and Remarks.

(a.) To omit from the Preamble and Section 40 (of the High Courts Criminal Procedure Bill) the words referring to the Police of the Presidency Towns.

(b.) To expunge, from the list of Chapters and Sections of the Code to be applied, the

cable to a Magistrate of the District, shall be deemed to include a Magistrate of Police and the Court of Petty Sessions at Bombay; and 'District' shall be deemed to mean a Presidency Town as defined in Section 4 of the said Code."

The first Schedule attached to the Bill shows the Chapters and parts of the Code to be applied. Chapter VII. is entirely omitted.

Chapter XVI, with the exception of three trifling alterations, is to be applicable to all cases (summons or warrant) tried and disposed of by the Magistrates of Police.

Section 225 of the Criminal Procedure Code is in Chapter XVIII. This Chapter is not included in the Schedule of the Bill showing the parts of the Code to be applied.

But Section 7 of the Bill runs thus: "All cases tried under this Act by Magistrates of Police may be tried summarily;" and Section 5, which provides that these Magistrates shall have the powers of Magistrates of the first class under the Code, or the powers with which such Magistrates may be invested excepting those in certain sections named (*viz.*, 44 to 47, 110, 135, 222, 226, 295, 296, 328, 415, 416, 417, 530) does not mention Section 225, so that it would appear it is open to invest them with powers under Section 225 or rather Section 223.

This Chapter (XXXVI.) is not included in the Schedule, but Section 539 is. However, Chapter XXXVI., it is observed, applies to Presidency Towns (Amendment Act XI. of 1874 Section 43) already. Nevertheless it might be well to include it in the Schedule.

No mention of the Police is made at all anywhere in the Bill.

Proposals of Madras Government.

How provided for in Bill, and Remarks.

following Chapters and Sections referring to the Police:—

Chapter IX. (Arrest without Warrant).

Chapter X. (Powers of Police to investigate).

Section 146 (Chapter XI.) May direct Police to make previous inquiry.

Sections 178 to 184 (Chapter XIII.) As to what Police Officers may do in arresting persons, breaking open doors, not to offer inducement, &c.

Sections 379 to 387 (Chapter XXVII.) As to how searches are to be made by Police Officers.

Chapter XXX. { Section 415 (Procedure by Police on seizure of stolen property to report to Magistrate).
Section 416 (When owner not known).
Section 417 (If no claimant in six months).

(c.) To include the following in the Repealing Schedule:—

Sections 2 and 3 of Act XXI. of 1864.

Sections 16, 21, 61, 62, 69, 71, and 72 of Madras Act VIII. of 1867 (Incorporating Police of the Town of Madras with the General Police).

Section 16.—Magistrate may apply portion of fine in compensation for loss or damage.

Section 21.—Magistrate may make order for maintenance of wives and children.

Section 61.—Magistrate may issue warrant on information on oath.

Section 62.—Magistrate may enforce attendance of witnesses.

Section 69.—Magistrate may levy fines by distress and sale of goods.

Section 71.—Recognizances may be recovered as fines.

Section 72.—Magistrate may require persons to enter into recognizances.

(d.) To insert the words "so far as they admit of being so applied," after the words "the following parts of the Code of Criminal Procedure Code shall apply to the Courts of the Police Magistrates of the Towns of Calcutta, Madras, and Bombay."

Omitted in the Schedule.

Only Section 122 of this Chapter (*Recording Confessions*) is included, except so far as it relates to Section 346 (*Examination of accused*).

Section 146 is excluded as suggested by this Government.

Omitted.

Omitted.

Omitted.

The second Schedule of the Bill is the repealing Schedule.

Included in the Repealing Schedule.

The Bill repeals 13, 14, 16, 21, 61, 62, 71, 72, and 74.

Section 13.—Magistrate may try summarily cases of offences under the Penal and Criminal Procedure Codes, which he thinks might be adequately punished by six months' imprisonment, or 200 Rupees fine.

Section 14.—Magistrate may exercise full powers of District Magistrate, if accused consents to be tried summarily.

Section 74.—Saving of remedy by writ of *certiorari*. Conviction to be quashed on merits only.

Section 3 of the Bill carries out this suggestion, the words used being—

"So far as they are applicable, and subject to the modifications shown in the second column of the same Schedule."

<i>Proposals of Madras Government.</i>	<i>How provided for in Bill, and Remarks.</i>
(e.) To omit the following clauses of the Code:—	
Section 175 (Procedure when warrant issued by a Sub-Magistrate).	Omitted.
Section 201 (Accused to be furnished with copies of the depositions).	Omitted.
Section 202, Clause 2 (Magistrate of District to appoint Government Pleader to conduct prosecution).	Omitted.
Section 308, <i>Penultimate Clause</i> (Fine not to be awarded in compensation till period of appeal has passed).	Not omitted, but not rightly included unless the period for appeal is fixed, where case is appealable. <i>Quere</i> , whether Article 153, Schedule 2, of Act IX. of 1971 governs such a case.
Section 328, <i>Last Proviso</i> (Where one Magistrate has partly heard a case and another concludes it, the Magistrate of the District may set aside the conviction).	Not omitted, but included as the first Schedule includes the whole of Chapter XXIV., of which Section 328 forms part. Should be omitted, as it cannot apply where no District Magistrate, under whom all other Magistrates are subordinated, exists.
Section 362, <i>Last Sentence of Clause 2.</i> (Accused entitled to appeal if Magistrate refuses to summon his witnesses, and Magistrate must record the reasons of his refusal).	Omitted.
Section 390. (Court of Session may admit to bail, or reduce the bail required by Magistrate).	Omitted.
Section 398, <i>Penultimate Paragraph.</i> (Revision of orders by District Magistrate).	Omitted. The Schedule also orders the omission of the last paragraph (High Court, or Court of Session, may direct Magistrate to levy sum forfeited).
Section 410. (Court of Session may stay, alter, or annul order in respect to property produced before Magistrate).	Omitted.
Section 420. (Order of Court of Appeal in above may take form of reference).	Omitted.
Section 429, <i>last two Clauses.</i> (Sub-Magistrates to report to District Magistrate in cases of recognizance for keeping the peace, and prisoner to be produced before the Magistrate signing the recognizance order).	Omitted.
(f.) To add the following:—	
After entry of Chapter XI., "Section 148 shall be read as if after the words 'such Magistrate' occurring at the end of the first clause, the words 'as may then be there' followed." (This was considered necessary, as otherwise only the Magistrate issuing the summons could hear the case.)	Attended to in its proper place in the first Schedule.
After entry of Chapter XII., the words, "except the words 'in duplicate' in Section 152, and 1	The words in duplicate omitted, as regards Section 152.
The words 'by exhibiting one of the copies and delivering or tendering the other copy to him' in Section 154; and substituting 'it' for 'the copy' in Section 154."	Attended to, as regards Section 154; thus— For one of the copies, read the original. For the other copy, read a copy.

5. The Government afterwards informed the Government of India, that it had been pointed out by the Advocate-General that the effect of Section 4 of the Presidency Police Magistrates Bill, and the extension of Chapter XXVII. of the Criminal Procedure Code by the first Schedule, would be to vest in a *Magistrate of Police* the power of ordering the Postal authorities to give up a letter, which is now vested in the *Magistrate of the District* by Section 369. The Government suggested that the *Commissioner of Police* was the official in whom this power would be more appropriately vested. These suggestions, however, do not appear to have been accepted.
6. Again, on the Advocate-General's suggestion, the Government addressed the Government of India advocating the introduction into the Magistrates' Bill of Chapter XXII. of the Criminal Procedure Code, which provides for the superintendence and revision of Magistrates' proceedings by the High Court. The Government mentioned that Mr. Cunningham had pointed out that the absence of this superintendence is the great want of the Police Magistrates, who, in his opinion, are in too great a position of independence. This suggestion has not been followed to its full extent by the Select Committee; but it may be that Chapter XXII. is not introduced because Section 6 of the Bill provides that "any person convicted on a trial held by one of the said Magistrates of Police may appeal to the High Court, if the sentence complained of involves imprisonment for a term exceeding one year, or a fine exceeding 500 Rupees;" while Section 147 of the High Courts Criminal Procedure Act (X. of 1875) empowers the High Court, whenever it may promote the ends of justice, to transfer to itself any case "from any Criminal Court situate within the local limits of its ordinary Original Criminal Jurisdiction," "to determine the case so transferred, and to quash or affirm any conviction or other proceeding which may have been had therein; but so that the same be not quashed for want of form, but on the merits only." Section 148 also of the Act gives the High Court certain powers in the nature of a *habeas corpus*.
7. The Government followed up their last-mentioned representation with another letter (as noted in the margin), pointing out that as Sections 13 and 14* of the Madras Police Act were not proposed to be repealed, the Madras Magistrates would have a greater jurisdiction than the Calcutta and Bombay Magistrates, and suggesting, if Chapter XXII. of the Code be extended, that one of the Puisne Judges of the High Court should undertake the appellate duties in question. The Government also suggested that Section 272 of the Criminal Procedure Code, which provides for an appeal to the High Court in cases of acquittal, should be included in the Bill. This suggestion has been now attended to by the Select Committee in their amended Bill by including the section in the first Schedule.
8. The Government further suggested that that portion of Chapter XXV., which requires a Magistrate to make a memorandum of the substance of the evidence in all cases, except summary trials, should by all means be included in the Bill, as it would be a guarantee of the Magistrate's attention to the case before him which cannot be dispensed with. This recommendation, however, has not been attended to. Sections 333 and 334 of the Criminal Procedure Code are the sections that make the above provision; but they are not included in the first Schedule of the Bill. The Government also repeated the recommendation that the Police Magistrates should be invested with power to try summarily all or any of the petty offences coming within the enactments specified in Section 225 of the Procedure Code. This
- To Government of India, dated 25th April 1874, No. 763.
- As Section 4 of the Bill as amended by the Select Committee provides that the expression "Magistrate of a District" in the Code shall include a Magistrate of Police, the Presidency Town Magistrates will have the power of ordering the Postal authorities to give up a letter, especially as the first Schedule includes Chapter XXVII., without omitting Section 369.
- To Government of India, dated 2nd July 1874, No. 1187.
- Chapter XXII. is not included in the Schedule.
- Section 6 of Bill provides for appeal.
- Section 147, Act X. of 1875 (High Court may transfer and dispose of case).
- To Government of India, 1st August 1874, No. 1416.
- * Sections 13 and 14 of the Madras Police Act are, however, now repealed by the amended Bill, as noted in the table appended to paragraph 4 of this Memorandum.
- This is provided for, as Sections 272 and 275 to 286 of Chapter XX. are included in the first Schedule.
- Section 333 (Chapter XXV.) not included in the first Schedule; only Sections 331, 340, 342 to 345, 347, and 349 included.

is the Section which empowers the Government to invest Benchers with these powers, and Section 223 provides that the judgment embodying the substance of the evidence and the particulars required by Section 227 shall be the only record in the case; but vide remark opposite Proposal V. of the Madras Magistrates, paragraph 2 of this Memorandum.

ODDACHANDR,
13th July 1873.

(Signed) W. M. SCHARLIEB, *Assistant Secretary,*
Judicial and Legislative Departments.

Encl. J. Wright.

HEAR. NO.

HOME

1875

DEPT.

From Governor of
Madras.

Madras July 1875. No.

Issued. Enclosures

R. Same copies

D. No. Progs.

L. No 1873. No.

Criminal Procedure Code — With reference to the Bill to extend parts of the Code to Police Courts in the Presidency Towns, Government of India furnished with a statement showing the differences between the Bill and the suggestions of this Government which still exist, and informed that the Madras Government are still desirous of the latter being fully complied with.



Vide letter from Govt
of India, 25 June
1875, No 983. Home
Dept. Judicial.

Memo:

36.

Bill to extend parts of the Cr. P. Code to Presidency
Town Magistrates Courts.

G.O. 6 March 74, No 384 (Jud: 2ph)

1. The views of Govt on the Bill of the High Courts Cr. Pro: Bill are recorded in G.O. 6 March 74. It is of the Bill proposed the extension of certain parts of the Cr. Pro: Code to the Presidency Town Magistrates Courts. That Bill has been altogether omitted from the Bill itself; and the subject is now being dealt with in a separate Bill, which will hereafter be entitled "The Presidency Police Magistrates Act."

2. The High Courts Criminal Procedure Act is X of 1875. It consists of 18 chapters dealing with the following subjects.

Ch: I. Preliminary.

II. Sessions.

III. Procedure on commitment.

IV. Commencement of trial.

V. Verdict.

VI. The trial.

VII. Evidence.

VIII. Change to the jury.

IX. Verdict and discharge of jury.

X. Sentences.

XI. Various provisions or regulations.

XII. Criminal Limitation.

XIII. Powers of officers against the law.

XIV. Bail.

XV. Security for keeping the peace.

XVI. Miscellaneous.

The District Magistrates and the District Police will be invested in the Police powers in the District Magistrates. The District Magistrates were for having all the powers of a District or First Class Magistrate and the District Police depend on this, because, as we commenced, it is materially affected the constitution of the Police of the Presidency Town, and involve violent changes in the relations existing between the District Magistrates and the Police. The District Magistrates proposals were as follows.

I. The powers of the Police Magistrate to be so defined as to admit of those parts of the Code to be acted on as made reference to the District Magistrate of the District, Magistrate of a Division of a District, Magistrate of the First Class &c.

II. In applying section 53 of the Code, Presidency Town to be substituted for District.

III. Chapter III of the Code relating to jurisdiction over European British subjects, to be omitted. [The Magistrates would this distinction be abolished, because the District Magistrates have no jurisdiction at all,

Whether provided for in the Magistrate Bill, or not.

These two proposals are met by section 4 of the Bill which runs:-
"In the parts of the Code so applied, the expressions 'Magistrate of a District', 'Magistrate of a Division of a District', 'Magistrate of the First Class', 'a District Magistrate', 'Magistrate having jurisdiction', & every other expression applicable to a Magistrate of the District, shall be deemed to include a Magistrate of Police and the Court of Petty Sessions at Bombay; and District shall be deemed to mean a Presidency Town as defined in section 4 of the said Code."

The First Schedule attached to the Bill shows the Chapters & parts of the Code to be applied. Chapter VII is entirely omitted.

Whether provided for in the Magistrate Bill, or not.

The Schedule in clauses 31, in the following modifications:-
omit clause 2 of sec: 142. [Summons warrant may be issued if it is already in existence, no com. plaintiff, summons, or warrant is necessary.]
do. peremptory clause 2 of sec: 141. [Any Magistrate to whom any case is duly referred, by any Magistrate duly empowered to make such reference, may dispose of such case.]
do. 2nd clause of sec: 144. [The examt. shall be reduced into writing in a summary manner & signed by the complainant, & also by the Magistrate.]
do. sec: 146. [If Magistrate directs trustee of com. plaintiff, may postpone process, & order local Police to be required.]
In sec 143, for Court of Sessions read High Court.
In sec 148. In the last line of clause one, after in the Magistrate insert as many there.

Sec: 225 of the Cr. Pro: Code is in Chap: XVIII. This Chap: is not included in the Schedule of the Bill showing the parts of the Code to be applied. But sec 7 of the Bill runs thus - "all cases tried under this Act by Magistrates of Police may be tried summarily;" and sec 5, which provides that these Magistrates shall have the powers of Magistrates of the 1st class under the Code. or the powers which such Magistrates may be invested with by the Code in certain cases named, does not mention sec: 225.

This Ch: XXXVI is not included in the Schedule; but sec 539 is. However Chap: XXXVI, it is observed applies to the 3 towns (Amoy, Hong Kong, & Shanghai) already - Nevertheless it might be well to include it in the Schedule.

and a great deal of time will be involved in trying questions of Procedure.]

IV. The procedure in Ch: III (Trial of Summons Cases) to be made applicable to all cases heard and determined by the Police Magistrates.

V. Every Police Magistrate to be invested with the powers of Summary trial conferred by section 225 of the Code on Benchers of Magistrates.

VI. Ch: XXXVI of the Code (Breach of Unlawful Assemblies) and sec: 539 (Procedure in Miscellaneous cases & proceedings) to be added.

4. The Govt approved of the whole of

proposals, with the exception of the first. On this point they agree in substance. Insp. Genl. of Police, and the Magistrate, are of opinion that (as was originally intended by the Imperial Legislature) assimilating as far as possible the judicial procedure of Police Magistrates with that provided for the Magistracy in the Municipal, leaving untouched the procedure of the Police in these towns.

5. The proposals of the Government

(a) To omit from the Preamble and sec 40 (of the Bill to be: Pro: Bill) the words referring to the Police of the Presidency Towns.

(b) To exchange, from the list of Chapters & sections of the Code to be applied, the following Chapters and sections referring to the Police -

Chap: II (arrest without warrant)...

Chap: III (Powers of Police to investigate)...

Sec: 146 (Ch: II) - May direct Police to make previous enquiry.

Sec 175 to 184 (Ch: VIII). As to what Police off: may do in arresting persons, making open doors, not to offer inducements &c.

Sections 379 to 387 (Ch: XXVII) as to how searches are to be made by Police officers.

Whether attended to, or not, in the Magistrates Bill.

No mention of the Police is made at all anywhere in the Bill.

Omitted in the Schedule.

Only sec 132 of this Chapter (recording confessions) is included, except so far as it relates to sec 346 (Examination of accused).

That is not included in the Schedule.

Omitted.

Omitted.

Whether attended to, or not, in Magistrates Bill.

Omitted...

The second Schedule of the Bill is the repealing Schedule.

Included in the Repealing Schedule

The Bill repeals 13, 14, 16, 21, 61, 62, 71, 72, 74.

Sec 13. Mag: may try summarily cases & offences under the Penal & Cr: Codes, which he thinks might be adequately punished by 6 months imprisonment, or 200 Rs fine.

Sec 14. Mag: may exercise full powers of District Mag: if accused con: to be tried summarily.

Sec: 4. Saving granted by writ of certiorari. Commission to be granted on merits only.

Sec: 3 of the Bill carries out this suggestion; the words used being -

"So far as they are applicable, and subject to the modifications shown in the second column of the annexed schedule."

Omitted...

Sec: 415 (Procedure by Police on seizure of property - to report to Mag:.)
Sec 416 - (when owner not known).
Sec 417 - (if no claim within 6 months).

(c) To include the following in the repealing Schedule -

Sections 2 and 3 of the Code of Criminal Procedure.

Sections 14, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

Sec: 16. Mag: may apply portion of fine in compensation for loss or damage.

Sec: 21. Mag: may make order for maintenance of wives & child born.

Sec: 61. Mag: may issue warrant on information on oath.

Sec: 62. Mag: may enforce attendance of witnesses.

Sec 60. Mag: may levy fines by distress & sale of goods.

Sec: 71. Recognizances may be received as fines.

Sec: 72. Mag: may require persons to enter into recognizances.

(d) To insert the words "so far as they admit of being so applied" after the words "the following parts of the Code of Criminal Procedure shall apply to the Courts of the Police Magistrates of the Towns of Calcutta, Madras, & Bombay."

(e) To omit the following clauses of the Code -

Sec 175 (Procedure when warrant issued by a Sub Magistrate).

Whether attended to, or not, in Magistrate Bill.

Sec: 221. (Decided to be permitted into copies of the depositions).

Omitted.

Sec: 222. (Magistrate to appoint a person to conduct prosecution).

Omitted.

Sec: 223. Penultimate clause. (This not to be amended in consideration till the Bill has passed).

Not omitted. but not rightly included. It is not a part of the Bill. It is a part of the appeal in fact. The case is appealable.

Sec: 225. Last proviso. (Where one Magistrate has partly heard a case & another concludes it, the Magistrate of the district may at the conclusion).

Not omitted. but included, because the First Schedule includes the whole of the Bill. It is a part of the Bill. It is a part of the appeal in fact. The case is appealable.

Sec: 312. Last sentence of clause 2. (Accused entitled to object if Magistrate refuses to examine his witnesses, & Magistrate must record the reasons of his refusal).

Omitted.

Sec: 320. (Court of Session may admit or refuse bail required by Magistrate).

Omitted.

Sec: 328. Penultimate para. (Execution of order by his first Magistrate).

Omitted. The Schedule also orders the execution of the order by the first Magistrate. It is a part of the Bill. It is a part of the appeal in fact. The case is appealable.

Sec: 412. (Court of Session may stay, alter, or annul order in respect to property produced before Magistrate).

Omitted.

Sec: 416. (Order of appeal in appeal may take form of reference).

Omitted.

Sec: 489. Last two clauses. (Sub rule to report to D. Magistrate in cases of non-observance in keeping the peace & peace may be produced before the Magistrate signing the order).

Omitted.

(f.) To add the following -

After entry of Chap: III, Sec: 148 shall be read as if after the words 'Such Magistrate' occurring at the end of the first

Attended to in its proper place in the First Schedule.

Whether attended to, or not, in Magistrate Bill.

The words 'duplicate' omitted, as regards section 152.

Attended to, as regards section 154; thus - For one of the copies read the original - For the other copy read a copy.

No. 4 of S. 25 April/74, 20/62.

As Sec: 4 of the Bill as amended by the Select Committee (now before us) provides the expression 'Magistrate of a District' in the Code shall include a 'Magistrate of Police', the Presidency Town Magistrates will have the power of ordering the Police Authorities to give up a letter, especially as the first Schedule includes Chapter XXVII, without omitting Sec: 389.

Clause, the words 'as many times as followed?' (This was considered necessary as otherwise only the Magistrate issuing the summons could hear the case). - 5

After entry of Chap: III, the words - 'Except the words 'in duplicate' in Sec: 152, and the words 'by exhibiting one of the copies and exhibiting the other copy to him' in Sec: 154; & substituting 'it for a copy' in Sec: 154

(This last was considered necessary, because the preparation of 34,000 copies of the notices originally issued in the Madras Police Courts would entail heavy additional expense.)

5. He afterwards informed the Government that it had been pointed out by the Advocate General that the effect of Sec: 4 of the Presidency Police Magistrates Bill, and the extension of Chap: XXVII of the Criminal Procedure Code by the first Schedule, would be to vest in a 'Magistrate of Police' the power of ordering the Police Authorities to give up a letter, which is now vested in the 'Magistrate of the District' by Sec: 389. He suggested that the Commissioner of Police was the official in whom this power would be more appropriately vested. These suggestions however do not appear to have been accepted, but in a letter is quoted by the Select Committee as if it had been.

27. of S. 2nd July 1774, No 1187.

Whether attended to, or not, in the Mag. Bill. Chapter ~~XXII~~ of the Cr. Pro. Code, which provides for the supervision and revision of Magistrates' proceedings by the High Court. We mention that Mr. Jennings has pointed out that the absence of this supervision is the great want of the Police Magistrates who, in his opinion, are in too great a position of independence. This has not ^{been attended to} ~~been attended to~~ by the Bill. ^{Section 13 of the Bill} ~~Section 13 of the Bill~~ provides for appeal.

Section 13 of the Bill provides for appeal.

Again, on Mr. Jennings' suggestion, we addressed the Govt of India advocating the introduction into the Magistrates Bill of Chapter ~~XXII~~ of the Cr. Pro. Code, which provides for the supervision and revision of Magistrates' proceedings by the High Court. We mention that Mr. Jennings has pointed out that the absence of this supervision is the great want of the Police Magistrates who, in his opinion, are in too great a position of independence. This has not ^{been attended to} ~~been attended to~~ by the Bill. ^{Section 13 of the Bill} ~~Section 13 of the Bill~~ provides for appeal. ^{Section 14 of the Bill} ~~Section 14 of the Bill~~ provides for appeal. ^{Section 15 of the Bill} ~~Section 15 of the Bill~~ provides for appeal. ^{Section 16 of the Bill} ~~Section 16 of the Bill~~ provides for appeal. ^{Section 17 of the Bill} ~~Section 17 of the Bill~~ provides for appeal. ^{Section 18 of the Bill} ~~Section 18 of the Bill~~ provides for appeal. ^{Section 19 of the Bill} ~~Section 19 of the Bill~~ provides for appeal. ^{Section 20 of the Bill} ~~Section 20 of the Bill~~ provides for appeal. ^{Section 21 of the Bill} ~~Section 21 of the Bill~~ provides for appeal. ^{Section 22 of the Bill} ~~Section 22 of the Bill~~ provides for appeal. ^{Section 23 of the Bill} ~~Section 23 of the Bill~~ provides for appeal. ^{Section 24 of the Bill} ~~Section 24 of the Bill~~ provides for appeal. ^{Section 25 of the Bill} ~~Section 25 of the 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any case from any Criminal. Situate within the local limits of its ordinary original criminal jurisdiction, "to determine the case to be transferred, and to quash or affirm any conviction or other proceeding which may have been made thereon; but so that the same be not quashed for want of form, but on the merits only." Section 148 also of the Act gives the High Court certain powers in the nature of a habeas corpus.

27. of S. 1 Aug 1774, No 1415.

* Sections 13 and 14 of the Madras Police Act are however ^{now} repealed by the amended Bill, as noted in the table appended to the Memorandum.

We followed this up with the letter (as noted in the margin), pointing out that as sections 13 & 14 of the Madras Police Act were not proposed to be repealed, the Madras Magistrates would have a greater jurisdiction than the Calcutta and Bombay Magistrates, and offering, if Chapter ~~XXII~~ of the Code be extended, to arrange ^{for} one of the Puisne Judges of the High Court to undertake the appellate duties in question. We also suggested that

This is provided for, as sections 272, & 275 to 286 of Chapter ~~XX~~ are included in the First Schedule.

Sec 272 of the Cr. P. Code, which provides for an appeal to the High Court in cases of acquittal, should be included in the Bill. This suggestion has been

referred to by the Select Com.
written in their amended Bill by
including the section in the First
Schedule.

Q. 8. He further suggested that
that portion of Chapter XXV, which
relates to the making of a memorandum.

of the substance of the evi-
dence in all cases, except summary
trials, should all means be included
in the Bill, as it would be a guaran-
tee of the Magistrate's attention to
the case before him which cannot
be dispensed with. This recommend-
ation, however, has not been attended
to.

the sections that are in
provision; but they are not included
in the First Schedule of the Bill.
He also repeated his recommendation
that the Police Magistrates should be
invested with power to try summary
all or any of the petty offences coming
within the enactments specified in
section 225 of the Procedure Code. This
is the section which empowers the Just.
to visit Bench with these powers,
and sec 228 provides that the judgments
embodying the substance of the evidence
& the particulars required by section 227
shall be the only record in the case;

Sec 333 (Ch. XXV) not included in the
1st Schedule - only sections 331, 340.
341.

A note remarks opposite
proposed V of the Madras
Magis, para 2 of his Memo.

but already noted para 3 supra
XVIII of public section 228, as well
as sections 227 & 228 form a part, are
not included in the Bill.
H.S.
12.7.75.

170000.
Presidency Magistrate Bill

182-83

51-8-1

1873
 I think that we
 have it up to the
 East of Police -

I think that the
 points relating to
 duties over police
 the State's interest
 14/5 - 1877

no quantity need occur

John Hay's Bill.

I have gone through
 the bill with the
 Lord & friends and
 it seems to me that
 all that this for
 is to be done in
 fact. but doing
 with very slight
 & immaterial
 exception. and I
 will be disposed
 to accept the bill

as it stands.

No jurisdiction
over the Police is
given.

The power of visiting
H. is reserved to the
High St. and as far
as much as can
reasonably be expected.

However I have
no objection to
calling the J.H.P.
for his remarks

as suggested by H.E.
the Govt. - H.E. I
don't see that it is
necessary -
19 July 75. J.D.

12

Cy

1875

Home Department
Judicial

* Published at Page 49,
Part V, Gazette of India of
the 20th February 1875

No. 983

From Arthur Russell Esquire
Offg Secy to the Govt of India

To The Secretary to the Government
of Madras.

Sir, Madras, the 25 June 1875.

Sir,
With reference to the Bill to extend
certain parts of the Criminal Procedure
Code to the Courts of Police Magistrates
in the Presidency Towns and to increase
the jurisdiction of such Courts, I am
directed to invite the views of His
Excellency the Governor in Council on the
provisions of the Bill. An early reply
is requested.

I have the honor to be
Sir

Your most obedient servant

Arthur Russell

Offg Secy to the Govt of India

* 472

Principal (1875) / Defunct
 from his part of the
 Home Department
 Robert W. Smith 8/30
 Res. S. July 18/75

No 983 -
 28/11/75

He quotes the
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5 L. deposed 29/11/75
 to go out 1877
 Comment
 L. deposed 29/11/75
 No 1073, 1875

No 1673. Sir,
 To Secy. Genl of India - Home Dept
 Sir, In reply to Mr. Dalton (Ind. No 983) of 25th June
 ulto, respecting the bills broken part of the C. Census. As
 to the C. in the Presidency towns, I have the honor, by direction
 of H. E. in C., to enclose a tabulated statement, showing the difference
 between the bills & the suggestions of his Govt. which will assist, as
 to state that the address Govt. are able to secure of the Census
 being fully completed into. Sd/-
 29 July 1875