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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1083 Press ~~Mis.~~

179 - 181

Dated 22.8.1861 ~~19~~

18/19

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
28th August 1861.

Read the following papers :—

No. 179. From W. ROBINSON, Esq., Inspector General of Madras Police ; to the Secretary to Government, Fort Saint George, dated 19th August 1861.

General Department.

I have the honor to report that with reference to Order of Government, dated 29th July, No. 933, I have given my most anxious attention to the Provisions of Act XIII. of 1861. The provisions of which it is proposed to substitute for the Procedure Clauses of Act XXIV. of 1859.

2. I had written on the subject under date 8th March 1861. I still apprehend the same difficulties in suiting the Procedure to the Police as constituted under Act XXIV. of 1859 ; but das I have been unwilling to trust my own judgment alone, I have likewise consulted Mr. Mayne on the subject. I have not been authorized by Government to do so ; but the matter is very important. Mr. Mayne is an adviser of eminence in matters of Criminal and Police Law. He drew the Bill which afterwards became Act XXIV. of 1859, and had before him every paper illustrative of the subject and intention of the Madras Government in the constitution of the Constabulary ; and, lastly, Mr. Mayne has, under circumstances which need not till be stated, peculiar acquaintance with proper Constabulary administration and departmental detail. Mr. Mayne has recorded his opinion, and I would venture to submit it to Government. I can add nothing of value to what Mr. Mayne has placed on record, nor what I wrote under date 8th March 1861.

3. The Member for Madras of the Legislative Council has telegraphed, dated 8th Instant : "I know of no intention to alter the Madras Police Act, excepting that Police Procedure will "form part of the Criminal Procedure Code. For the chapter in the Code regarding Police "Procedure, see Act XIII of this year." The Madras Police Act therefore, stands, except so far as altered by the provisions of the Procedure Code. I have not learnt precisely which are the Sections of Act XXIV. of 1859, which it is proposed shall be modified and treated as Procedure. I have however compared Act V. of 1861, with a view to judging which Sections are likely to be affected. It is scarcely necessary to add that they are the working Sections. That therefore these modifications are of the greatest moment. And I must still repeat my earnest conviction that some of the provisions of Act XIII. of 1861, if enacted for the Madras Police, will have a most detrimental effect on its efficiency and administration.

4. No provision analogous to Section 6 of Act XXIV. of 1859, is met in Act V. of 1861. It may therefore be proposed to treat this Section as no longer required. This Section contains the most important principles as relating to the Madras Constabulary and cannot possibly be dispensed with. The union of Police and Judicial powers and of Police and Revenue authority amongst the lower orders of the Native Service, Tahsildars, &c., hitherto prevailing in this Presidency had been condemned ; and the entire separation was accomplished by this Legislative Provision. If the Section be omitted, the confusion revives. Especially as regard *judicial* powers of the Police, its omission were most unadvisable ; as Act XIII, of 1861 gives, I fear, a most uncertain sound on this vital principle.

It may not be the intention of Act XIII. of 1861 to revive the *quasi*-judicial function of the old Police system ; but its provisions do not make it *absolutely illegal*, as the constitution of the Madras Constabulary requires : and the certain tendency will, I fear, in practice be to abuse the latitude accorded by the Act, if not fully to re-establish the erroneous system recently suppressed. A most fatal retrogression.

5. The provisions of Section 22 of Act XXIV. of 1859, are to be found in several Sections of the Act XIII. of 1861—Clause 3 excepted, an omission to which Mr. Mayne has drawn attention. But here again the provisions of Act XIII. of 1861, are most uncertain ; departmental control is entirely set aside, and powers of Policemen are enlarged to a dangerous and unnecessary

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extent. After their arrest Police Officers are to send the persons before the Magistrate or before the Officer in charge of the Police Station (Section 37); Police Officers are recognized by the Law as "enquiring into" and "taking cognizance of" these offences (Section 42). Every Section of the Procedure clearly contemplates the Police Officer in charge of a Station as a *quasi*-judicial Officer, making or deputing inquiry into cases, issuing Summons to Witnesses and Warrants, search Warrant, &c., examining witnesses, judging as to the sufficiency of the grounds for the inquiry and reporting to the Magistrates (Section 46), reducing *every* or any complaint, however trivial, into writing, and making a diary of every petty village squabble (Section 47.) The practical working of Section 53 will inevitably be to revive the old Police Record. Though it is declared by Law itself (Section 58) to be useless. The Officer in charge of a Station House may keep the prisoner for 24 hours to complete the inquiry (Section 60). Where there is not sufficient evidence, or arrest has taken place without reasonable ground of suspicion he is authorized to release and report to the Magistrate. The report must, of course be based on a record, and will be in practice framed to suit the local arrangement that may be made. I assert from the largest experience, the daily occurrence of irregularity and corruption in this direction, that it will be utterly impossible to check the flood of villainy to which these provisions will re-open the door. These functions are, in short, precisely what the Tahsildar Magistrate with us now exercises and will continue to exercise; and, I am wholly at a loss to see how a Police Officer can do it also, without the whole falling into inextricable confusion. We shall have a Police inquiry (one-tenth completed within 24 hours) and a Native Magistrate's inquiry of precisely the same character, both conflicting and rendering the chances of justice more uncertain than ever. What sort of inquiry is the Native Magistrate to make, if all this is anticipated by a Police Serjeant on 14 Rupees per month? The proper position in point of Law of a Police Officer, no matter of what grade, is that of a mere official agent of the Magistracy. In very grave cases *only* attending to complaints not first preferred to a Magistrate, and in such cases only taking action and arresting in anticipation of a Warrant, and merely with a view to bringing the person arrested immediately before the Magistrate for investigation. Then acting as a Detective under his guidance or exercising his own ingenuity in fulfilling the requirement of the Law in detecting offenders. I venture to submit a Police Order, No. 203, dated 5th August 1861, recently issued on this point. It shows the practice of the Madras Police. It is right in principle and the only safe one in practice.

6. Section 23 of Act XXIV. of 1859 is to be omitted. By Section 37 of Act XIII of 1861, a Police Officer (includes any of the 30 or 40,000 Village Police and Village Inspectors, any of 20,000 Police Privates) making arrest without Warrant, is to take or send the person arrested either before the Magistrate or before the Officer in charge of the Station House at his own option; all kinds of inquiries may be ordered, and reports are required by any Native Tahsildar, without the possibility of supervision by the Officers of Police, or any notice to those who are and will by the Public be held to be chiefly responsible for the detection and repression of crime however the Law may seek to change the incidence of that responsibility. No departmental control or supervision over any single operation of the Police is provided for or secured by Law although European Officers are especially appointed for this purpose. Every report from any Police Officer, every reference for inquiry, &c., is direct between subordinate Officers of Police and subordinate Magistrates of any grade, in regard to which the *responsible* Officers have no notice nor means of control. The Magistrates in this Presidency are the old Tahsildar Heads of Police and Village Revenue Munsiffs. The Constabulary are the old Police whom they controlled. The direct relation of these are all restored by the new Law; and the result of all this direct, practical and real subordination to every one but their own Officers may very readily be foreseen. The object of the Madras Government was in the terms of the late Home Court's Despatch to place the Police thoroughly under European supervision and watch, precisely in regard to that which constituted the then dangerous point of union under the old system. Act XIII. of 1861 assuredly does not provide for this in a single respect, and I wholly fail to perceive how any departmental Officer can control or be held responsible for the conduct of the Police he has raised after the change set in. He certainly can in no way be held responsible for

Proceedings of the Madras Government, Judicial Department,
28th August 1861.

the detective operation of the Police or their integrity while acting under orders he has nought to do with. Section 23 of Act XXIV. of 1861 must not be omitted. The largest experience satisfies me that failure must be the result. The practical subordination of the Police will inevitably slip into the hands of the Revenue Tahsildars again.

7. The Madras Police is confined by Law, most strictly within the narrow limits properly belonging to an Executive Police. There is, in the constitution of the Madras Public Services an abundant body of local stipendiary Magistrates, the Native Tahsildars, with full Judicial and Magisterial powers. These are the investigating and committing Officers of the country, and continue to be so in 90 criminable and committable cases out of 100. The European Magistrate rarely indeed takes any part in examining and preparing cases. There are between 20 and 30 such Officers, with conveniently situated Courts, in each District. To these the European Magistrates commit all investigation; and at their proposal the Police is placed as a detective agency by Act XXIV. of 1859. It cannot be necessary to add to these the Station House Offices of the Madras Police as inquiring Officers. This Officer is a mere detective, moving about with his note book and obtaining intelligence for the investigating Officer. Subordinate to these Tahsildar Magistrates are the Village Potails or Justices, with their Clerks and petty Village Jury of inhabitants. Each Village has one such Officer, empowered by Law to investigate their cases and to supervise the prevention and detection of crime. These are trusted by the people in this respect, as no Constabulary Officer ever will be. They number from 30,000 to 40,000, and are twice the strength of the whole Constabulary. They are numerically 30 to 40 times more numerous than all the Officers in charge of Station Houses together. Why then supersede all this valuable Municipal Agency for Judicial enquiry by a *quasi*-judicial Police? occupying time which is required for the patrol of the country, and introducing the confusion of a double investigation into each case. Why empower any Magistrate to refer to a Police an investigation which can be conducted by a Magistrate and far more useful and more acceptable referee?

8. The *absolute prohibition* against the Police being mixed up in any way whatever in the petty or exaggerated litigation and squabbling of the country, as provided by Section 30 of Act XXIV of 1859, is not found in either Acts V. or XIII. of 1861. The latter clearly requires the Police to take cognizance and reduce to writing all such complaints, and requires Diaries to be kept about them (Section 47.) Every or any such complaint may be referred by any Magistrate (by a Tahsildar in this Presidency) to a Police Officer for enquiry (Section 42) and the Act provides for direct report to such Magistrate. Now, I venture to assure the Government, on the largest experience (for we have the greatest difficulty in restraining the Police from interfering with such matters although *absolutely prohibited* by Law) that it will be absolutely impossible to control the operation of the Police or to prevent their usurping or becoming charged by the subordinate Magistracy, with the functions of the Village Magistracy, if this provision of the Law is not *maintained with the utmost certainty*. The Police cannot find time to patrol the country if they can either employ themselves or be employed in this manner. Every Station House will become the focus of petty litigation and squabbling. The operation of the Madras Police is absolutely and solely confined to the Felony of the country, to the protection of Public property and the preservation of the Peace. For this it scarcely suffices. Add to its duties any one of these belonging to the 30,000 to 40,000 Village Magistrates or the 300 Taluq and Town Magistrates, and confusion and inefficiency must result. No Magistrate must have any power to delegate any investigation to a Police Officer for which the Law already provides a Taluq or Village Magistrate. I most *earnestly entreat* the Government to seek that no modification whatever may be made in this all-important provision—I venture to submit a Police Order, No. 17, dated 9th May 1860, on this subject. It now guides the Madras Police.

9. The provision of Section 32 of Act XXIV. of 1859, for the execution of all Criminal Processes by the Police *alone*, are omitted in both Acts V. and XIII. of 1861. They must be maintained for the Madras Presidency. These very important duties are now solely entrusted to, and are efficiently performed by, a body duly enrolled, properly supervised and checked by European Officers, with functions and powers carefully defined by Law, and subject to heavy penalties for irregularities and offences which may be perpetrated and were formerly very frequently committed in carrying out these Criminal processes. If this Section be omitted, the

utmost licence is accorded to all grades of subordinate Magistrates to employ whom they please in the execution of these Criminal Processes; and no sort of check or order are possible. Already is this provision causing the greatest benefit throughout the country in preventing unnecessary arrests, (under Summons) and introducing system and regularity.

10. Mr. Mayne has pointed out that Section 69 of Act XIII. of 1861, will supersede the legal functions of the Village Potail and his Jury, assisted by the Tahsildar or his subordinates as Coroners: and substitute a Police investigation. I venture to submit the Standing Order, No. 13, dated 10th March, that guides the Madras Police in such matters.

11. The constitution of our Police does not provide an Officer of the character and position to do what Act XIII. of 1861 requires of Officers in charge of Station Houses. Should it become Law the organization must be altered with a very considerable increase of expense in the shape of salary.

12. I trust I shall be acquitted of raising groundless and unnecessary objections, or starting imaginary difficulties to the proposed modification of the Madras Police Law. It is not so. The modifications threatened are grave and important. And, although their certain effects are not easily defined in words in all their relations, the dangers are perceptible at once to those Officers, Magistrates and others, who are engaged in and responsible for the administration of the Police. There is not an Officer in the Presidency who is not anxious to work heartily, and in its most liberal spirit, any Law prescribed for their guidance: but there is not one whom I have consulted on the subject of the changes and uncertainties alluded to (and I have had the largest opportunity of ascertaining the views of Magistrates and Judges and Police Officers) who do not deprecate changes which, while enlarging the powers and increasing the dangers of interference of Police on one hand, again transfer the practical supervision and control, of the Police on the other, to the Native Tahsildars; introduces opportunity for irregularity and difficulties of check and supervision which it will be scarcely possible to counteract. I must add—and I do so deliberately and on the largest experience of the difficulties and dangers we have to avoid and had constituted our system so as to obviate, on the most intimate observation of the relations of the Police to the existing institutions of the country—that the provisions of Act XIII. of 1861, if introduced into this Presidency as they now stand, will tend to subvert some of the main principles on which the new Police is organized; that they will enforce an alteration in its character which is to be deprecated; that its constitution must in a great measure be changed; and that supervision and check by the Officers of the Force, which is absolutely necessary if the objects of the Madras Government are to be carried out, cannot be ensured. I fear that the practical working of the Police in this Presidency will be virtually re-transferred to the Native Tahsildar by this Act, which is admirably suited to the old system, were the intention to revive it.

13. The view taken by Mr. Mayne and myself is not singular. Although communicated in a private form, I venture to quote the view of the able Inspector General of Police in Burmah. He writes on the instant: "By the way Acts V. and XIII. of 1861, were both the "day before yesterday ordered to take effect in this Province."

"The latter, it appears to me, is a mistake. There is a great deal too much reporting here, there and every where. I shall have to introduce about nine new Forms to be in constant use in Police Stations. If it is made the Law that the Criminal must be taken before a Magistrate as soon as possible, what can be the use of separately reporting his arrest, &c., &c.? It is very plain what the Legislative Council are aiming at; but legislate as they will, they cannot have two heads of Police in a District. Let the European Magistrates have weekly or daily (if the state of affairs require it) report of the crime in the District *from his Superintendent.* But all this reporting Police executive work direct to Subordinate Magistrates by Serjeants "in charge of Stations, loosens the reins in the "hands of the Superintendent, and leaves them "in the hands of the Magistrate* only to a "mischievous extent. It has been granted, "and it is known, that Magistrates cannot "supervise the detail work of Police administration, and yet it appears to me, that the only detail work laid down in Act XIII. is that between the Subordinate Police and the "Magistracy in the broadest terms of the interpretation clause. Eight reports are directed to "be made to the Magistrate, and the only thing the Superintendent is by Law (!!!) by Act "XIII. entitled to is a *copy of a Station Officer's Diary.* They have gone quite off the Rails. "The only Deputy Commissioner I have seen, said he, had on reading it, been quite dismayed by "the numerous Police reports he saw were impending; as he said, the cause for wonder is that "they are of no use, except in the case of the Superintendent being dishonest or incompetent."

N. B.—Lieut. Duncan writes of European Commissioners only. To their supervision and direct relation there cannot be the smallest objection. What will however be the result where, as in this Presidency, these Magistrates are the Native Tahsildars whose authority over the Police had just been restricted.

Proceedings of the Madras Government, Judicial Department,
28*th August* 1861.

POLICE ORDER No. CCIII.

Dated 5th August 1861.

Irregularities occur in consequence of insufficient attention to the requirement of the Law as laid down in Sections 23 and 41 of the Police Act.

2. Persons arrested under Section 41 must be taken directly to the Magistrate's Office; no preliminary steps are required to be taken at the Station House; there can therefore be no cause or excuse for delay beyond the time indispensable for the march.

3. A Police Officer arresting without Warrant under Section 22 of the Police Act does so *merely in anticipation of the Warrant which would certainly issue* were the charge made, in the first instance, to the Magistrate within whose jurisdiction his range lies; he does so merely to expedite the appearance of the accused before that Magistrate who will investigate the charge, and he is bound to produce him without *avoidable* delay. The only ground for permitting the arrest by a Police Officer without Warrant, is that it will save time in getting the offender up before the Magistrate to permit the Police Officer at hand to take him at once to the Magistrate (who may be at a distance) without waiting until a Warrant can be applied for, issued and brought down.

4. He is therefore required to use his every endeavour to expedite the delivery of the person so arrested, in anticipation of the Warrant, to the Magistrate: and the Law requires that any delay that may occur shall be *unavoidable.* The onus of proving this lies with the Police—Police Officers must therefore never arrest a man without Warrant, till they are quite ready to transmit their Prisoner *forthwith* to the Magistrate. Police Officers are to understand that 24 hours is the *maximum* time that can be occupied in the transmission.

5. As a rule this can be done the same *day as the arrest*, where the arrest takes place within 10 miles of a Magistrate's Court. If the arrest take place early in the day, stout offenders can easily be pushed on one or even two marches on the day of arrest. Every person so arrested must invariably make the first march on the day of arrest.

6. Superintendents of Police are *earnestly urged* to pay special attention to this point.

1stly. Because the Law most advisedly requires that an executive Police Agency should act under the close supervision of the Magistracy; and not assume any function not properly belonging to it.

2ndly. Because by instantly bringing the offender before the Magistrate, these Officers become *responsible* for the subsequent guidance and instruction of *their* Police, and are forced to take an interest in, and become associated with, all the subsequent steps towards detection and conviction of the offenders.

3rdly. Superintendents may be assured that they can never check with certainty the abuses and illegal practices resorted to by Indian Police; they will never be able to oblige the Constabulary to proceed in a steady, painstaking and lawful manner in detecting offenders, following up clues and obtaining evidence, unless they insist on this point. The reply of a *Surchassum* of the old Police, who was made an Inspector of Police in the District of———on the ground that he had been considered a very valuable detective, is peculiarly instructive. He was found fault with for not detecting during several months *a single* case in a Taluq when crime had been peculiarly rife, and his former character was referred to. He replied, "How can I detect cases now that "I am obliged to produce the offender at the Taluq in 24 hours instead of keeping him to myself, "as formerly, for 3 or 4 days." Torture and illegal pressure are the certain results of allowing persons to be kept back by the Police.

7. Circumstances may occur under which a little delay will advance the course of Justice. The Prisoner may make admissions and offer to disclose property, &c. If the distance to the Magistrate's Court be great, and the delay in getting the property likely to be inconvenient, it may be occasionally desirable to take the Prisoner at once to the spot, even at the sacrifice of a little time. But even in such a case it will generally be expedient, if possible to let the admissions be made in the Magistrate's Court, and then to take the Prisoner under Warrant to the place where he can disclose the property. Where a house requires to be searched it ought to be done at the same time that the arrest is made.

8. Again, the Inspector General would warn Police Officers against too hasty arrest, except when absconding is to be apprehended. It is never desirable to arrest a suspected man till the Officer is ready with some fact so indicative of guilt that a remand may be claimed. When arrest is once made, the act enlists every connection of the party in opposition to the Police, and sets bribery and intrigue at work to baffle and defeat the Officer of Justice.

9. As a rule Prisoners under remand at the Taluq Kasta will be kept in the Taluq Catchery Lock-up: and when taken out, or to a distance, to be present at the search of premises, &c., they will be brought back with as little delay as possible after the object is accomplished.

(Signed) W. ROBINSON,
Inspector General of Madras Police.

POLICE ORDER No. XVII.

1. The attention of Superintendents of Districts is specially drawn to Section XXX. of the Police Act. The Police is forbidden by *Law* to interfere in petty matters; and the Law must be enforced. Several Magistrates have observed that this provision is not sufficiently attended to.

2. The great sin of the old Police was that interference which they exercised, on every sort of plea, with the people. The first feature of the new Police administration must be that of absolute *non-interference, save where required by the Law to act.*

3. In regard to felonious and grave offences, the duty of the Police is clear enough; and the sympathies of the Magistracy and of the Public will always be with a Police acting vigorously and effectively when grave crime has to be prevented or detected. But in regard to petty misdemeanours and minor offences and breaches of the law, the direct operation of the Police must, for the present at least, be vigorously restrained. The Police and the Public equally require to be got out of the old grooves in this respect. The Police must act by "*information laid,*" and the Public must complain to Magistracy.

4. There is a tendency in the disposition of Policemen in every country unduly to interfere, in this country habitual and almost unrestrained official interference has become a deep rooted nuisance that requires the most vigorous reprehension. For the present at least, therefore, we err on the right side by refraining from interference even where the caution leads to a slight delay in the course of justice. A Policeman must be absolutely forbidden to interfere in petty cases, and he should be instructed that where, in cases of even more importance, he *doubts* whether or not the Law requires him to *act*, he had better restrain himself and merely *observe* and then lay information under Section XXXI. of the Police Act.

5. The Public too must learn that it is *not* the *duty* of the Police to attend to all their petty squabbles, personal injuries and piques—that they have graver public duties to perform. In no country does the Public so court official interference in every petty quarrel, to gratify spite or revengeful feeling, as in India, and this spirit must, so far as the Police is concerned, be resisted by the most uncompromizing determination to leave complainants to their legal remedy by complaint to the Magistracy.

6. Superintendents will request the Magistracy to bring to their immediate and official notice, by remarks on the "Charge Sheet," cases in which the Police have taken direct action in matters in which it was not called for.

(Signed) W. ROBINSON,
Inspector General of Madras Police.

Proceedings of the Madras Government, Judicial Department,
28*th August* 1861.

47

POLICE ORDER No. XIII.

Dated 10*th March* 1860.

BODIES FOUND AND INQUEST.

When a body has been found, the Village Inspector will give immediate information to the Potail or Magistrate Munsiff who is under Section 13 of Regulation II of 1816, the proper person to summon the Punchayet or Inquest and take the *Mahazurnama* or record of the state of the corpse.

Duty of the Village Inspector.

He will further send immediate information to the Station House, with a concise statement of the appearance of the body and circumstances, according to the printed form.

It will be his duty to be present throughout the Inquest, to watch the proceedings, to see whether suspicion of any kind attends the circumstances of the death, to take up any clue that may be elicited, and to prepare information, &c., pending the arrival of his superior Officer.

The Senior Officer in charge of the Station House will on receipt of the above report, instantly proceed to the spot so as if possible to be present at the Inquest and to see the body. If on the face of report the smallest grounds for suspicion appear, he will take immediate steps to secure the attendance of his Inspector also at the spot.

At the Station House.

Either or both of these Officers will, on arrival minutely watch all proceedings with the Village Inspector, inspect the body and make a very accurate note of its condition in their own handwriting, such as will enable them afterwards to refresh their memories with great precision, as to its appearance.

Duty of Head Constables and Inspectors.

Should a reasonable suspicion of foul play exist, they will at once act according to the Law by arresting the suspected parties and following up the evidence.

In such cases it will be their duty, if possible, *to secure the attendance of a Taluq Magistrate* before the body is disposed of, and they will advise the Village Munsiff accordingly. If a Taluq Magistrate be present, they will follow the above course in regard to watching proceedings, giving him at the same time every assistance in their power, and will promptly attend to his instructions.

Presence of a Magistrate to be secured.

(Signed) W. ROBINSON,
Inspector General of Madras Police.

OPINION.

I have examined the provisions of Act XIII of 1861, with a view to consider how far they are at variance with the corresponding Clauses of Act XXIV of 1859, which they are intended to supersede. It seems to me that they tend to introduce considerable changes in the principles of that Act, first by transferring a sort of judicial authority from the Magistracy to the Police; and secondly, by placing the Police in a different position as regards the Magistracy from that which they occupied under Act XXIV.

2. Act XIII of 1861 is adapted to the working of such a Police as is constituted by Act V of 1861, therefore so far as the constitution of the Police under Act V differs from that of the Police organized under Act XXIV of 1859, so far will the machinery which is provided by Act XIII, and which is perfectly suited to the former Police be unsuited to the latter. Act XXIV, S. 6 expressly provides that no Police functionary shall possess or exercise any judicial authority, and S. 7 provides that even District Superintendents when appointed Magistrates shall only exercise Magisterial powers "so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension and detention of offenders, in order to their being brought before a Magistrate." There are no words in Act V of 1861, which regulates the constitution of the Bengal Police, similar to those in S. 6 of Act XXIV of 1859. On the other hand Act XIII, which supplements Act V of 1861, seems to contemplate a preliminary

enquiry and committal by the Police to the Magistrate, much of the same nature as that by the Magistrate to the Criminal Judge. Section 42 provides that "no Police Officer shall, without an express order from a Magistrate, enquire into or take cognizance of an offence other than the offences specified in the Schedule." Therefore he is to enquire into and take cognizance of the offences which are specified. These words may only refer to the detective operations which become necessary when the actual criminal is unknown, but it is also plain that they equally apply to the functions exercised by a committing Magistrate, whose duty it is to investigate and satisfy himself of the truth of a case before he sends it on. So S. 46 authorizes the Officer to whom a complaint is made to abstain from proceeding in the case if it shall appear that there is no sufficient ground for entering on an enquiry. So S. 52 authorizes a Police Officer to summon witnesses to his station, and S. 61 makes the transmission of the accused person to a Magistrate to depend upon the Officer's opinion whether there is "sufficient evidence or reasonable ground of suspicion." In short the difference between the two Acts seems to be, that under Act XXIV, the functions of the Police are wholly ministerial; under Act XIV, they are *quasi*-judicial. Under Act XXIV, the Police have simply to forward to the Magistrate, at the risk of the accuser, any charge which he chooses to make, which is not upon its face false, or of a petty nature, (S. 30.) Under Act XIII the Police are bound to sift the evidence by which the charge is to be supported, to perform beforehand the investigation which is the Magistrate's duty, and even to keep back the case from him entirely, without any other check than the necessity of making "a report of the case," which of course can easily be drawn up in such terms as to justify their conduct.

3. It is obvious that the whole tendency of these provisions is to relieve the Magistracy at the expense of the Police, and to withdraw from the public, both accusers and accused, the protection which they would derive from the certainty, that every case, in its earliest stage, would be brought under the personal inspection of the Magistrate. Regulation XI of 1816 and other Acts, now in force in the Madras Presidency, provide an immense system of Taluq and Village Magistracy, with admirable organization for purposes of enquiry. Act XIII of 1861, will authorise the Magistrates to depute all their inquisitorial functions to a Police, numerically inferior to themselves.

4. The latter Clause of S. 42, Act XIII of 1861, will enable a Magistrate to shelve upon the Police any enquiry that he finds troublesome or inconvenient, even though the offence be of a petty or personal nature in which the public have no interest, and which the Police would be forbidden even to receive under Act XXIV of 1859, S. 30. The results of the enquiry, if it is to be of any use to the Magistrate, will have to be put into writing, and the old system of Police depositions and reports will re-appear. As I said before (para. 2) these words may refer merely to detective operations, but the words are large enough to enable an indolent Magistrate to get half his work done by the Police. Under the present system, each Magistrate would refer enquiries of this sort to the Magistrate beneath himself, the European Magistrate to the Tahsildar, and the Tahsildar to the Village Munsiff. Under S. 42 the Village Munsiffs may be completely eliminated, and their powers transferred to the Police. This will be doubly injurious, both from the waste of power involved in the change, and from the additional influence given to such Native Magistrates as the Tahsildars, who may pursue their enquiries by Police peons subservient to themselves instead of by the village authorities. The latter will be deprived of their legitimate functions, which will be transferred to a Police who are already over-burdened with work.

5. S. 69 of Act XIII, makes the Police Officer of a Station a Coroner in all cases of violent death. This is a judicial duty and has hitherto been performed by the Village Magistrate with his Village Jury.

6. Act XIII. of 1861 seems also to contemplate a relationship bet[illegible]e Police and the Magistracy different from that which they hold under Act XXIV of [illegible] Under S. 4 of the latter Act the Superintendence of the Police was to vest in and be ex[illegible] the Governor in Council, and except as authorized by him under the Act no pers[illegible]er or Court was "empowered to appoint, supersede or control any Police functionary [illegible] Police were to be "at the disposal of the Magistrate" but not subordinate to him. A[illegible] of 1861, Ss. 49 and 51 expressly speaks of Police Officers as being "Subordinate to the [illegible]ate." These words

Proceedings of the Madras Government, Judicial Department,
28*th August* 1861.

will include each Magistrate within the limits of his jurisdiction, and therefore will make the Police in a Taluq subordinate to the Tahsildar, and in a Village subordinate to the Village Munsiff. At present the Police are at the disposal of these Officers for the prevention and detection of crime, but not their subordinates. Accordingly in Act XIII of 1861 the superior Officers of Police appear to be ignored. Under S. 37 a Police Officer who has made an arrest may take the prisoner at once to the Magistrate, without bringing him to the Station house. The complaint will never be entered in the Charge sheet, the accused will have no opportunity of offering bail, and the superior Officer will be unable to exercise any check over the acts of his peons, however oppressive and illegal they may be. So all the reports that are mentioned in Act XIII of 1861 are reports to Magistrates; See Ss. 40, 41, 44, 46, 61, 63, 68, 69. The Station Officer is in every case to communicate directly with the Magistrate, and the only document to which his Superintendent appears to be entitled is a copy of his Diary under S. 62. It will be remembered that in the Madras Presidency the Magistrates referred to in these Clauses will almost invariably be Native Tahsildars, and the result will be to reverse the policy of Act XXIV of 1859. That Act aimed at taking the Police out of the hands of the Native Tahsildars, and placing them under the immediate control of Europeans. Act XIII of 1861 would at once reinstate the Tahsildar as the immediate and visible superior of the Police, and make their European Superintendent little more than a nonentity. If these powers of "general control and direction" are vested in a Native Magistrate, who is at the same time a Revenue Officer, it will be almost impossible for the Superintendents to prevent that use of the Police in Revenue matters which it was one of the great objects of Act XXIV of 1859 to forbid.

7. I shall lastly mention a few points of practice in which the Acts differ.

8. In Act XIII Ss. 2, 16, 20, do not admit of a second endorsement by the person to whom the Warrant is first endorsed over. This is provided for by Act XXIV, S. 33, and enables the patrol to leave the processes with Village Officers, who are thoroughly acquainted with the particular locality.

9. Act XIII, S. 21 requires a local endorsement as the general rule, where a search is executed out of the jurisdiction of the Magistrate who issued the Warrant. The delay caused by such endorsement will often frustrate the object of the search. S. 22 dispenses with this formality in certain cases, but leaves the matter at the discretion of the Officer, who will hardly ever venture to dispense with the endorsement. Act XXIV, S. 33 requires no such endorsement and all the local supervision which such endorsement is intended to procure, will be sufficiently provided for by the latter clause of S. 22 of Act XIII.

10. Neither Section 28 of Act XIII nor its Schedule include breaches of the peace, which do not amount to riot or affray; therefore a Police Officer will not be authorized to arrest without Warrant persons who commit such breaches of the peace, and refuse to assist, when required. See Act XXIV, S. 22, Cl. 3, the same remarks apply to Act XIII, S. 30.

11. Act XIII, S. 29 only authorizes the Officer in charge of a station to arrest vagrants. The power should be given to the patrol, and not to a person who can never exercise it; see Act XXIV, S. 22, Cl. 5.

12. Act XIII, S. 33 gives no power of arrest, nor even of prevention, unless each offender has been actually seen in the act, which he never need be, unless the Officer chooses; the Immense amount of public property, such as tanks and roads, in the Madras Presidency, makes it necessary that there should be a power of immediate arrest where any person has been found injuring such property. See Act XXIV, S. 22, Cl. 4.

13. In S. 44 of Act XIII the Officer should not be limited to his own district.

14. It does not clearly appear what are the complaints "not of a serious nature," referred to in S. 45 of Act XIII. I presume that all felonies are excluded from this category. If so, the section contemplates the reception by the Police of complaints, which come under the head of petty offences, and have hitherto been dealt with, by summons obtained directly from the Magistrates. It also contemplates a local enquiry into such complaints by the Police, where such local enquiry may appear necessary. This is directly opposed to Act XXIV. of 1859,

S. 30, which makes it illegal for the Police to receive any complaint of any petty offence. This section was designed to save the time of the Police, to prevent undue interference with the public, and to restrict the Police to enquiries which their superior Officers could adequately supervise. Of this principle S. 45 is wholly subversive.

15. If every groundless complaint is reported to the Magistrate, (Act XIII. S. 46) the whole time of the Police will be spent in writing nonsense, and that of the Magistracy in reading it. Under S. 47 also every old woman's story will have to be written down, though it does not even allege a crime.

16. A written order to arrest may often be impossible and will always be useless, (Act XIII. S. 48) since the section assumes the arrest to be lawful.

17. The powers conferred by Act XIII. S. 50 should be given to every Officer and without any local limit. Great impediments will be interposed by the Clause which requires that the property and place should be specified in writing; see Act XXIV, S. 28.

18. Act XIII, S. 54 is merely a repetition of one half of S. 14.

19. The last Clause of S. 66 will give unlimited opportunity for tampering with witnesses, and will cause perpetual delays from their non-attendance.

20. No provision is made by S. 70, Act XIII, for a case which may frequently occur, where there is no one present at the Police Station above the rank of a peon.

21. Act XIII of 1861 contains no provision similar to S. 32 of Act XXIV, which directs that Processes, Warrants, &c., shall be entrusted to the Police and to none others. This Section is important, as it confines the service of processes to responsible Officers. And prevents the maintenance of a crowd of needy and uncontrolled *batta* peons.

(Signed) JOHN D. MAYNE.

SUPREME COURT, MADRAS,
9th August 1861.

No. 180. NOTES ON ACT XIII. OF 1861 AND INDEX TO PAPERS SUBMITTED TO GOVERNMENT.

Sections 2, 16 and 20.—No provision is made in these for a *second* endorsement—which is absolutely necessary for a process to pass current in different Taluqs, the jurisdiction of different Magistrates. Vide Mr. Mayne's Opinion, paragraph 8, Section 33 of Act XXIV. of 1859.

Section 15.—A Summons for a Witness is not provided for. Vide Section 21, Act XXIV. of 1859, last sentence.

Section 17.—It would be well to require the signature of the person on whom the Summons is served or with whom it is left. This is the practice here.

Section 21.—Each Taluq is a different jurisdiction, and a search Warrant issued by one Tahsildar would have to be endorsed by the neighbouring Tahsildar before it could be executed in another Taluq; unless the Police Officer took upon himself the discretion given in Section 22. This in practice they will never do; for the exercise of the discretion will be challenged in every case by the parties concerned, and there will be collision with the Subordinate Magistracy. Great obstruction to justice will arise. It is opposed to Section 33 of Act XXIV. of 1859, vide paragraph 9 of Mr. Mayne's Opinion. The Tahsildar is not the proper Officer to "enforce the execution" of a Warrant—this is Executive Police work.

Sections 28, 29 and 30.—For the omission in these Sections, vide paragraphs 10 and 11 of Mr. Mayne's Opinion, and paragraph 5 of Inspector General's letter.

Section 33.—The important omission in this Section is noted by Mr. Mayne, paragraph 15.

Section 35.—Who is the "persons authorised to enter without the Warrant?" Many a mistaken or fraudulent Police Officer will allow Criminals to escape under this Section. A Police

Officer in pursuit of a Criminal must be required to make the arrest at all hazards and ample powers must be given.

Section 37.—It will never do to allow the Police to "*send*" a person. The *option* of going direct to the Tahsildar is subversive of all Departmental control. The prisoner *must* be taken to the Station Office first and thence transmitted to the Magistrate. Vide Section 23 of Act XXIV. of 1859, Mr. Mayne's Opinion, paragraph 6; and Inspector General's letter, paragraphs 5, 6 and 13. Operation of Police cannot otherwise be supervised.

Section 40.—This power cannot be entrusted to "Officers in charge of a Police Station" in Madras; as they are merely Head Peons on Rupees 14 monthly. This Section is directly opposed to Section 27 of Act XXIV. of 1859. Vide paragraph 11 of Inspector General's letter.

Section 41.—The reports should be (not to the Tahsildars) but to the Superintendent of Police; through whom it reaches the District Magistrate. The Superintendent cannot otherwise be answerable for the conduct and honesty of his men. The European District Magistrate issues such instruction as may be necessary to the Superintendent in regard to these matters.

Section 42.—This is opposed to Section 30 of Act XXIV. of 1859. It gives the Police Judicial powers and enables the Tahsildars to throw their own petty Judicial work and that of Village Munsiffs on the Police. It would undo every thing done here and revive the old Police examination and subordination of Police to the Tahsildars for every kind of enquiry. Vide paragraphs 2, 4, 6, 14 and 15 of Mr. Mayne's Opinion, and paragraphs 4, 5, 6, 7 and 8 of Inspector General's letter. It would be fatal to all Departmental supervision; and Officers cannot be answerable for the due patrol and watch of the country, if every Tahsildar or Sub-Magistrate, may use the Officers in any enquiry he pleases however petty and extra-Police. The Village Munsiff *who is ignored through this Act*, is the proper referee, and retains all his Judicial powers under the Proviso of Section 3 of Act XXIV. of 1859.

Section 43.—This Section also recognizes Police enquiry. In Madras the Station limits are small, the Station Officer's responsibility and functions are restricted by this Section to it. This Section is opposed to Section 21 of Act XXIV. of 1859, vide paragraphs 6 and 13 of Mr. Mayne's Opinion, and paragraph 5 of Inspector General's letter.

Sections 45, 46 and 47—Would subvert Section 30 of Act XXIV. of 1859, and allow the Police to interfere with the functions of the Village Magistrate. It is necessary and inexpedient here. Vide Mr. Mayne's Opinion, paragraphs 2, 14 and 15, and Inspector General's letter, paragraphs 5, 6 and 8.

Section 50.—Vide paragraph 17 of Mr. Mayne's Opinion, and paragraphs 4, 5 and 7 of Inspector General's letter.

Sections 49 and 51.—Vide paragraph 6 of Mr. Mayne's Opinion, and paragraph 12 of Inspector General's letter.

Section 52.—The Station House Officer under this Section will become a mere Clerk, stay in his office, issue Summonses and Warrants and make up a Police Record; Oral examinations would never be allowed—Courts and Tahsildars will equally require them to be recorded; although the Law says they are not to be used as evidence. A different class of Officer from the Madras Station House Officer will be required for the duty.

Sections 55, 56, 57 and 58.—These belong to the Law of Evidence, not Police Procedure.

Sections 59, 60 and 63.—These again give the Police a *quasi*-judicial authority; and constitute an investigating Police with functions greatly beyond those conceded to the Madras Police. Section 59 contemplates some person below a Head Peon, making an inquiry and submitting a report, to be based in practice on written process, to the Head Peon, who proceeds on it as if he had himself made the inquiry. This will lead to endless confusion. This is all Village Munsiff's work, vide Mr. Mayne's Opinion, paragraphs 2, 5 and 15, and Inspector General's letter, paragraphs 5, 6 and 8.

Section 62.—Petty cases may be referred to Police Officers, and then the Diary writing will effectually prevent any other duty. The petty cases in some Districts are several thousands

per annum. The original Diary with the Madras Police is closed every twenty-four hours, and forwarded to the Superintendents. It relates to the grave Felonies of the country only with other investigations he never interferes. Apparently a more useful less dangerous system—Vide Mr. Mayne's Opinion, paragraph 15, and Inspector General's letter, paragraphs 8 and 13.

Section 66.—Vide Mr. Mayne's Opinion, paragraph 19. What is the value of the "personal recognizance" of a traveller who may have witnessed a highway robbery and who is required to go to the Tahsildar's Office 20 miles distant unaccompanied by any Policeman.

Section 68.—There is no provision here for departmental supervision. Every thing goes to the Tahsildar direct. *The Superintendent and Inspector of Police are ignored.* Vide Mr. Mayne's Opinion, paragraph 5, and Inspector General's letter, paragraphs 12 and 13.

Section 69.—The Police Officer of a Station House—a Duffadar on 14 Rupees monthly—here becomes the Coroner—The duty is that of a Magistrate and Village Munsiff and Jury. The course shown in the Appendix of the Inspector General's Report is the only legal and safe one. Vide Mr. Mayne's Opinion, paragraph 5, and Inspector General's letter, paragraph 10.

Section 70.—Vide paragraph 20 of Mr. Mayne's Opinion.

OMISSIONS.

I.—Act XIII. of 1861.—Omits to prevent the Police from interfering or being empowered to interfere—in petty cases—They have not time for this, and it is the Munsiff's duty to examine them. Vide Section 30, Act XXIV. of 1860, Inspector General's letter, paragraph 4, and Mr. Mayne's Opinion, paragraphs 3, 4 and 14.

II.—Policemen are not prevented from interfering in Revenue and Judicial matters. Vide Section 6, of Act XXIV. of 1861, Inspector General's letter, paragraph 4, and Mr Mayne's Opinion, paragraph 2.

III.—Execution of Criminal processes is not *exclusively* reserved to the Police. Section 32, Act XXIV. of 1859, Inspector General's letter, paragraph 9, and Mr. Mayne's Opinion, paragraph 21.

IV.—The subordination of Police to the Tahsildars is not effectually provided against. Section 6, Act XXIV. of 1859, Mr. Mayne's Opinion, paragraph 6, and Inspector General's letter, paragraph 12.

W. ROBINSON,
Inspector General of Madras Police.

No. 181. To the Secretary to the Government of India, Home Department, dated Fort Saint George, 28th August 1861, No. 1,083.

In reply to Mr. Under Secretary Monteath's letter of the 8th ultimo, No. 1,320, I am directed by the Governor in Council to forward a report from the Inspector General of the Madras Police on that part of the Criminal Procedure Bill which relates to Police Procedure and which is now embodied in Act XIII of 1861.

2. Mr. Robinson's report is accompanied by an opinion from Mr. J. D. Mayne, Barrister at Law, whose views derive great weight from his general professional knowledge of the subject and his particular acquaintance with the constitution, &c., of the Madras Police. To these papers I am instructed to request the very particular attention of the Governor General in Council.

3. The views of this Government on the subject are already before His Lordship in Council, they were expressed on the *Bill*, but are equally applicable to the *Act*, which does not in any material point differ from the Bill.

Letter to the Secretary to the Government of India, Home Department, dated 11th March 1861, No. 327.

4. I am to state emphatically that this Government after a most careful consideration of the whole question adhere to the opinions they have already expressed and object most strongly to the application of Act XIII of 1861, either as it stands or as part of the new Criminal Procedure Code, to the Madras Presidency.

5. The Madras Police was remodelled on the English system for the adoption of which this Presidency afforded facilities peculiar to itself and probably not existing in the other Presidencies. The Police thus remodelled has been in operation for two years in several Districts of the Presidency, and it is on every ground most unwise and undesirable that an experiment of so important a nature, working thus far satisfactorily, and affecting the interests of millions, should be interrupted for no other object than the attainment of uniformity of procedure in distant and differently constituted Presidencies.

6. The Procedure Code saps the fundamental principle of the Madras Police system, viz., the complete and absolute severance of Police, from Judicial and Magisterial functions. The union of these powers characterised the old Police, their severance is the characteristic of the new system. The latter was adopted here *after* full experience of the former, it is sound in principle and is working well. To disturb this principle in the slightest is therefore inexpedient. It is also unnecessary, for from the peculiar constitution of this Presidency, there is abundance of Magisterial power. Every village has its resident petty Magistrate,* every Taluq one or more Taluq Magistrates,† every District, its Covenanted and Uncovenanted Staff; there is therefore not the slightest necessity *here* for investing the Police with such functions, and so to invest them, is to undo all that has been done, to re-adopt an unsound and dangerous principle and mar a promising experiment. It is very possible that the other Presidencies have not these peculiarities and in whatever degree this may be true it is a cogent reason against the attempt to enforce uniformity with them. If however the other Presidencies do not differ in this respect, the assimilation should be with this Presidency, the system here adopted being recognised in England and every civilised country as sound in principle and safe in practice.

* *The Village Head.*
† *Tahsildars and Sub Magistrates.*

7. There is another most cogent objection to the application of Act XIII of 1861, to this Presidency, viz., the additional cost which it will involve. By the present system of restricting the Police to Police functions solely, the great bulk of the Force consists of men competent for purely Police duties and paid accordingly; but if the Police are also to exercise quasi judicial functions there must be a very large infusion of superior and consequently more expensive agency. For instance, the Officers in charge of Police Stations are mere Head Peons, never receiving more than 14 Rupees monthly; if they are also to hold such examinations as this Act contemplates, they must be selected from a superior class and will require higher salaries, and this, for doing what the Tahsildars and Village Magistrates are more efficiently performing. As there are from 50 to 100 such Station Officers in every District, the increased cost of this arrangement, as well as of the additional supervision which it will entail may be conjectured. Again Act XIII, (Section 40) allows Officers of the above grade to be ex-officio Inspectors of Weights and Measures, i. e., it permits a head Peon on 14 Rupees to walk into any bazar and challenge the Weights and Measures in use in every Shop. By the Madras Act this power is for obvious reasons entrusted only to well paid Inspectors. If the Station Officers are to exercise it they must be paid on a scale which will place them above the temptation of mis-using it.

8. There are other very important errors, as this Government view them, in the Act XIII of 1861. For example, Section 69 practically makes the Station Officers (Policemen, on 14 Rupees monthly) the Coroners of the country, in supersession of the Magistracy who by the Laws of this Presidency are the proper Officers for this duty. The importance of adhering to the Madras system is self-evident, for if the Police are the Coroners, any case in which a Prisoner or a suspected Criminal may die from ill-usage while in their hands may be effectually concealed;—the verdict of the Station Officer, as Coroner, and the immediate burning of the body will render detection hopeless.

9. The Government will not however go into further detail on the subject, but will content themselves with referring to the enclosures of this letter. Their objections to the new Procedure Code, are in brief, that it violates fundamental principles of Police Administration, that it is unsuited to this Presidency, and uncalled for by any thing which has yet occurred in the experience

of its present Police system, that it will disturb the now well understood functions of the Police, and probably entail much confusion and expense; and that the only object in view, viz., uniformity with other parts of India does not compensate for these consequences. This Government earnestly trust that they will be allowed to carry out the work they have undertaken and for which they are responsible in the mode which they adopted after mature deliberation and which their experience leads them to hope will be as successful in practice as it is sound in principle.

(Signed) J. D. SIM,
Secretary to Government.

Exd. T. O'Connor.

Judicial. 157

No.

The Secretary to the Govt. of India.
Home Department.

Sir

In reference to Mr. Under Secretary Monteath's letter of the 8th inst. No. 1,320, I am directed to submit copies of Mr. Robinson's letter, 19th Inst., and of its enclosures on the subject of Police Procedure, regulated by Act XIII – '61, as compared with the working of the Police established by Act XXIV – '59.

I should be added that the Govt. leave, should the Supreme Court think it necessary, to make such alterations in the Govt. leave

judicially make
laws. It is known
to the whole United States
Supreme Court that a
few Members have been
elected upon the
Issue. When the
Court shall be
appointed - that Minister
& that Civil Court if he
have to decide of those
Laws which may
Jeopardy the Union
& if Laws which
This does in many
Instances

I quite agree that the Govt should
express strongly its disinclination to
have our Police Act tampered with
by Act XIII of 1861 - But I should
think done in the broad manner
that it is entirely unwise to interfere
with a great experiment now in progress
viz having a ministerial Police separate
from a merely judicial Magistracy
By all means let this important experi-
ment be fairly tried, & let us not
be stopped in trying a Police on the
English model because other parts
of India are not prepared for such an
experiment - But it is too soon to
talk of well having been done many acts & the
new Police being a success - This is
premature & I could not
join in pronouncing such opinion.
Naturally some in contracting the new
duty to Police duties, & giving them no
judicial powers - But I am not yet
sure whether the position of the Magistrate
& the District to the new Police is what
is desirable for the public interests. The

Judl. Dept. Augt 18th 1861.

No. 1704/1861.

Respt to — No. 32/1861.

Judicial 1861 Dept.

Secret Branch.

No. 1083.

Revenue Dept.

Dated 28th August 1861.

Forwards with Remarks the Report submitted by the Inspector General of Police on that part of the Criminal Procedure Bill which relates to Police Procedure and Vehicles as now Embodied in Act XIII of 1861 —

Sir,

I am directed by the Right Honble the Governor in Council to transmit herewith for the information of the Government of India a Report No. 1321, dated 19th Augt 1861, from the Inspector General of Police, submitting certain remarks on that portion of the Criminal Procedure Bill which relates to Police Procedure and Vehicles as now Embodied in Act XIII of 1861 —

2. I am to request that you will favor the Right Honble the Governor in Council with the opinion of the Government of India on the subject of the Inspector General's Report.

I have &c

(Sd) H. Forbes

Secy to Govt

To

The Secy to the Govt of India

Home Dept.

1790 @ 182

great weight from his general professional knowledge of the subjects which are the particular care of the Madras Police to the Framers of the Bill, and are entitled to respect as the suggestions of the Supreme Government of India.

The heads of this Act on the subjects are already before this Board but in Council - they were expressed in the Bill. But are equally applicable to the Act which Lord

Letter to the Secretary to the Govt. of India, Home Dept. dated 11th March 1861, No: 327.

-tered from the Bill [illegible]

I am particularly that this first & most careful consideration of the whole provisions adhere to the opinions already expressed with which such strongly to the application of the Bill of 1861 & either in its present or as part of the new Criminal Procedure Code to the Madras Presidency

I am to request that the Madras Police

kind seem objected
on the very kind system
for which the adoption
of the Bill of this Presidency
affords the facilities
peculiar & itself
under the Judicature Act
existing in the other
Presidencies - The
Police Force modelled
had been in operation
for two years in
several Districts
of the Presidency
and it is acknowledged
universally that the
Police is in a
flourishing state
as an auxiliary
to the Judicature
& Magistracy
in the Metropolis
of Bombay - Millions
of people should

he entertained
for his other
the attainments
than
of uniformity
procedure in
the Courts of Justice
entertained -

The Police Force
Code is based on the fun-
damental principle
of the Metropolitan
Police System - viz:
the complete
separation
of Judicial & Magis-
terial Functions
The union of these
powers in a inferior
the old Police System
their tenure is
characterised by

here [illegible] by Sleeman.
The latter has added
here a [illegible] full experience
of the former. It
is founded in principle
and is now being well
disciplined. The principle on the slightest is
to [illegible]
There fore a uniform
distinct [illegible] It is
also
uniformly for the
peculiar constitution of the Punj.
dewaj. There is a
[illegible] of the
principal power. Every
village has its re-
sident Police Magis-
trate - every Taluq
has its Mr Jackson
Magistrate - every
district its Commis-
sioner [illegible] staff
there is therefore the
slightest necessity

* The village Head
† Tahsildars & Sub
Magistrates.

Here for assisting the
Police with such
functions - and so
to invest them, as
we do all that have
been done - to Eng-
- adopt an unsound
& dangerous
principle & we are
providing a [illegible] Experiment
It is very proper that
that the other Pre-
sidencies have the
same peculiarities
and that the Legislature
deprecate this may be
true, it is a cogent
reason [illegible] against
the attempt
to enforce uniformity
[illegible] with
them: If however
the other Presidencies
do not differ in
the respect, the
assimilation should

the Presidency

le with ~~Bombay~~

the ~~Presidency~~ by Steam

adopted being the

Rice ~~paid~~ paid on

~~Cost~~ Cost of transh

ferry, and the R.

sound

city is ~~easier~~

in principle

safe in practice.

There is another

great Cyclone System

to the abolition

of Act XXIII of 1867

for the Presidency

the Revenue derived

cost which it will

give one - By the ~~French~~

System of restricting

Police & Police functions

solely, the first duty

of the ~~Police~~ Force con-

sists of men completed

for service by Police duties

and fresh accessions

5-

but if the Police are

also to exercise judi-

judicial functions

there must be a very

large increase in supervision & subordi-

and consequently

more expensive agency.

For instance, the officers

in charge of ~~a~~ Police Stations

& are mere head clerks

never receiving more

than 14 Rs monthly - if

they are also to hold Quick

Examinations on their

first entering Police duties,

they must be selected

from a superior class

with superior higher

and ~~receive~~ more

salaries - and for this -

for doing what the Talk.

Dildars & Village Magis-

trates ~~do~~ are

now efficiently & cheaply per-

form-ing - As there are

from 50 to 100 such

Station Officers in

every District, two

criminal Assaying
from all escape while
in their hands &
the Police may be
effectually concealed
for the verdict of the Ma-
tion Stricken, or Convey
d. the immediate
Discharge of the Party
will render the Letter
Useless. ~~Their Lordships~~
~~doubt~~.

The first will
not however point
out the detail on
the subject but will
content themselves
in the Reference
~~Lordship in Council~~
& the enclosures to
this letter. Their
objections to the new
Procedure Code - are
in brief - that it
initiates a funda-
mental principle
of Police administration
that it is undesirable
& this Precedent ought
and uncalled for
by any which has
yet occurred in the
experience of the
present Police System
that it will destroy
both the new police
& the Magis-
tracy of the Police
weaken Departmental control & responsibility
and Reduce
existing much con-
fusion to perplexity
and that the only
object in view - viz
uniformity with
other parts of India
is not worth the
consequences
likely. This fort
earnestly trust
that they will be

allowed to carry-
out the work they
have undertaken
for which they are
responsible in two
modes which they
~~Lieu~~ adopted after
mature deliberation
and which their experience
~~has shown to be~~
~~Lieuds. Thus to the~~
~~Lieutenant~~
~~Lieutenant~~ are
~~Lieutenant~~
successful in
practice as ~~otherwise~~
found in principle.

J W S

Fort Saint George,
28th August 1861.