M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 985 Press ~~Mis.~~

5 ~~6~~ 9.

Dated 21-7 ~~19~~ 1928

Not to be folded or roughly handled

Read the following letters.

No. 5. From Colonel J. C. BOULDERSON, Commissioner of Police; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 1st June 1858, No. 61.

SIR,

1. In accordance to the orders of the Government under date the 25th March 1858, No. 401, Judicial Department, I have the honor to submit the following report on the Police Act No. XIII of 1856.

2. I beg to observe that it has now been in operation for about 18 months, and as far as the purposes of the Police are concerned, I am of opinion that it is a useful and valuable Code. Although considerable difficulty is still felt in carrying out its several provisions, more especially as regards the division of labour between the Police and Magistracy.

3. Further experience may render other modifications desirable, besides those which I beg to submit in this report, compared however, with the old regulations under which the Police was formerly administered; and upon which the Magistrates were required to act, the present Code is a decided improvement.

4. No material change has been made in the mode of procedure by the Police under the new Code, in the preservation of the peace, the prevention of crimes, and the apprehension and detection of offenders.

Memorandum.	1856	1858
Inspectors	none	11
Constables	10	14
Jemadars	7	7
Major Duffadars	8	10
Duffadars	28	33
Naigues	33	44
Conicopillays	8	8
Head Peons	8	none
Peons	369	437
Darogahs	6	7
Office Darogahs	none	4
Talliar Naigues	20	24
Talliars	84	120
Hurkarahs	24	24
Overseers	2	2
	607	745
Police Troop.		
Superintendent	..	1
Constables	..	5
Sub-Constables	..	5
Troopers	..	70
Total.....	607	826

5. Since the Code has come into operation the Police force has been strengthened in respect to numbers, as per margin, but the organization and discipline of the force is the same as that which existed previous to the introduction of the new Code; and the duties of the Officers of the force, below the rank of Deputy Superintendent, are the same now, as they were when the old Police regulations were in force, but a new grade, that of Inspector has been introduced. Of that rank there are now 11 Officers, of whom 7 are Europeans, 2 East Indians, and 2 Natives, (one a Hindoo, and one a Mahomedan,) the former is stationed in the 7th Division Washermanpettah, which is principally inhabited by Hindoos, and the latter in the 3rd Division or Triplicane, in which the great body of Mussulmen reside. The Hindoo Inspector (Soobaroyaloo) has given satisfaction in the manner in which he has performed his duty; but as regards the Mahomedan, I am sorry I cannot speak so favorably of him.

6. Under the old system both the Superintendent and his Deputies were Magistrates of Police, and by them the depositions in all serious cases were taken, and the committal of such cases to the Supreme Court for trial was, I find by reference to the Calendars, almost it may be said their special duty; as Magistrates, they seldom occupied the bench; but since the introduction of the new Code, they have been divested of the power of committal, whether with advantage to the public or not, is in my opinion very questionable.

Section XVII. Police Superannuation fund.

7. The introduction of the superannuation fund under the provisions of Sections XVII, XVIII and XIX of the Act, has added much to the respectability of the force, the expectation of pension after certain periods of service contingent on good behaviour, &c., has been hailed with much thankfulness by all the old Officers, and it is highly appreciated by the younger hands. The knowledge that Police Officers when disabled by wound or injury received in the actual execution of their duty, will be

Section XVIII. Superannuation Pensions to members of the Police force.

granted from the fund a monthly allowance, will no doubt act as an incentive to more determined and fearless conduct on all occasions on which the men may be brought into collision with offenders against the Law, but I do not expect that it will induce a better stamp of men to enter the force, from those we have at present, because the men we now have in pay, taking them as a body, are the most intelligent and able bodied set of men of their class, that I have ever seen; I do not think that the pay is sufficiently high enough to induce men better born, and possessed of higher degree of education to enter at the lowest grade.

Section XIX. Allowances to Officers disabled by wound, &c., in execution of duty.

Payments	Rs.	A.	P.	Receipts.	Rs.	A.	P.
By Gratuity to one Constable....	300	0	0	Amount paid in to the Treasury in 1856...	888	13	0
By payment of pension to 20 Police Officers for 2 months at Rs. 86-5-8 per month.	172	11	4	do. do. 1857	7,570	1	6
				do. do. up to 28th Feby 1858..	1,296	9	2
Total C Rupees....	472	11	4	Total C. Rupees....	9,755	7	8

8. In margin is given a Memorandum showing the present state of the fund.

9. It was at first thought by my colleagues, that the power of punishment given to the Commissioner under the provisions of Sections X, XI, XII and XIII was not sufficient to enable him to keep the force in a proper state of discipline, but with them I differed in opinion; I was satisfied that the power given to that Officer was sufficient to maintain discipline; and that it was better that the more serious offences committed by his Officers and men should be put by him, before a Magistrate for trial, in the manner specified in the Act, and that opinion has been confirmed by experience.

10. It seems to me desirable however, that a specific charge should be preferred against a Police Officer whenever a Magistrate considers that such a violation of duty has been committed as to render enquiry necessary, and that for the protection of the Police Officer, the Commissioner of Police should be required to put such charge before another Magistrate for disposal, should he deem a trial necessary, on account of the punishment he is empowered to award by the Act, not being sufficiently severe for the particular case.

11. As long as the Magistrates feel an interest in the respectability and efficiency of the force; and are duly disposed to support the Commissioner of Police in his endeavours to keep that body in such a state of discipline, as would deter the members thereof from taking advantage of their position to commit acts of injustice and oppression, the present system will work well.

Section XV. Members of the Police force not to resign without leave, or two months' notice.

12. Section XV permits a Police Officer to resign his situation by merely giving two months' notice in writing to the Commissioner, as far as the Native Infantry portion of the force is concerned, that time is ample, but it is not so with respect to the European and the mounted branch; that class of men know that their places cannot be easily supplied, and they are apt, after punishment for misconduct, or because they are of opinion they ought to have been promoted instead of others, who were selected, and many other trifling causes, to send in their resignation in the prescribed form. Many have done so, though it is true that most of them have repented, and been brought again on the strength of the force. I think it would be desirable therefore that a remedy should be applied, and that may be easily introduced by increasing the time to 6 months.

13. As prisoners have on several occasions managed to escape from the custody of Police Officers, I think it expedient that the words *from legal custody* should be added to Section XXXIX to render it a punishable offence by a Magistrate, and further that some provision should be made for the protection of Police Officers on duty as Jail guards in case of assault by prisoners when in the execution of their duty.

Section XXXIX. Penalty for escaping from a place of legal confinement.

Section XXXVIII. Assaulting Policemen in execution of duty.

14. In Section XXXVIII provision is made for the punishment of any person who assaults a Police Officer while in the execution of his duty; but it has been ruled here by the Government Law Officer, vide margin,* that that Section does not give a Magistrate power to punish a prisoner who may be put up for trial, for assaulting a Police Officer, when acting as a Jail guard.

*Extract from a letter from the Company's Solicitor to the Chief Secretary to Government, dated 4th May 1857.

I am of opinion that the framers of Act XIII of 1856 never contemplated or intended that Section XXXVIII of that Act should extend to any such cases as the Commissioner of Police refers to in his marginal note to the (proposed) Rule No. VII, and that prisoners confined in the Madras Penitentiary (or in any other Prison) cannot lawfully be punished under that Section, even for assaulting, or resisting, or aiding or inciting any person to assault or resist any Police Officer, Turnkey or other Officer of the Prison in the execution of his duty. Section XXXVIII *does not* provide (as Section XXXIX does) that any imprisonment under its authority shall commence and take effect from and after the expiration of any sentence of imprisonment under which the offender may be confined at the time of committing the (further) offence. The want of this provision in section XXXVIII strengthens my belief that the framers of the Act never intended *that* Section to apply to those cases upon which the Commissioner of Police now proposes it shall operate.

It follows therefore that if even a prisoner could be lawfully convicted under Section XXXVIII, he could not be punished *by imprisonment* for the offence of which he was so convicted as the Magistrate could not lawfully direct that his imprisonment should commence at the expiration of the sentence under which he was confined at the time of committing the (further) offence or at any period subsequent to the date of conviction.

† Section L. Calcutta and Madras, Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police.

15. As the common and most used article, from which preparation, which causes intoxication is made in Madras, is gunja; and as it, as well as opium, are used in other ways, as noxious as smoking, I submit that the 50th† and 51st Sections of the Act, would be rendered more useful, if corrected by the introduction of the words, "or otherwise consuming gunja" after the words, or place for smoking, allowing the Section to read thus, "smoking or otherwise consuming gunja, chaundoo, or any preparation of opium or other intoxicating drugs."

16. In few of the Arrack and Toddy shops at Madras, is the liquor sold by the person himself, who takes out the License. One a wealthy man, according to custom, takes out a License for two or more shops, situated in different localities, some have several employés in each shop. One, two or more persons sell on account of the License-holder, whose name is on the sign board, which is in front of the shop. In case of any misconduct in any of these shops, the question has been raised whether the master can be held responsible for the act of his servant; and it has been determined in the negative by the Honorable Company's Solicitor, because the Abkarry Act XIX of 1852, Section XIV, makes the master, and not the servant specially responsible.

Section LXXV. Penalty for using false weights and measures.

17. Section LXXV relative to false weights and measures has been found very useful, complaints regarding sale of articles by false weights and measures have been frequent. From the date the Act came in force, up to 31st December last, 103 persons were put up for that offence, of whom 55 were convicted and 48 acquitted.

Section LXXXI. Penalty for the following offences in public streets, &c.

18. Section LXXXI has provided penalties for many common offences in public streets, &c. The Clauses of this Section define the offences. They have been found of great use from the Police being vested with power to take cognizance of such offences. If however in the 3rd Clause of that Section, the article A was omitted before the word light, and the word light rendered lights allowing the words of that Clause to run thus "*without sufficient lights*," this useful Clause would be rendered more so; for, at the present time, it is a common practice for hack conveyances to use one light only, and as that is often placed on the left side of the driver, and thereby screened from view, it is a frequent cause of collision and accident.

Clause 3. Whoever drives any vehicle of any description, at any time between three quarters of an hour after sun set, and one hour before sun-rise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moon-light to render such light unnecessary.

19. Clauses IX, X and XI of the above Section, from having particularized the cause of obstruction upon roads, thoroughfares or foot-ways, have not been found to meet all cases of obstruction and unless it is attributable to any of the causes specified, it has been found that Magistrates cannot deal with the case. These Clauses would be rendered much more useful, if they were amended in such a way, as would bring within their provisions all causes of obstruction. This perhaps might be done by the addition of a Clause of a general nature something like the following.

Clause IX. Whoever causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; or leaves any cart, carriage, or truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare.

Clause X. Whoever leads or rides any horse or other animal, or draws or drives any cart, carriage or truck upon any foot-way, or fastens any horse or animal, so that it can stand across or upon any foot-way.

Clause XI. Whoever sets out, or exposes for sale in or upon any stall, booth, show-board, cask, or basket, or otherwise, any meat, fish, vegetable, fruit, groceries, or any other thing whatsoever, so as to cause obstruction in any thoroughfare.

20. Whoever willfully obstructs any road, street, thoroughfare or foot-way in any way or manner whatever.

Section CXIII.
Moveable property of persons dying intestate under two hundred Rupees in value may be taken charge of by Police, and delivered to party claiming to be entitled thereto.

Statement of sums &c., found upon parties dying intestate from 1st November 1856

1857.		Rs.	As.	P.
February 21st	Mangathoyee	0	1	4
May 26th	Name unknown	2	15	3
June 16th	ditto	0	2	6
„ 22nd	ditto	0	1	8
„ „	ditto	0	0	3
September 5th	ditto	1	0	0
„ 15th	ditto	0	4	5
October 23rd	Lutchoomun Doss	2	6	1
„ „	3 Lascars murdered	58	15	6
	Paid into the Treasury	65	15	0
	Estimated value of Articles.			
November 21st	Ramdeen Thewalee	20	0	0
„ „	Name unknown (in cash)	2	12	0
December 1st	ditto	0	10	0
„ 12th	ditto	0	8	0
„ 23rd	ditto	0	0	9
1858.				
January 28th	ditto	0	2	0
February 11th	ditto	0	2	9
„ 22nd	ditto	2	0	0
March 18th	ditto	8	0	0
	Total Co.'s Rupees	100	2	6

21. Section CXIII empowers the Police to take charge of moveable property of parties dying intestate, under 200 Rupees in value. This is unquestionably a useful provision, although since it has come into operation the action of the Police has been scarcely called for. As yet the amount of property which has come in possession of the Police is about 100 Rupees, of which Rupees 65-15 have been paid into the Treasury, no legal claimant having appeared, and about 34 in property and money are for the present in deposit at the office.

Section CXV. Stray animals to be impounded and sold unless redeemed within ten days.

Account of Fines levied upon Stray Cattle and sale proceeds of unclaimed Cattle.

1856			Rs.	As	P.
December.	Fines and sale proceeds of Cattle		6	7	7
1857					
January.	ditto	ditto	125	3	0
February.	ditto	ditto	157	3	6
March.	ditto	ditto	79	11	9
April.	ditto	ditto	87	2	8
May.	ditto	ditto	50	12	6
June.	ditto	ditto	70	11	0
July.	ditto	ditto	73	12	7
August.	ditto	ditto	108	15	10
September.	ditto	ditto	71	15	3
October.	ditto	ditto	94	13	10
November.	ditto	ditto	129	7	11
December.	ditto	ditto	64	12	7
1858					
January.	ditto	ditto	104	15	4
February.	ditto	ditto	78	7	9
March.	ditto	ditto	138	11	3
April.	ditto	ditto	81	2	6
	Total Co.'s Rupees		1,474	6	10

22. Section CXV, regarding stray animals has been found to work well, owing to the ready means afforded in that Section for levying the fees. Since the Act came into operation to the end of last month no less a sum than Rupees 1,474-6-10, has been realized; and which has been, as provided for in the Section, placed to the credit of the Superannuation Fund.

23. At the present time fresh meat and fish are sold in common Boutiques, and by the road side, in many of our frequented streets, to the great disgust of a large body of the inhabitants. A regulation which would restrain the sale of such articles of food to the market places, would be well received.

24. It is a common practice in many native houses, especially Mahomedan, to beat the nobut, large drums, or tom toms, and use other noisy musical instruments at untimely hours during the night, whereby their neighbours are much annoyed, and that principally in consequence of the rest of their families being often disturbed and broken for weeks at a time. It seems to me that the Commissioner of Police should be vested with power to put a stop to all such proceedings. Clause XII of the LXXXI Section of the Act would give him sufficient power if it were removed from the Preamble of that Section; and it seems to me desirable that he should be required, except on special occasions, for which a License should be obtained, to preserve certain hours of the night sacred to rest.

Clause XII. Whoever beats a drum or tom tom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument or utensil, except at such times and places as shall be from time to time allowed by the Commissioner of Police.

25. I avail myself of this opportunity to bring to notice the great confusion which has prevailed since the introduction of the new Police Code on the roads and thoroughfares of Madras, especially those on which traffic principally passes, occasioned by each driver of a bandy, carriage, or cart chosing his own position, or side on the road, driving either on the right or left side, or in the centre, whichever he may think the best, and the danger to life and property arising therefrom; and to suggest the necessity of some Law or Regulation being passed for the prevention of the practice, and the enforcement of order and regularity.

26. It is a common occurrence at the present time, for large duggies (logs of wood) 30 feet long to be conveyed on a common 2 wheeled bullock cart, the consequence is, that if the bullocks take fright at any thing, the log may be thrown with great force, (more or less,) across the road, and every thing within its sweep is, of course, levelled by contact with it. In this way a large portion of the railing of the Government Bridge was taken away sometime ago, even the accidental sinking of a cart-wheel into a deep rut or hole, may occasion a dangerous lurch of the heavy logs above mentioned. It seems to me expedient, that some rule should be introduced by which persons conveying such logs of wood, bamboos or any article too long for an ordinary cart, should be obliged to use either two carts joined together in the manner which is common at Madras, or carts of four wheels.

27. There were formerly only two Police Courts, but under the present Code an additional Court has been established in Vepery. Taking into consideration the great number of persons of various castes and creeds, amounting it is supposed to 7,50,000, residing in an area of 28 square miles, [the extent of the jurisdiction of our Supreme Court,] the new Police Court in a crowded locality, is a great public convenience; and would be moreso, were it open every day, like the Town and Royapettah Courts; but with the present number of Police Magistrates, there being now only three, and from the necessity of the third Magistrate being obliged every alternate day to assist the Magistrate at the Town Court, this desirable object cannot be attained without the appointment, I apprehend, of a fourth Magistrate.

No. 6. From Major W. J. WILSON, Magistrate of Police; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 31st May 1858, No. 31.

SIR,

With reference to Extract from the Minutes of Consultation, No. 401, under date the 25th March 1858, I have the honor to submit a report concerning the operation of the new Police Act No. XIII of 1856.

I. This Act having come into force from the 1st November 1856, I have selected the years 1855 and 1857, as being the most convenient for the purpose of comparing the working of the new Act with that of the various Regulations and Enactments which it has superceded.

II. In order to arrive at a just conclusion it will be necessary to separate the cases commonly called night cases, which are brought up by the Police, from those in which complaint is made to the Magistrate direct, and which are designated as Summons cases.

III. The number of night cases brought up at the Town Police Court in 1857, amounted to 4,273, including cases of Larceny, being 1,156 in excess of the number in 1855, which amounted to 3,117.

IV. This excess I am inclined to attribute principally to the great increase of the Police force, which in 1855 consisted of 607 of all ranks, whereas it now amounts to 745 persons, exclusive of 100 Native Constables temporarily attached to the establishment. This gives a total increase of 238 persons.

V. It is true that one or two new offences have been created by the Act, such as the wrongful appropriation of property found, and the fraudulent possession of stolen property; and that the Magistrates have now power to try cases of receiving stolen goods, besides having had their

jurisdiction extended in cases of Larceny; but the number of cases has not been materially affected by these changes,* the chief increase being in petty breaches of the peace, nuisances, and the like.

* Breaches of the peace, drunkenness and nuisances
Do. do. do in 1857..2424
do 1855..1372
Excess in 1857..1052

VI. I have not here alluded to cases of maintenance which will be noticed more properly elsewhere. On the other hand, certain old regulations have been repealed, such as the regulation regarding Masters and Servants, and that which compelled drivers of vehicles to keep on their proper sides of the road, and which prohibited carters from sitting on their carts while driving.

VII The new Act does not contain any provisions in lieu of these regulations, which were in force at Madras, from the year 1812 up to the passing of the present Act, and which were found useful and satisfactory.

VIII. The Penal regulation regarding Masters and Servants was avowedly repealed for the sake of conformity with the English Law, but it may be reasonably questioned whether the similarity between the condition and character of the servants of the two countries is such as to render this change desirable. What possible remedy could a Master have in a Civil Court against his horse-keeper or sweeper?

IX. With reference to coachmen and carters a Clause might still be added to the Act to supply the want adverted to, as Clause I, Section LXXXI is not sufficient for the purpose. No person can be in the habit of driving along the Madras roads, without feeling that some such provision is highly desirable.

X. With the exceptions above mentioned the powers of the Magistrates are much the same as before, the difference chiefly consisting in the fact that whereas the Magistrates formerly acted under the provisions of a variety of regulations and Legislative enactments, the present Act provides in itself for the disposal of the great majority of offences.

XI. The night cases were formerly brought before the Superintendent of Police, or one of his Deputies daily at 10 A. M., and these Officers on hearing the statements of the Constables either ordered the case to be sent before a Magistrate for trial; or at once discharged the party accused, in event of there being no sufficient primâ facie case against him.

XII. Out of 3,117 night cases brought up at the Town Police Court in 1855, no fewer than 663, being more than one-fifth of the whole number, were dismissed forthwith by the Superintendent of Police without coming to trial.

XIII. This mode of procedure prevented the time of the Magistrate from being taken up with trivial cases, or those of a civil nature, while at the same time it gave the Superintendents of Police, great additional opportunities of becoming acquainted with the manner in which their Subordinates did their work.

XIV. The present practice is that when a man is charged with an offence, the case is entered in the Police sheet by an Inspector, and brought before the Magistrate at his next sitting. The result is, that when there are many cases for trial, a man may be detained all day at the Police Court, for what may ultimately turn out to be no offence at all.

XV. I believe it to be of the greatest importance both to the efficiency of the Police force and the comfort of the community, that the inferior Police Officers should come more frequently under the immediate surveillance of the Commissioner and his Deputies than they do at present, and I therefore advocate a recurrence to the system above mentioned. I do not propose that the Commissioners of Police should make any judicial enquiry, but merely that they should hear the statement of the Police Officer bringing up the case, and dismiss it at once, if it evidently appears unnecessary to send it before a Magistrate.

XVI. It must be borne in mind, that the Native Police Constable is in most instances wanting in discretion, and requires constant supervision and instruction. In cases where a London Policeman would content himself by ordering the parties to "move on," the Native will stand by, until high words grow into abusive language terminated by a scuffle which will even-

tually figure in the Police sheet as "Riotous Behaviour." The Native official will then interfere and apprehend the parties, conscious of having done his duty, and having the satisfaction of bringing up "a case." The same with cases of nuisance. Instead of warning the person evidently about to commit the offence, the Police Officer will not unfrequently allow it to be done within his view and then seize the culprit. In short he is impressed with the idea that his character for zeal and efficiency is in proportion to the number of cases he brings up.

XVII. In making these remarks, I do not in the slightest degree mean to cast any reflection on the Commissioners of Police, but simply to illustrate the necessity of the most careful supervision over the unsatisfactory material they have to work with. It may be thought that in doing so, I have wandered somewhat from the subject; but the Police and Magistracy are so intimately connected with each other that it would be hardly possible to discuss the working of the new Act without alluding to both Departments.

XVIII. Any serious misconduct on the part of a Police Officer which may come within the cognizance of the Magistrate is of course reported to the Commissioner and duly dealt with by that Officer, but it would be an endless and most invidious task for the Magistrate to attempt to rectify irregularities which constantly force themselves on his attention, but which are rarely known to the Commissioners.

XIX. I here beg to draw attention to the fact, that although there has been so great an increase in the number of petty cases; yet the number of larcenies, murders, and heinous offences in 1857, was much the same as it was in 1855.

XX. The number of Summons cases in 1857, amounted to 2,409, exceeding those in 1855 by 1,035, which I believe to be chiefly owing to the abolition of the charge of four Annas, which was formerly made for each Summons. It may be doubted whether the abolition of so small a fee could make much difference, but it must be considered that the great majority of parties in Summons cases are of the poorest class. A great proportion of these cases are of a trifling nature consisting generally of petty squabbles between women. The result is that many never come to trial as the parties compromise, and of those which are tried a great number are dismissed, owing to the fact that the quarrel has been mutual, and that both parties have been to blame.

XXI. Clause CII of the Act gives the Magistrate power to grant costs, but these costs must be paid to one or other of the parties. Now I beg to suggest that a small fee be exacted on the issue of each Summons as heretofore, and as is the case in England; the Magistrate always having power to issue them gratis according to his discretion.

Even a small fee would make a man reflect before taking out his Summons, and thus tend to check hasty applications. On the disposal of the case, the cost of Summons may then be repaid by the defendant, if such is reasonable. Should this fee be deemed objectionable, I would then propose that the Magistrate be empowered to order the costs of Summons to be repaid to Government by one or other of the parties on the termination of the trial.

Under the present Act, many Subpœnas are issued, the costs of which might be paid to Government by the parties at the discretion of the Magistrate.

XXII. The only other reason for the increase in the number of this description of cases which at present occurs to me is the fact that the Magistrates have now jurisdiction in cases of abduction, keeping gambling houses, brothels, and disorderly houses; and one or two other matters in which defendants are usually brought up by Summons, but these cases have not amounted to any great number.

Cases of maintenance cannot exactly be looked upon as new, for although the Magistrate had formerly no power to adjudge any specific sum as maintenance, he could imprison a husband for deserting his wife or legitimate children.

XXIII. In conclusion, I beg to invite attention to the Municipal Act No. XIV of 1856, † CXVI, CXVII. certain† Clauses of which empower the Commissioners with the sanction of the Local Government to pass Bye Laws prescribing penalties for certain trivial offences, and to suggest that some such provision might be advantageously added to the Act under review.

No. 7. From H. D. E. DALRYMPLE, Esq., Magistrate of Police; to T. PYCROFT, Esq., Secretary to Government, Fort Saint George, dated 1st June 1858, No. 2.

SIR,

Para. 1. With reference to Extract Minutes of Consultation, No. 401, under date 25th March 1858, I have the honor to furnish a Report on the new Police Act No. XIII of 1856.

2. Having for many years performed the duties of a Magistrate under the old Police regulations, and having held the office when the new Code came into operation; and from having carefully watched its working, I have no hesitation in giving it, as the result of my experience that the present Code, as a whole is excellent; and well adapted, for the purposes intended. But at the same time I must observe that experience has shewn me that certain modifications in the Act are necessary, and I here beg respectfully to point them out for the consideration of Government.

3. The separation of the Police from the Magistracy (which under the old system were united) assigning to the former the executive, and to the latter judicial duties, is, no doubt, correct in principle, because it is not desirable that the same Police Officer should judicially dispose of cases, put up by himself for trial.

4. In England where the Magistrates and the accused speak the same language, and are almost one in national feeling and sympathy; and where also the Subordinate Police Agents are far more intelligent, the two branches no doubt work harmoniously together. But in this country, however, where the majority of people, who have recourse to the Police or are brought up by them, are Natives, and generally of the lowest class; and where the evidence of the prosecutor and witnesses is given to the Magistrate through the mouth of an Interpreter, it appears to me open to objection. Although not in cases in which the Magistrate has the power of summary adjudication; but decidedly in the generality of such cases as are brought before him by the Police for committal to trial to the quarterly Criminal Sessions. It must besides be observed that in all such cases, the witnesses for the prosecution undergo no less than four distinct examinations.

5. In the first instance their examination is taken by the Police in the preliminary inquiry they are necessarily obliged to institute, then by the Committing Magistrate, then by the Grand Jury; and finally, at the trial in Court, before the Judge and Petty Jury.

6. Considering the class of people, who generally form the great portion of witnesses in criminal trials in this country, their extreme ignorance, their utter recklessness and their disregard for truth, I apprehend that the consequences of these oft repeated examinations frequently tend to frustrate the ends of justice. Any thing therefore that could be done to prevent this objectionable practice would be desirable; and I am decidedly of opinion that the authorities of the Police, the Commissioner and his Deputies, being Justices of the Peace, ought to be required, as under the old system, to commit prisoners for trial to the Quarterly Criminal Sessions in Her Majesty's Supreme Court, charged with offences that are beyond the summary jurisdiction of the Magistrates. At present, this duty has devolved entirely upon the Magistrates. While formerly, there were *five* Magistrates, namely the Chief, and two Deputy Superintendents, who were likewise Magistrates of Police besides the two sitting Magistrates; but now with the reduction in the number from *five* to *three;* and with an increase of Police Courts, from *two* to *three;* and with greatly extended summary jurisdiction, which the new Code has assigned to them, their duties have considerably increased, occupying their time on the bench to such an extent, that they are sometimes unable to take on hand committable cases for days after they have been sent up by the Police; and the consequences are that great hardship is entailed on all parties concerned. On one occasion I reported to Government* a case which stood over in my Office for twenty-four days before I had time to commit it for trial to the Supreme Court.

* From H. D. E. Dalrymple, Esq., to E. Maltby, Esq., Acting Chief Secretary, dated July 4th, 1857.

7. Under all these circumstances I would submit for favorable consideration the necessity of modifying Section VI† of the Code in the manner hereunder mentioned.

† Section VI, Commissioner of Police to be Justice of the Peace, but to act only in certain cases.

8. "In order to their being brought before a Magistrate of Police," *or to be committed "by him, or by his Deputies for trial to Her Majesty's Supreme Court of Judicature."*

9. I will be seen that the modification proposed by me, if adopted, will empower the Commissioner of Police and his Deputies to commit also for trial to the Criminal Sessions in common with the Magistrates.

10. In the exercise of this power, they will act only as ministerial Officers; and I cannot possibly conceive what objection there could be to its adoption, while its advantages are, in my humble opinion, so manifest that I think it scarcely necessary after what I have already submitted, to urge any thing further on the subject.

11. Section XXVIII‡, I would suggest should be modified in the manner under mentioned.

‡ Section XXVIII, Embezzlement, fraudulent misapplication in breach of trust, obtaining by false pretences, &c.

12. "Shall be liable to imprisonment with or without hard labour for a term not exceeding six months;" *or if a male to corporal punishment not exceeding thirty stripes of a rattan.*"

13. It will be seen that in the modification I have introduced corporal punishment not exceeding thirty stripes of a rattan, as provided for in the previous Section namely XXVIII in cases of stealing.

14. In my humble opinion it is desirable that the Magistrate should have this discretionary power of punishment under Section XXVIII; and I would also add the same modification to Section XXIX, because I look upon the offences in these three Sections, namely XXVII, XXVIII and XXIX§ as being almost akin; for I cannot see why a man, who attempts to steal, should be liable to stripes, while another who obtains under false pretences or embezzles, or instigates in the commission of any of the offences referred to in Sections XXVII and XXVIII, should not be liable to stripes.

§ Section XXIX, Summary conviction of accessaries.

15. Section XLIII‖, provides for the maintenance of wives, legitimate, and illegitimate children. To this I would add the following—

‖ Section XLIII, Magistrate may make order of maintenance for wives and children.

"*Or aged parent or parents unable to maintain themselves.*" The necessity of this provision has strongly forced itself upon my attention from the innumerable applications that are made at the Police Courts for relief in such cases.

16. To Clause IX† of Section LXXXI, I would after the words "or leave, any carts, carriage, or truck, add *or any articles or substance &c.*"

† Clause IX, Obstructing road or thoroughfare by carriage, &c.

17. According to the wording of Section XXXII‡, the Magistrate cannot summarily adjudicate in cases in which the property stolen, belongs to any ship passenger, who may land at Madras, or to Importers or Exporters of Merchandize, &c., where the value exceeds 50 Rupees, the case will still have to be committed for trial to the Criminal Sessions; and the inconvenience which this Section was intended to remedy, will not be met; for generally in such cases some of the Officers and crew of the Vessel are obliged to be detained as witnesses.

‡ Section XXXII, Charge of stealing, embezzlement, &c., of property above the value of 50 Rs. on board ship, or belonging to sailors, &c., to be tried summarily in certain cases by two Magistrates at Calcutta and Madras.

18. I cannot conclude this brief report without pointing out, that either by oversight or accident, there is no Section whatever in the whole Code, which bears on the relation between Master and Servant, either private or public. A servant may now behave in the most disgraceful manner to his superior, either in private or public employ, and beyond dismissal, which perhaps may exactly be what the servant seeks, no punishment of any kind can be meted out to him.

19. The poor tradesman of Madras in particular, is the greatest sufferer, he is in the hands of his workmen, who often insist upon receiving pay in advance, and after that refuse to work, excepting when it suits their convenience or desert their master, and obtain employment elsewhere. To tell the master to go to a Civil Court for redress is a mockery, when he has to deal with men of straw. This is a great hardship and serious grievance, which loudly calls for a remedy.

No. 8. From Lieutenant Colonel H. COLBECK, Senior Magistrate of Police; to T. PYCROFT, Esq., Chief Secretary to Government, dated 26th April 1858, No. 6.

SIR,

1. In compliance with the instructions contained in Extract Minutes of Consultation No. 401, under date the 25th March 1858, I have the honor to offer the following remarks upon Act 13 of 1856, and its operation.

2. Previous to the 1st November 1856, the date on which Act 13 of 1856 was brought into effect, the Town of Madras was provided with a Police Code inefficient and utterly inade-

quate to meet the wants and requirements of the people, so scanty, loose and vague were its provisions that the Magistrates were constantly perplexed with difficulties in working it and the result was vexatious actions and appeals to the Supreme Court.

3. Act 13 of 1856, is framed with care and judgment, evidently the result of great experience, and though I think it capable of some amendment and improvement, still this may be a matter purely of opinion and others equally competent with myself to judge in the matter may possibly differ from me.

4. The separation of the Police and Magisterial Departments was ushered in at the commencement of the Act under review.

5. The combination of offices which formerly existed was open to many and grave objections, not the least of which was what would at first sight appear a perfect anomaly. I allude to the triune junction of the executive, the ministerial and the judicial functions of the Magistrate.

6. Upon the commission of an offence it was his duty imprimis ; to track and apprehend the offender, next to hold the preliminary ministerial enquiry, and thirdly (where the case was within his jurisdiction for summary disposal) to try the prisoner or when the crime was of greater magnitude than that cognizable by himself to commit it.

7. This combination of functions elicited many sneers from the legal profession particularly, but while to English ideas the new system would appear the only constitutional and correct one, still, with the material of which an Indian Police is composed, it is open perhaps in many respects to far weightier objections than the one it has superceded.

8. Upon the mind of a casual observer it would be difficult, perhaps impossible, to impress this conviction and I foresee great difficulty in elucidating the particular points why and wherefore I have arrived at this opinion.

9. Could the Madras Commissioner of Police have such a force under his orders as that of London, Liverpool or Dublin, I should not hesitate for a moment in giving the decided preference to the present separation into two departments, but it must be borne in mind that the bulk of his establishment are Asiatics widely different both in practice and principle to Europeans.

10. I have now had ten years' experience in the Police and with deep regret I admit that the great insight I have thus acquired into the character of the Native portion of it has indelibly impressed upon my mind that with few exceptions they are truthless and untrustworthy. The expression of this opinion may be loudly censured, but it is nevertheless true, and I would call attention to the many incentives calculated to call into action the very truthlessness and dishonesty to which I have above alluded.

11. The pay of the Native Police Officer is small, the opportunities of corruption numerous, but upon this head consdering the authorities whose eye this paper will meet it were a work of supererogation for me to dilate upon. I will at once therefore proceed to endeavour to shew by illustration some of the evils attendant upon the new system.

12. Under the old system the Superintendent of Police and his Deputies prepared all the cases of a graver nature for committal to the Supreme Court and the Subordinate Police Officers so necessary in all cases of crime but more especially in this country to the discovery of perpetrators of offences and the obtaining of evidence were entirely under the authority and observation of the Committing Magistrates, and although malpractices might and doubtless did exist, still the facilities opened to them by the new system are very great.

13. I have selected committable cases for examples, but what I shall advance in reference to them applies (though with less magnitude) to those of summary adjudication.

14. Act 13 of 1856, transfers the duty of committing for trial by Her Majesty's Court from the Police to the Magisterial Department. Each Magistrate's Court has attached to it a certain establishment of subordinate Police barely sufficient for the current transaction of the duties, but say (for example) a burglary occurs and jewels to the amount of Rupees 15,000 are stolen. The Commissioner of Police issues his instructions and the case is entrusted to an experienced and clever detective. Property is recovered and parties are apprehended and forwarded to the Magistrate's Court in whose district the robbery may have taken place. Now commences the opportunity for dishonest practices. One man is apprehended and undeniable proof of his guilt available but he is possessed of sufficient means to purchase the connivance of the Police Officer for his escape or a still darker deed is committed.

15. The robbery presents a fitting opportunity for revenge and some person totally innocent of the crime is pointed out by the robbed and for a consideration the Police Officers not unfrequently lends himself to the subornation of witnesses to obtain a conviction.

16. Several instances of this sort have come under my own observation and with the narration of one serious illustration I shall close this part of my paper. It was the very last case before me and though I confess one of the most grave in my experience, still being the last it cannot be said that I have gone far back to obtain argument in favor of my opinion.

17. A young man was found with his throat cut in a well in Triplicane. The case was forwarded to me from the Commissioner's Office. I entered upon its investigation. It was one solely supported by circumstantial evidence. Eight days had the investigation gone on and I confess the conviction upon my mind was at the close of the 8th day that the parties before me charged with the murder were guilty but that the wickedly common practice of Native Police had been had recourse to, viz. that of proving the guilt of suspected parties by subborned evidence. A circumstance however occurred on the 9th day which though purely accidental in itself led to the unravelling of what I feel convinced is a deliberate conspiracy on the part of the Police.

18. A gentleman appeared on the 9th day to sign his deposition, and while it was preparing, he spoke to me upon the case observing it was a curious circumstance the purchasing of certain cloths and sovereigns the evening before the supposed murder took place. I replied he must be in error as I had heard nothing on the subject. He spoke also of a prisoner on bail, of this also I was in total ignorance. The Police Officer who had principal charge of the case was known to me. I had long considered him a worthless character. I was therefore the more ready upon the clue just furnished to suspect deception. Immediately upon the departure of the witness I sent for the Talliar Naick and asked him abruptly where the prisoner was who was out upon bail, where were the purchased cloths and sovereigns ? He became confused and asked if he should produce them. I will not lengthen (though I might) the details of this dark transaction. Suffice it to say a prisoner, property and letters had been sedulously concealed tending to alter entirely the whole features of the case and each following hour (and the investigation took 68 hours,) disclosed a tissue of systematic attempt to stamp guilt upon innocence.

19. It may be asked what connection this can possibly have with the separation of the two departments of Police. I confess I almost despair of shewing, but I account for the facility for deception under the present system in several ways.

20. Firstly the Police are not under the authority of those Officers who have the disposal of the most serious offences involving as a sequiter the heaviest punishments.

21. To escape from the severest penalties of the Law the largest consideration would be given. Hence then offers the richest harvest to the Police who not being under the control and perhaps unknown in character to the Committing Magistrate, gain boldness before him which they would not dare to venture upon under other circumstances.

22. The body of the Police is large and it is impossible for the Magistrate to be intimately acquainted with the characters of those not attached to his own Court even should he obtain a slight insight into that of those placed temporarily under him. Whatever may be the cause, however, of this I am certain that corruption for the purposes I have mentioned above is far more frequent within the last two years than it formerly was.

23. It must be well known to the Right Honorable the Governor in Council how almost entirely a Committing Magistrate must be at the mercy of his subordinates in what is called the "getting up of cases" for committal in this country particularly. The very habits, mode of life and peculiarities of the people throw so many difficulties in the way of European enquiry that Native Agents are indispensable.

24. The advantage of one using these Agents making his own selection must be palpable, for he knowing the Agent and the Agent him, would tend greatly to discourage corruption but as I have stated above where the case is widely different the Magistrate is helpless.

25. Previous to the 1st November 1856, the commencement of the new Police Code, there were two Police Offices and five Magistrates available for the trial of all cases brought before them.

26. The committal of prisoners for trial at the Supreme Court as well as the disposal of charges under the Abkarry Act is now transferred from the Police to theMagisterial department. This added to the recent Railway, Municipal, Wheel Tax, Arms and other Acts lately passed have tended greatly to increase the number and importance of cases for daily adjudication.

27. Three Courts are now open instead of two but in place of 5 Magistrates competent to sit on the Bench, there are only three, one to each Court!

28. This necessitates incessant duty without one relief or any provision for sickness or occasional absence. I do not pretend to urge that the Magistrates are at all times worked beyond any other officials in Madras but at times the business is pressing and harassing in the extreme, particularly if cases of any importance come in when the Sessions are close at hand as occurred this month to myself, and the night before they opened the whole of my establishment and myself remained in Office until nearly 11 o'clock. I mention this not to draw a case of extreme hardship but to shew the imperative necessity of an increase to the Magistrate's department.

29. The work of a Magistrate both judicial and ministerial is dissimilar to the employment of many other servants of Government. It can neither be hurried in any way or performed without due attention to form and the invariable presence of the Magistrate himself.

30. I have thus endeavoured to shew the defects attendant upon the recent separation of the Magisterial and Police Departments and in doing so I am aware that I lay myself open to the accusation of presumption after the decided opinion offered by the late Chief Magistrate Mr. Elliot, but the Right Honorable the Governor in Council will kindly bear in mind that his opinion was purely theoretical. Mine is based upon the experience of 18 months and I freely admit that could the obstacles I have alluded to be met and overcome I have no hesitation in saying that I consider the separation highly desirable.

31. The practice now obtaining at the several Magistrates' Courts is the daily attendance of a Deputy Commissioner or Inspector for the purpose of entering the charges in the Magistrate's case book. This I know was not contemplated by Mr. Elliot and though the discontinuance would entail some trifling extra work upon the Magistrate, still I deem it highly advisable it should be carried into effect. My reasons for this opinion are several but the one which will perhaps be the more readily understood is that when the "night sheet" is heavy the preliminary investigation is hurried and the Magistrate often finds at the conclusion of a trial that there is evidence to support a charge of a graver nature than that upon which the prisoner is arraigned or "vice versâ," thereby causing much trouble and difficulty more especially as the alteration of the charges once entered should be avoided as much as possible.

32. This combined with other objections induces me to suggest that the Government should direct that in future the "night sheet reports" be simply forwarded to the Magistrate's Court and the attendance of any Officer for the purpose of preliminary enquiry be dispensed with.

33. I cannot close this letter without offering a few remarks upon some of the Sections of the New Police Code as they now stand and venturing one or two suggestions in improvement.

34. Sections 17, 18 and 19 were in my opinion urgently called for and are I believe duly appreciated as a boon by the Subordinate establishment.

35. Clause 2, Section 26 provides for the punishment of juvenile offenders by stripes to the extent of 10 with a light rattan or cane, but the offence must be of a nature in which "imprisonment" is awarded.

36. I would not fetter the Magistrate in the punishment of boys by the word "imprisonment" as my experience suggests that the commission of many tricks which boys are convicted of might be judiciously punished by stripes.

37. Section 44 is one of great value and would I think be perfect were the same discretionary power vested in the Magistrate with regard to it as in Section 37. I allude to the power to award part of any fine levied in compensation for injury.

38. Section 81, Clause 1 provides punishment for rash and negligent driving. To this Section I would suggest the addition of a penalty to the owners or drivers of common carts or trucks leaving the side of the roads, as there being no restriction at present, much danger to the public and destruction to the roads is the consequence. It is true each cart pays a yearly tax of Rupees three, but this does not in many cases cover the amount of damage done in a week.

Fort St. George, Judicial Consultation, 27th July 1858.

39. Previous to the introduction of Act 13 of 1856, the Magistrates were in the habit of levying a fine of 8 annas upon each cart moving in the centre of the road, but the old regulation was so loosely framed that it might possibly be defended in case of action, not so under the present Code.

40. Section 82 provides a fine not exceeding 20 Rupees or imprisonment not exceeding 14 days for violent or indecent behaviour in any Police "Office" &c.

41. If this Section intended to vest in the Magistrate the penalties therein enacted for what is termed "Contempt of Court" and the punishment of indecent and improper behaviour before the bench (urgently demanded) I respectfully submit it is insufficient inasmuch as the Magistrate's place of trial has now become a "Court" instead of an office and the meaning of the Section being argued a short time since in the Supreme Court was deemed very questionable and thinking it highly desirable that it should be most plainly and unmistakably defined I have ventured to bring it under consideration.

42. Section 98 provides for the production by warrant of witnesses refusing (without reasonable excuse) to obey a Summons, due proof being given upon oath of the service of such Summons, but the person so summoned must be "within the jurisdiction of the Magistrate." Act 17 of 1856, provides for the execution of criminal process in places *out* of the jurisdiction of the authority issuing the same, but does not extend the power as in Section 98 of Act 13 of 1856, of bringing up by warrant an unwilling witness.

43. This power is much needed and I will exemplify its necessity by the narration of what occurred in my own experience a short time since.

44. In a serious case of embezzling stamps from the Court of Sudr and Fouzdaree Adawlut a witness from Calicut was required. On the 11th of December I forwarded my Summons to the Magistrate of the District for endorsement and service. The man summoned refused to come. I referred the matter to the Company's Solicitor asking if I had power under the two Sections quoted above to issue a warrant. He replied that I had not. I wrote again to the Magistrate endeavouring to procure the attendance of the witness but with no effect and eventually I risked the issuing of a warrant and the witness appeared but upwards of 3 months delay was occasioned.

45. Section 100 enacts that whoever commits perjury in any judicial proceeding before a Magistrate may be committed by such Magistrate for trial before Her Majesty's Supreme Court of Judicature. With regard to perjury in the first place the difficulty of proof is well known. That part of the oath upon which the perjury is assigned must be material to the matter then under the consideration of the Court and moreover the crime of perjury with Natives is so extremely common that it would be utterly impossible for any Magistrate in India to find time for the committal of every case, and I cannot but think that some power of inflicting summary punishment for false evidence vested in the Magistrate would be extremely useful and tend to diminish the crime.

46. Section 103 I find of the very greatest service. The preferring of charges upon insufficient grounds to gratify the feelings of malice and revenge is an occurrence among Natives extremely frequent and often resorted to by those in easy circumstances against the poorer class and this Section I have no hesitation in saying is as valuable as any in the Code; but I consider it would be materially improved were the punishment extended to those aiding or abetting the preferring of such charges as many instances have occurred in which several persons have come forward with their testimony to assist the designs of the prosecutor; but Section 103 empowering punishment to the latter only, those who have been equally culpable with the principal have escaped.

47. Section 111 provides that no conviction, order or judgment of any Magistrate or in Bombay of the Court of Petty Sessions shall be quashed for error of form or procedure but only on the merits.

48. I would respectfully submit the necessity of the following slight addition to this Section and that it should be worded somewhat as follows.

49. "No warrant of commitment, conviction, order or judgment of any Magistrate or in Bombay of the Court of Petty Sessions shall be quashed for error of form or procedure but only on the merits."

50. I would ask for the insertion of the words "warrant of commitment" because a writ of Habeas Corpus was a short time since moved for in the Supreme Court of Judicature upon the plea of an informality in the warrant of commitment.

51. After much argument however the Chief Justice permitted an "amended commitment" to be put in and discharged the rule: but another Judge might not be equally considerate and the amendment I propose would obviate the possibility of any unpleasant consequences in such cases.

52. In conclusion I trust, however much the Right Honorable the Governor in Council may possibly differ, either partially, or in toto with the remarks I have here the honor to submit, credit may be given me for having put them forward with unflinching integrity in the earnest hope of conferring a public benefit and at the same time discharging a conscientious duty.

No. 9. To the Secretary to the Government of India; dated Fort St. George, 21st July 1858, No. 985.

SIR,

1. In reply to Mr. Under Secretary Chapman's letter of 24th February last, No. 331, I am directed by the Right Honorable the Governor in Council, to forward, for the information of the Government of India, the accompanying copy of the letters, noted in the margin, from the Commissioner and Magistrates of Police at Madras, reporting, in reference to the Despatch from the Honorable the Court of Directors, on the working, at Madras, of the Police Act No. XIII of 1856.

From Commissioner of Police, dated 1st June 1858, No. 61
,, Magistrate of 1st District, ,, 31st May ,, ,, 31
,, do. 2nd do. ,, 1st June ,, ,, 2
,, do. 3rd do. ,, 26th April ,, ,, 6

2. The Government I am instructed to state are not prepared, as recommended by these Officers, to advise that cases be committed to Her Majesty's Supreme Court by the Commissioner and his Deputies; but many of the other suggestions offered by them may deserve consideration in the event of legislation being resorted to for the improvement of the Act.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

6. Upon the commission of an offence it was his duty in primis:- to track and apprehend the offender, next to hold the preliminary ministerial enquiry, and thirdly (where the case was within his jurisdiction for summary disposal) to try the Prisoner or when the crime was of greater magnitude than that cognizable by himself to commit it.

7. This combination of functions elicited many sneers from the legal profession particularly, but while to English ideas the new system would appear the only constitutional and correct one, still, with the material of which an Indian Police is composed, it is open perhaps in many respects to far weightier objections than the one it has superceded.

8. Upon the mind of a casual observer it would be difficult, perhaps impossible to impress this conviction and I foresee great difficulty in elucidating the

the particular points why and wherefore I have arrived at this opinion.

9. Could the Madras Commissioner of Police have such a force under his orders as that of London, Liverpool or Dublin I should not hesitate for a moment in giving the decided preference to the present sepera= =tion into two departments, but it must be borne in mind that the bulk of his establish= =ment are Asiatics widely different both in practice and principle to Europeans.

10. I have now had ten years ex= =perience in the Police and with deep regret I admit that the great insight I have thus acquired into the character of the Native portion of it has indelibly impressed upon my mind that with few exceptions they are truthless and untrustworthy. The expression of this opinion may be loudly — censured but it is nevertheless true and I would

would call attention to the many incentives — calculated to call into action the very truth= =lessness and dishonesty to which I have — above alluded.

11. The pay of the Native Police Officer is small, the opportunities of corruption numerous but upon this head considering the Authorities whose eye this paper will meet it were a work of supererogation for me to dilate upon. I will at once therefore pro= =ceed to endeavour to shew by illustration some of the evils attendent upon the new system.

12. Under the old system the — Superintendent of Police and his Deputies prepared all the Cases of a graver nature for committal to the Supreme Court and the Subordinate Police Officers so necessary in all cases of crime but more especially in this Country to the discovery of perpetrators of offences and the obtaining of evidence were entirely under the authority and —

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13. I have selected Committable Cases for examples but what I shall advance in reference to them applies though with less magnitude to those of Summary " adjudication.

14. Act 13 of 1856 transfers the duty of committing for trial by Her Majesty's Court from the Police to the Magisterial " Department. Each Magistrate's Court has attached to it a certain establishment of subordinate Police barely sufficient for the current transaction of the duties, but say (for example) a Burglary occurs and Jewels to the amount of Rupees 15,000 are stolen. The Commissioner of Police issues his instructions and the case is entrusted to an experienced and clever detective. Property is recovered and parties are apprehended and forwarded

to

to the Magistrates' Court in whose district the robbery may have taken place. Now " commences the opportunity for dishonest " practices. One man is apprehended and un- deniable proof of his guilt available but he is possessed of sufficient means to purchase the connivance of the Police Officer for his escape or a still darker deed is committed.

15. The robbery presents a fitting opportunity for revenge and some person " totally innocent of the crime is pointed out by the robbed and for a consideration the Police Officer not unfrequently lends himself to the subornation of witnesses to obtain a conviction.

16. Several instances of this sort have come under my own observation and " with the narration of one serious illustration I shall close this part of my paper. It was the very last case before me and though I confess one of the most grave in my experience still being the last it cannot

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was

C 30th March 1858
No 21822

In 24 to Cons. 27th July
Judicial - 1858 - / Sept.

From

Lt Col H. Colbeck
Senior Mag. of Police

To

T. Pycroft Esqre.
Chief Sec. to Govt.
Fort St. George

Dated 26 } April 1858
Rec. 26 }

No 6.

No 745.

Containing remarks
upon the operation of
Act 13 of 1856.

C 10 June
R 31
C 3 July
28

whereby the Dep^{t} were enabled
to make requisite. as to their
offices. but it would have
required a good deal of
work - & such assistance at the
Office would not be
given as here. I imagine
at least I know what
Mr Ed^{d} Elliot thought
about it.

I think there is some reason
in the proposal for which

ask you that Commissioners
might be sent up direct
by the Commiss^{rs} in the Dept.
but it is doubtful whether
any change in the law
will at present be made.

I do not know of any opinion
is required by Govt in forwarding
these reports - I have supposed
Opinions none which legislation
would follow.

H

Memo.

In their Despatch of the 6 January last the Court of Directors [P 13] desired that when the Police Act No XIII. of 1856 had had a sufficient trial, they might be informed how far its operation had proved successful -

Reports were in consequence called for - 25 March 1858 - from the Commissioner and Inspectors of Police for Madras. These have been furnished and an abstract of which has been made giving briefly the several points noticed -

There is but little that needs remark - The general opinion appears to

It would be an advantage to allow the Supt of Pol. to award Canes direct to the Cook of the Grown & Free by Inspection but on the Cautionary Rule, Chief & Asst. Surgeon but should not give the Police Power to dispose of, except Summarily

I fully agree in all that is said abt the relation between Native Clerks & the Police fully calls for legislative interference. Where however to draw the line after the first. We

why should it be restricted as to fine & Light charges

to that the Act has worked well and is a great improvement on the old Police Regulations - Doubt is however expressed whether the complete separation of Police and Judicial functions to divide - that is whether the Commissioners of Police and his Deputies might not as heretofore investigate and send up to the Supreme Court committal cases -

Sundry minor amendments are suggested in the various provisions of the Act which if it should be passed our office might deem desirable but are not of sufficient importance to warrant additional legislation now -

The want of a fourth Magistrate is doubtless - and of a Law for Madras

and Servant - The attainment of this latter as the decided opinion which has been from time to time expressed by the Leg Council appears quite hopeless.

The reports on Madras will have to go to the Supreme Govt - who have to forward the Honorable Court with information as to the success of the Act in the three Presidencies -

JP

Col Colebrook — 26 April 1858.

Act XIII. 1856. a peal improvement on previous Police Code.

5 : 5 — 11 — objects to the separation of the Police & Magisterial Depts.

12 — 30 — points out what, in his opinion, is the objection to this separation and gives illustrations —

Three Magistrates required —

31 — 32 Thinks that he daily attends at the Magistrates Office of a Deputy Commissioner Inspector for the purpose of entering

the Magistrates can book should he discontinued — and the Police shall report he shall apply simply without any Police Officer —

34. — Sections XVII XVIII. XIX of the Act — relative to Police Superannuation fund — must be repealed.

35 — 36 — would not limit the power of the Magistrate under S XXVI. C 2 — to inflict corporal punishment on Juvenile Offenders — desires cases in which imprisonment is awardable

a Taking or enticing away 37 — Sect 44 of great value — but Magistrate should have the same power as he has under Sect 37

Col: Colbeck.

to amend part of sec: relative to compensation for injury

38 & 39 bound a&d to see 4XXXI Cl 1 - rash & negligent driving - penalty on owners & drivers of carts and trucks for leaving sides of roads - tax paid by each cart in a year not sufficient to cover damage done to roads in a week.

40 & 41 If sec: 4XXXII, - punishment for indecent &c behaviour in Police office &c, - include "contempt of Court", considers the penalty insufficient & thinks this should be explained & enunciatakally stated.

42 - 44 Notices that Act XVII of 1856 about execution of criminal processes out of jurisdiction of authority issuing the same does not extend to sec: XCVIII of Police Act whereby attendance of witness may be enforced by warrant if without reason much needed: - illustration

45 suggests - (sec: C committal for perjury) that Magistrates should be empowered to inflict summary punishment for false evidence, which would be extreme useful & tend to diminish the crime of perjury.

46 sec: CIII - amends for false charges - of the very greatest service & considers that it would be materially improved if extended to persons aiding and abetting.

47 - 57 proposes the insertion of the words "warrant of commitment" in sec: CXI which provides for convictions &c being quashed on merits only: - illustrates necessity of this amendment.

Mr Dalrymple - 7th June 58

2 Present code, as a whole, excellent & well adapted for the purposes intended, but experience has shewn modifications necessary.

3 - 10 Separation of Police from Magistracy no doubt correct in principle, and in this country open to objection. This decided by the case in generality of committable cases, because 1st the evidence is given thro' an interpreter & 2d the witnesses for the prosecution undergo no fewer than 4 examinations: - is of opinion that Court & this Deputies, Justices of the Peace, ought, as formerly, to commit for trial at the sessions persons charged with offences beyond the summary jurisdiction of Magistrates; and accordingly proposes an addition to sec: VI: - points out that there are before 5 Magistrates & 2 courts, but now 3 Magistrates with greatly extended summary jurisdiction and 3 courts: - the consequence of this, the greatest handicap entailed on all parties by delay in hearing the cases.

11 - 13 suggests infliction of corporal punishment on males in case of embezzlement &c under sec: XXVIII.

14 as also on accessaries under sec: XXIX.

15 recommends extension of provisions of sec: XLIII - maintenance of wives and children - & aged parents unable to maintain themselves.

16 would add, "or any article or substance &c" to sec: 4XXXI Cl 9 respecting obstruction of roads &c

Mr Dalrymple	17	would extend sec: XXXII & property stolen belonging to ship-passengers or importers or exporters of merchandize &c
	18-19	points out omission of any provision in the act in regard to master & steward and shews necessity for some one to protect them.
Major Wilson. 31st May/58		Exhibits the working of the Police act by the institution of a comparison between the number of cases brought up by the Police (night cases) in 1855 & 1857, which shews an excess in the latter year: attributes this to an increase to the Police force.
	1-5.	
	6-9	Notices repeal of the old regulations regarding Masters and servants & drivers of vehicles keeping on the public side of the road; ~~and~~ questions, in regard to the former, whether the condition & character of servants ~~of the~~ in England & this place are such as to render this change desirable: & with regard to the latter suggests an addition to Cl: 1 Sec 4 XXXI.
	11-18	points out the difference in respect to the disposal of night cases formerly and at present, and recommends the adoption of the old system; which gives places the inferior officers of Police more frequently under the immediate surveillance of the Court: this Deputies & contributes to the convenience of the Community.
	19	observes that the number of Larcenies Murders & Heinous offences in 1857 was much the same as in 1855.
	20-22	the number of summons cases in 1857 exceeded those in 1855 by 1035: suggests the propriety of charging a small fee for each summons as in former years, the Magistrate having discretion to issue them gratis; or if this be deemed ~~objectionable~~ objectionable that the Magistrate be empowered to order the costs of summons to be repaid to Govt. by one or other of the parties on the termination of the trial. accounts for this increase
Major Wilson	23	invites attention to clauses 116 & 117 of the Municipal Act empowering the Commissioners with the sanction of the Local Govt to frame Bye-laws prescribing penalties for certain trivial offences & suggests that some such provision might be advantageously added to the Police act.
Col: Boulderson 1st June/58.	1 & 3	As far as the purposes of the Police are concerned the code is useful and valuable, although considerable difficulty is still felt in carrying out its several provisions more especially as regards the division of labor between the Police & Magistracy.
	4 & 5	Notices the increase made to, and the constitution of the Police.
	6	remarks that under the old system the investigation and committal of all serious cases formed the special duty of the Supt. & his Deputies; but since the introduction of the new code they have been divested of this power, but whether with advantage to the public or not is very questionable.
	7-8	Superannuation Fund has added much to the respectability of the force. It is likely to have a beneficial effect on the men. - present state of fund.
	9-11	Powers of punishment given the Commissioners considered sufficient for the maintenance of discipline; Magistrates should prefer specific charge against Police officers & cases

Col: Bouldenson

Public laid before another Magistrate for disposal.

12 Considers it necessary that the Mounted portion of the Force should be required to give 6 months' notice of intention to leave under Sec XV.

13-14 thinks it expedient that the words from legal custody should be added to Sec: XXXIX with a view to render escapes from custody of Police officer punishable by a Magistrate, & some provision made for protection of Safe guards against assaults by prisoners.

15-16 suggests that Secs 4, 41, should be so worded as to include the consuming of Ganja otherwise than by smoking only; & notices that in few of the arrack and toddy shops is the liquor sold by the person who takes out the license.

17 Sec: 4XXV relative to false weights and measures has been found very useful.

18-20 so also has Sec XXXI respecting common offences in public streets, but suggests that the expression in Cl3 "without a light" should be changed into "without sufficient light" & that Cl: 9, 10 & 11 should be so modified as to include all obstructions to a road &c.

21 Sec: CXIII about property of intestate property a useful provision.

22 Sec: CXV - stray animals - has been found to work well - amount of fines &c recovered Rs 1474-6-10.

suggests the introduction of a regulation restricting,

23 the sale of fresh meat & fish to

Col: Bouldenson.

market places.

24 the sale of Cow-toms &c in houses at unusual hours of the night, by modifying Sec: 4XXXI Cl 12.

25 Notices confusion occasioned by the absence of any restriction on drivers taking proper sides of the road; and

26 the danger consequent on long logs of wood being convey on two wheeled carts; suggests remedy.

27 observes that the Police Court at Vepery is a great convenience & would be more so if it were opened daily which may be done by the appointment of a 4th Magistrate.

* to conveyances

Dispd. 22d

Judicial Department

No 985

To the Secretary to the Government of India

Sir,

1. In reply to Mr Under-Secretary Chapman's letter of 24th Feby last No 331, I am directed by the Right Honble the Governor in Council, to forward, for the information of the Government of India, the accompanying copy of the letters, noted in the margin, received from the Commissioner and Magistrates of Police at Madras, reporting, in reference to the Despatch from the Honble the Court of Directors, on the working, at Madras, of the Police Act No XIII of 1856. I am instructed to state

2. The Government are not prepared, as recommended by those officers, to advise that cases be committed to the Supreme Court by the Commissioner or his Deputies; but many of the

From Commissioner of Police dated 1st June/58 No 61.
" Magistrate of 1st District dated 31st May/58 No 81.
" -do- 2d District dated 1st June/58 No 2.
" -do- 3d District dated 26th April/58 No 6.

other
suggestions offered by them may
deserve consideration in the event
of legislation being resorted to for
the improvement of the Act.

Fort St Geo[illegible]
21st July 1858

In D4. to Cons. 27 July
Judicial 1858 Departt.

No. 905.

To The Secretary to the
Government of
India &c

dated 21 July 1858.

5 Enc.