M.R.O. 1—29,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 845 846 Press ~~Mis.~~

6-8

Dated 20-6- ~~19~~ 1859

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, from 18th to 24th June 1859.

Read the following papers.

No. 6. From H. FORBES, Esq., Member for Madras of the Legislative Council; to T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, dated Fort William, the 19th May 1859.

I have had the honor to receive your letter of the 6th Instant, No. 632, with its enclosure, informing me that it is the unanimous intention of the Madras Government that the local Superintendent of Police about to be appointed should be entirely under the orders of the Magistrates, and that the functions of the Inspector General should be confined to the organization of the establishment, and to maintaining it in a state of efficiency by a proper attention to discipline, promotion, and other details of management. You further inform me that the primary object of the proposed system is to place an improved instrument for the prevention and detection of crime at the disposal of the Magistrate, and that, among other incidental advantages which will be obtained by the proposed measure, will be the superior protection that will be afforded to the people from the exactions of Native subordinates and depredations of thieves and robbers.

2. The views expressed in your letter are confirmed and strengthened in the Minute recorded by the Honorable Mr. Morehead, in which it is said that the Magistrate is to be all powerful in his District, the Police force being placed at his disposal to enable him to exercise full authority in all that respects the general welfare and peace of his District.

4th May 1859.

3. I hope that, without being charged with presumption, I may be allowed to say how gratifying it is to me to find that my own views and opinions so entirely coincide with those which are now expressed by Government.

4. On examining the Bill now before the Legislative Council in connection with your present letter, in order that I might judge whether it would require any alteration, I have been glad to find that very little is necessary. There is however one point on which, although the very decided tone of the views of Government as expressed in your letter under reply apparently leaves no room for doubt, I wish to have placed beyond the possibility of misapprehension, as it involves one of the main principles of the Police Bill as drafted by Mr. Robinson, and a point for which he strenuously contended during his late visit to Calcutta.

5. I refer to that part of the preamble of the Bill which states that "it is expedient to separate throughout the Madras Presidency the Judicial functions of the Magistrate from duties relating to matters of Executive Police," and it appears to me, and to other Members of the Council whom I have consulted, that this declaration is so wholly inconsistent with the views now expressed by Government that it must be their intention that the preamble shall undergo such alteration as shall exclude from it this declaration.

Para. 4

Para. 5

Minute by the Honorable W. A. Morehead.

6. If the Superintendents of Police are to be "entirely under the orders of the Magistrate," if the "primary object of the plan is to place an improved instrument for the prevention and detection of crime at the disposal of the Magistrate," and if "the Magistrate is to be all powerful in his District, the Police force being placed at his disposal to enable him to exercise full authority in all that respects the peace of his District," it appears necessarily to follow that the Magistrate shall still be an Executive Officer, and if

Part. 4, Clause 2.

the functions of the Inspector General are to be confined "to the organization of the establishment, and to maintaining it in a state of efficiency by a proper attention to promotion, discipline, and other details of management," it appears also to follow that neither he nor his subordinates are to exercise those Executive functions which have been hitherto vested in the Magistrate.

7. If I am correct in assuming that the Government intend that the alteration to which I have referred should be made in the preamble of the Bill, some little alteration will be also needed in the Schedule of repealed Law. Section IX of Regulation IX of 1816, which declares it to be the duty of the Magistrates to apprehend murderers, robbers, thieves, and persons charged with crimes and misdemeanors, should still remain in force, the new Police being of course the instrument with which the Magistrate will act. In like manner the sixth head of Section III

of Regulation XI of 1816, now entered for repeal with all the other heads of that Section, should remain, and the word Magistrate should not be removed, as is now proposed in the Schedule from Section IV of Act III of 1857.

8. The Government will observe from what I have said above that I gather it to be their desire that all Executive functions of Police should be removed from the Tahsildars and other Native Officials, and remain solely with the European Magistrates.

9. If I am unnecessarily troubling the Government on a question which is sufficiently plain already, I would beg to be allowed to apologize, and to offer as my excuse the earnest desire which I have that no room for any misapprehension should arise on a point of so great importance, and on a question which has already so much divided opinion.

No. 7. From W. ROBINSON, Esq., Chief Commissioner of Mofussil Police; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 25th May 1859, No. 20.

I have the honor to remark that through an oversight it has been omitted to include in the Schedule of Laws to be repealed by the General Police Act so much of Section VII of Regulation VI of 1831 as relates to Village Police Officers. I beg that the Legislative Member may be moved to have it inserted in Committee.

Received the 20th Instant. With reference to your letter to the Legislative Member under date 6th Instant, I beg to suggest that he may be requested to transmit the Draft as proposed to be brought in for the 3rd reading.

No. 8. MINUTE by the HONORABLE W. ELLIOT, dated June 1859.

It appears to me that the mistake in the proposed alterations is that of vesting the Magistrates with Executive control.

I have always understood the value of the present scheme to consist in the circumstance of relieving the Collector and Magistrate of all direct Executive responsibility whilst he retained the fullest administrative control.

Hitherto there has been *no* Police, simply because the Collector and Magistrate had not time to attend to the minute details required for the supervision of a preventive and detective Police. The only good Mofussil Police Officers I have known were the worst Collectors, in attending to their Police they necessarily neglected their Revenue duties, simply because human powers are limited and one man could not discharge the functions of two offices, each of which demanded the whole time and attention of the Officer in charge of it.

The admission we made in favor of the Magistrate's control is by this draught to be stretched too far and this I think will defeat the main object and principle of the Bill which was to vest the administration of the Police in a separate body of men under the direct management of their own Officers, but subject to the general supervision and direction of the Magistrate. As the working of the Bill will be under the Government which is so much interested in the success of the Bill, I think our hands should not be too much tied, but that we should be allowed scope to carry out the working of details.

No. 9. ORDER THEREON, 20th June 1859, No. 845.

Ordered that the following letter be despatched.

(Signed) T. PYCROFT,
Chief Secretary.

No. 10. To H. FORBES, Esq., Member for Madras of the Legislative Council of India, dated Fort Saint George, 20th June 1859, No. 846.

I am directed by the Honorable the Governor in Council to acknowledge the receipt of your letter of the 19th Ultimo, relative to the alterations which, in your opinion, are required

Proceedings of the Madras Government, Judicial Department, from 18th to 24th June 1859.

in the preamble and certain parts of the Madras Police Bill, under the communication made to you on the 6th Idem.

2. The preamble may, it appears to this Government, properly run as follows:—

"Whereas it is expedient to make the Police force, throughout the Madras Presidency, a more efficient instrument, at the disposal of the Magistrate, for the prevention and detection of crime, and to re-organize the Police force, and improve the condition of the Village Police, It is enacted, &c."

3. With respect to the Schedule of Laws to be repealed, the Government agree with you, that Section IX of Regulation IX of 1816, which declares it to be the duty of the Magistrates "to apprehend murderers, robbers, thieves and persons charged with crimes and misdemeanors," should still remain in force. The Magistrates will of course in all such matters act through the new Police, by whom all Processes, Warrants, &c., will be executed.

4. There seems however no need to retain the 6th head of Section III, Regulation XI of 1816. The duties of the Magistrate will have been sufficiently defined by Section IX, Regulation IX, 1816, and the functions discharged by Police Darogahs and Tanahdars before the passing of Regulation XI, 1816, and which by it were transferred to, among others, Magistrates of Zillahs and their Assistants, are hardly such as they will have to perform under a reformed system and better organized Police. The word Magistrate will remain as at present in Section IV, Act III, 1857.

5. I have further to avail myself of this opportunity to point out to you, that so much of Section VII, Regulation VI of 1831 as relates to Village Police Officers, should be repealed. It seems to have been omitted from the rescinding Schedules by an oversight. The effect of the provision, as it respects those Officers, is to place them under the immediate authority and control of the *Collectors* of their Districts, which of course is no longer required.

6. It will be proper, lastly, that you should bear in mind in the future discussions on this Bill, that while it is proposed to vest in the Local Magistrates the most ample powers of control (save in matters of drill, discipline, &c.,) over the District Superintendents and their establishments, it is yet meant, that such supervision shall be of a general character, that the Superintendents shall as far as possible be left to provide for the prevention and detection of crime in their Districts, by means of the Police force under their orders, the Magistrate exercising a general control, and interfering more immediately, only on occasions when he may deem his intervention really necessary. The relation of the Superintendent to the Magistrate, his superior, and the paramount authority in the District, cannot be easily defined in words, in all its bearings, but its general purport is as above indicated. The real working of the revised system can only be clearly seen and appreciated after it shall have been brought into actual operation, and it will be the duty of this Government carefully to watch the introduction of the improved Police and to check at once any departure from the principles upon which it is based.

(Signed) T. PYCROFT,
Chief Secretary.

Lxd. F. Cartledge.

Judicial Dept.

Memorandum

From Members Legislative Council 27th May 1859.

From Chief Commissioner of Police 25th May "

The Members for the Madras Municipal Bill submit for consideration such alterations in the proposed Madras Police Bill as the Members will be necessary under the distinct exposition of the views of Government conveyed to them in their letter of the 6th instant. These alterations will not be many.

2. The reasons given at large in their letter Para 5, the Members that the Preamble of the Bill should undergo such alterations as shall

I have suggested the insertion in the Preamble of our own declaration of the object of the Bill which has been acquiesced in by the Legislative Council

Whilst we [illegible] that the preamble [illegible] the principle of the Bill, viz the separation of the Judicial & Executive functions of the Magistracy, [illegible] the Executive functions at present exercised [illegible]

[illegible] the Executive [illegible] to separate the Police [illegible] by a principle [illegible] offences [illegible] Para 13 [illegible]

Jas Adl

shall exclude from it the declaration that it is expedient to separate through the Madras Presidency the judicial functions of the Magistrates from duties relating to matters of Executive Police".—

3.— He would also omit from the Schedule of Laws to be repealed Section IX Reg. IX — 1816 which declares it to be the duty of the Magistrates to apprehend murderers, robbers, thieves, and persons charged with crimes and misdemeanors — as this section must still remain in force the new Police being of course the instrument with which the Magistrates will act. In like manner the sixth head of Section III of Reg.

This seems right W

Act relating to trespasses by Cattle.—

especially a local detail to be under the future charge of the Police when [illegible]

[illegible] Magistrates

[illegible] Magistrates of Zillahs and their Assistants.—

6

Regulation XI of 1816 now entered for repeal with all the subsequent Sections) shall be renewed and the word Magistrate should not be removed, as proposed in the Schedule from Section III of Act III of 1835

4.— Instructions are also limited as to whether the Government concurs in the above recommendations it being very important that there should be no misunderstanding on these points.—

5.— I should mention that Mr Robinson to whom I have shown Mr Forbes's letter, considers that the sixth head of Sec III Reg. XI of 1816 should

Police

The Magistrates and authorized Assistants, acting under the superintendence of the Magistrate, must exercise control over the Police of their respective Districts, but it will be the duty of this Government to see that none but able responsible Persons are appointed to such situations.
M

+ This involves the whole question. W

The Asst. Joint Magistr. when in separate charge of distinct portions of the district must equally with the Magistrate issue (superintendence of) orders to the Police in all matters connected with the peace of the district. The Police & the Magistracy are to work together the Magistracy directing where occasion calls for it & the Police acting. The Police must implicitly obey such directions subject only to the general supervision of the [illegible] of the Force –
W.W.

should not wholly remain in force – that it should continue only as respects the Magistrates themselves, not as respects their Assistants – that is, that the Police should be under the former and not under the latter – But I do not see how this is possible – If the Magistrates of Zillahs are to remain Executive Police Officers, their Assistants (Joint Magistrate – Head Asstt. and Asstt. Magistrate) must be executive+ Police Officers too – and must, subject to the orders of the Magistrate, have such power over the police as is necessary for their duly discharging their functions –

This is obviously right
M
W
W.W.

6. – Mr. Robinson in a letter which I circulate has also suggested that so much of Sec. VII Reg. VI of 1831 as relates to Village Police Officers may be rescinded. Its omission from the Schedule of Laws to be repealed was he states a mistake. —

The suggestion seems a proper one. The purport of the provision in question is to place village police officers under the immediate authority and control of the Collectors of their Districts, which of course is no longer intended. —

7. – Mr. Robinson likewise suggests that Mr. Forbes be requested to

transmit

Subject to this
condition I would ask
for the Draft
as
amended
27 June 59

Wallace called
for the Select
Committee Report
Ill

Amendment the draft as
proposed to be brought
in for the 3rd reading - that
is, as the same was altered
in the Select Committee.
There seems to be no ob-
jection to this if it would
not materially delay
the passing of the bill.

JP

H. Kennedy

H. E. Bell

Memo

Received January 1859

Judicial Department

Proceedings of the Madras Government

Read the following Papers

From the Member for Madras in the Leg: Council of India — Received 19th May 1859. No 862

Chief Commissioner of Mofussil Police — " " 25th " " " 20

Minute by the Honorable Walter Elliot — " " June 1859.

Order thereon 20th June 1859 No 845.

Ordered that the following letter be dispatched

To,

A. Forbes Esqr.
Member for Madras of the
Leg: Council of India

Fort William June 1859

Sir

Encl. to G. O. No. 29: Leg.
No. 31 of 1859.
Public Dept. 28th Jany. 1859.

Rec.d 24th June
Published 1859 Wednesday

No. 845.

Proceedings of Govt.
Public Dept.
dated 21st June 1859.

Encl. to G. O. No. 29: Leg.
No. 31 of 1859.
Public Dept. 28th Jany. 1859.

Sup.d 20. for Sec.

10

Judicial Department.

No. 846.

To,

The Member for Madras of the
Legislative Council.

Sir, I am directed by
the Honorable the Governor
in Council to acknowledge
the receipt of your letter of
the 19th Ultimo, relative to the
alterations which, in your
opinion, are required in the
preamble and certain parts
of the Madras Police Bill,
under the communication
made to you on the 6th
idem.—

2.— The Preamble may,
it appears to this Government
properly run as follows:—

"Whereas it is expedi-
"ent to make the Police Force,
"throughout the Madras
"Presidency a more efficient
"instrument, at the disposal
"of the Magistrate, for the
prevention

"prevention and detection of
"crime - and to reorganize the
"Police Force, and improve the
"condition of the Village Police -
"It is enacted &c &c."

3.— With respect to the Schedule of laws to be re-pealed, the Government agree with you, that Section IX of Regulation IX of 1816, which declares it to be the duty of the Magistrates "to appre-hend Murderers, Robberies, thieves and persons charged with crimes and misde-meanors," should still re-main in force. The Ma-gistrates will of course in all such matters act thro the new Police, by whom all processes, Warrants &c will be executed. There seems however no need to retain the 6th head of Section III. Regulation XI of 1816. The duties of the Magistrate will have been sufficiently defined by Section IX Regula-tion IX - 1816 and the functions discharged by Police Daroghas and Jamadars before the passing of Regulation XI - 1816, and which were trans-ferred to, among others, the Magistrates of Zillahs and their Assistants - are hardly such as they will have to perform under a reformed system and better organ-ized Police. The word Ma-gistrate will remain as at present in Section IV. Act III - 1857.

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5.— I have further to avail myself of this opport-unity to point out to you, that so much of Section VII Regulation VI of 1831 as re-lates to Village Police Officers, should be repealed - It seems to have been omitted from the rescinding Schedules by an oversight. The effect of the provision, as in respects those officers, is to place them under the immediate authority and control of the Collectors

of

of their Districts, which of course is no longer required.—

6. It will be proper, lastly, that you should bear in mind in the future discussions on this bill, that while it is proposed to vest in the Local Magistrates the most ample powers of control & save in matters of drill, discipline &c. over the District Superintendents and their establishments, it is yet meant that such supervision shall be of a general character, that the Superintendents shall as far as possible be left to provide for the ~~[illegible]~~ prevention and detection of Crime in their Districts, by means of the police force under their orders, the Magistrates exercising a general control, and interfering more immediately only on occasions when he may deem his intervention really necessary— The relation of the Superintendent to the Magistrate, his superior, and the paramount authority in the District, cannot be ~~[illegible]~~ duly defined in words, but its general purport is as above indicated. The real working of the revised system can only be clearly seen and appreciated after it shall have been brought into actual operation, and it will be the duty of this Government carefully to watch the introduction of the improved Police and to check at once any departure from the principles upon which it is based.

I have &c.

J. P.

Fort St George,
20 June, 1859.

H. Monro

J. Monro

Judt. Ct. b. Aug? 29. July
St. 31 of 1859.
Rept. to Oct. 29 of 1859.

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10.5.5

Proof Oct. 24 June
Judicial 1859. Oct. 1st

No 846.

To The Members for Madras
of the Leg: Council

9/30 June 59.

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