M.R. O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 108	Press ~~Mis.~~
165-166	
Dated 26. 1. 1864. ~~19~~	

26/27

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 26th January 1864.

No. 165. Read the following letter from T. D. FORSYTH, Esq., Officiating Secretary to the Government of Punjab; to the Secretary to the Government of Madras, dated Punjab, 22nd August 1863, No. 618.

I am directed to acknowledge the printed Statement illustrating the administration of Civil Courts in the Madras Presidency during the year 1862, and to beg that, with the permission of His Excellency the Governor in Council, you will have the goodness to furnish me with a Memorandum regarding the Village Moonsiffs, describing the powers exercised by them; the remuneration, if any, enjoyed by them, and the mode of working and controlling them.

2. From the copy of correspondence herewith enclosed, it will be seen that the question of the appointment of a rural Justiciary has attracted the attention of this Government, and the Honorable the Lieutenant-Governor is desirous of obtaining any information on the subject which may be available to the Government of Fort Saint George.

Memorandum of the Law relating to Heads of Villages as Village Moonsiffs.

Civil Jurisdiction as Village Moonsiffs.

The system introduced by Madras Regulation IV of 1816, which conferred Civil Jurisdiction on Heads of Villages as Village Moonsiffs, has been continued intact by the Civil Procedure Code, and is briefly as follows:—

Who are Village Moonsiffs. Heads of Villages, *i. e.*, the persons who collect the revenue, and under whose control the village servants act are, if recognized as such by the Collector, ex-officio Village Moonsiffs.

Appointment and dismissal. The appointment and dismissal of Village Moonsiffs are vested exclusively in the Collector. They are liable to be called before the Zillah Court only to answer for their conduct as Village Moonsiffs on charges of corruption, or exceeding their authority in the sentences passed by them.

Amenable on charges of corruption, or exceeding authority only to Zillah or Subordinate Zillah Courts.

Jurisdiction.

Suits cognizable. Village Moonsiffs have final jurisdiction in cases where the debt or demand does not exceed Rupees 10.

Suits not cognizable. They are, however, debarred from hearingsuits for damages, suits in which the defendant at the time of institution of suit is not resident within their jurisdiction, or in which they themselves or their immediate servants are personally interested.

Curnum to assist Moonsiff. The Village Curnum or Accountant attends as Assessor in the trial of cases by the Moonsiff, writes the proceedings, and keeps the register of the suits preferred.

Procedure. On the due filing of a plaint a verbal summons is issued to the defendant to attend in person or by Vakeel immediately or within two days, after expiry of which time, and proof of the serving of the summons, the Moonsiff decides the case in one of the following ways:—

(1.) By Judgment *ex parte* if either plaintiff or defendant is absent without due cause, or if the latter refuses to answer the plaint.

(2.) By amicable arrangement between the parties which he is enjoined to encourage—*Or with the consent of the parties,*

(3.) On consideration of the plaint, and the answer which the defendant is bound to file within five days.

(4.) By the oaths of the parties.

(5.) By the examination of witnesses, the latter being examined on oath at the discretion of the Moonsiff, but their depositions not being necessarily taken down in writing.

Powers of Moonsiff in enforcing attendance.

Village Moonsiffs may enforce the attendance of witnesses in their own villages by verbal summons, or, where the witnesses may reside in a different village not more than 4 miles off, by a written summons sent through the Moonsiff of such village, under penalty of a fine not exceeding half a Rupee. Should the witness reside in a village more than 4 miles distant, his evidence may be taken by the Moonsiff of that village on receipt of a commission for that purpose from the Moonsiff trying the suit.

Punishment for disrespect.

Village Moonsiffs may fine parties, their Vakeels, or witnesses guilty of disrespect, refusal to answer, &c., a sum not exceeding half a Rupee.

Commutation of fine for imprisonment.

All fines may be commuted by the Moonsiff at his discretion for confinement not exceeding 12 hours in the Village Choultry, should the party fined, refuse, or be unable to pay.

Disposal of fines.

A list of all fines levied is to be sent at the end of each month with the money to the District Moonsiff.

Decrees.

Copies of the decrees passed by the Moonsiff attested by his signature and seal, and that of the Village Curnum, must be delivered to the parties within three days of the delivery of the same.

Execution of decrees.

If the judgment debtor do not discharge the sum decreed against him within thirty days after the date on which copies of the same have been furnished, the Village Moonsiff should, on the application of the creditor, attach the property of the party cast, giving notice of the same to the District Moonsiff, who will depute a person to sell it at the expiration of the time fixed in the notice of sale.

The process prescribed for the execution of a Village Moonsiff's decree is exclusively against the property, not against the person of the debtor, and can only be carried out by a District Moonsiff on his own responsibility as to the legality of the decree.

Costs.

Proceedings in suits before Village Moonsiffs are exempted from stamps, fees, &c., but all exhibits put in by the parties must be stamped in accordance with the general law.

Village Moonsiffs as Arbitrators.

Village Moonsiffs may, on the written consent of both parties to abide by their decisions, decide suits for money or personal property up to Rupees 100 as *Arbitrators*, and this whether the parties reside in or belong to their jurisdiction or not.

Village Moonsiffs may assemble Punchayets.

Village Moonsiffs may assemble Punchayets within their respective villages for the determination of Civil Suits, or for the trial of claims regarding lands or crops referred to them by Collectors under Madras Regulation XII of 1816.

Jurisdiction as Village Magistrates.

Heads of villages have authority to hold a verbal examination in all cases of a trivial nature, such as abusive language, inconsiderable assaults, petty thefts not attended by aggravating circumstances, nor committed by persons of notoriously bad character, and where the value of the property does not exceed one Rupee, and to punish the offending parties by confinement in the Village Choultry for a time not exceeding 12 hours, or if the offending parties be of the lower castes by putting them in the stocks for a time not exceeding six hours.

Punishment of trivial offences.

Proceedings of the Madras Government, Judicial Department,
26th January 1864.

Heads of Villages are required to report all cases in which they shall have exercised this power of punishment to the Sub-Magistrate of the Talook.

Authority to hold Inquests.

Heads of Villages are authorized to hold Inquests, if the Police do not appear in time.

Powers under Act III of 1857.

Heads of Villages are required to impound stray cattle.

Powers under Act I of 1858.

Heads of Villages are authorized to call for laborers to assist in preventing or repairing breaches in the embankment of tanks, rivers, &c., and to make requisitions on the inhabitants to supply materials for the same purpose.

No. 166. To the Secretary to the Government of the Punjaub, Lahore, dated Fort Saint George, 26th January 1864, No. 108.

In acknowledging the receipt of your letter of the 22nd August last, No. 618, I am directed by His Excellency the Governor in Council to transmit to you the accompanying Memorandum describing the powers, both Civil and Criminal, vested in the Village Moonsiffs in this Presidency, and a copy of the Proceedings of Government, under date the 1st April 1857, No. 381, containing a full report by the Board of Revenue on the working of the Village Moonsiffs' Courts in this Presidency; from which it will be seen that the emoluments of the office usually consist partly of land and partly of fees, that they are generally very small; the Village Moonsiffs in some Districts receiving little or no remuneration; while in others the emoluments attached to the office are lost in a great measure to the actual incumbents, in consequence of their being shared in by others. The tenure is, in most Districts, hereditary.

2. During the year 1862, the last for which returns have been received, the Village Moonsiffs disposed of 55,006 suits, or 22 per cent. of the entire number of suits disposed of by Courts of all grades, and dealt with 28,836 persons charged with petty offences, or 13 per cent. of the number of those dealt with by Courts of all grades.

3. The Government have impressed upon the Subordinate Magistrates the expediency of leaving petty charges of a nature cognizable by the Village Moonsiff to be dealt with by those Officers, and an attempt has been made in some Districts to organize Village Sessions by collecting the Moonsiffs of a few Villages meeting at some central point for the disposal of all cases coming before them, but hitherto the measure has not been attended with much success. A Bill is now before the Madras Council for making Laws and Regulations for legalizing the levy of a local cess in lieu of the village service fee, by which the Village Moonsiffs, and other village servants other than the village artizans at present derive a part of their remuneration. Copies of this Bill and of the orders of Government relating to the holding of Village Sessions are enclosed.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. J. Tulloch.

TAHSIL BOARDS OF PETTY MAGISTRATES.

MEMORANDUM.

In 1862 His Honor the Lieutenant Governor, Punjab, issued a circular to all Commissioners and Deputy Commissioners, and to selected natives, calling for their opinion on the expediency of devolving upon the leading members of the rural community the settlement of petty criminal and civil causes.

Replies have been received from all, and an abstract is now printed for general information.

No action whatever has been taken in the matter as yet.

Of 52 persons consulted, the different opinions may be thus ranged :—

For the measure, ...	30
Against it, ...	12
Qualified approval, ...	10

Amongst those who give qualified opinions, one would try the experiment in towns; another would try it at the suddur, being doubtful whether competent men could be found in the villages; another only asks for delay.

Others approve, but doubt whether qualified persons could be found.

Of the 30 in favor of the measure, nearly all offer suggestions more or less valuable as to the practical working of the scheme. Every native consulted is favorable.

Objection in toto to the principle involved in the proposed measure is taken by some of the dissentients.

T. D. FORSYTH,
Offg. Secretary to Govt. Punjab.

Circular No 4 from the Secretary to Government, Punjab, to the Financial and Judicial Commissioners and all Commissioners and Deputy Commissioners in the Punjab, dated 3rd October 1862.

JUDICIAL. The Lieutenant Governor is strongly impressed with the expediency of devolving upon the leading members of the rural community the settlement of petty criminal and civil causes. His Honor believes that, under present

ABSTRACT OF OPINIONS.

The Financial Commissioner.

(Mr. McLeod.)

Is entirely favorable to the proposition. The people would regard such courts as more accessible than those of the Tuhseeldars, and would resort to them more freely. The labors of the Tuhseeldars would he greatly lightened. This last consideration is becoming daily more important, as the tendency of litigation to increase is becoming more decided, especially in some parts of the Punjab.

But the main reason for advocating the measure is that it will tend to give the gentry an influence and status in the body politic to which they are entitled. We have hitherto practically deprived them of this, and dispensed with their services in our administrative arrangements; and this is the reason, more than any other, of our rule being generally disliked throughout India. To a certain extent it may be true that rank, wealth, and worth must exercise their legitimate influence everywhere in the nature of things. But the autocratic and conservative character of most Oriental Governments, causes them to be regarded in a peculiar manner by the people as the source of all influence and authority; and, as we are foreigners, this feeling has become stronger under our rule, notwithstanding the republican tendency and sentiments of Englishmen generally. Whether from unwillingness or ignorance, we have not availed ourselves of the services of the people, but have delegated all power to stipendiary officials, who (the native officials) are so jealous of the peoples' interference that, as a general rule, a village watchman must be acceptable to the Darogah or Tuhseeldar before he can be appointed. This should not be so; but it will never cease to be so unless unofficial portions of the native community are given some share in the administration. Manorial, Baronial, and Provincial Courts of various kinds sprung up in England, under similar policy, and have formed the germs and foundations of the liberty and greatness which England happily enjoys. And it should be our object and our pride to put India, while under British rule, similarly in the way of working out its own greatness and liberty.

To give the greatest effect, however, to our legislation in this direction, we ought to descend to what forms at present, as respects the rural population, the only homogeneous unit, the village community. The great bulk of the transactions which most nearly affect the well-being of the commonalty, must be settled there, or not at all;

and, in point of fact, they *are* virtually settled there for the most part, by irregular means, if regular and constitutional ones are not provided, except when an individual more shrewd, more uncompromising, or more grasping than the rest, sets the self-constituted authorities of his village at defiance.

This principle was recognized by Mr. Elphinstone in his Bombay Code. And his plan did not succeed entirely, owing, probably, mainly to the fact that no superior controlling courts of analogous character were established. The decision of a village *Mukuddum*, if subjected directly to the ordeal of revision by a Magistrate or Judge, will probably lead to results calculated speedily to reduce him to despair, and to prompt him to abjure or ignore his functions rather than subject himself to such a test. This result need by no means follow if the supervising body be composed of men of his own class, or but slightly superior to it.

Suggests that *one* principal man in each village be vested with powers in matters relating to crime and conservancy, more or less similar to those conferred by the Bombay Code; also with the power of disposing of civil cases of trifling amount. If the Lumbardar be unfit for such duty, or if, in consequence of a spirit of faction, a single representative cannot be selected, the privilege should not be given to the village for a time. Eventually the matter would soon right itself.

The Tuhseel Board, proposed by the circular, should revise the proceedings of the village Mukuddums, the Board's decisions being appealable to the Tuhseeldar. The Quanoongo should be constituted clerk of the court of the Board. In that case he should be relieved of many of the routine duties now imposed upon him in the Punjab. But one Tuhseel Board in each Tuhseel would not be sufficient.

The "Punchayet" has irretrievably lost its prestige. Under native rule, in most parts of India, the administration of justice, in all its lower stages at least, was *permissive* rather than *authoritative*. In other parts the Government representative was unwilling or unable to decide himself the mass of cases referred to him. In either case the people felt that for the adjudication of the bulk of their disputes they had to look to *Punchayets* mainly; and public opinion exercised a powerful influence over the proceedings of the

Punchayets. With us whatever may be organized will be of an authoritative character.

A court having been created, the responsibility of its decisions should be left with it. A resort to arbitration might be encouraged by all reasonable means. At first corruption and oppression may often show themselves, but we must be prepared for this and other imperfections. But the perpetrators will be amongst the people and of them, and the latter will soon learn to exercise over them a check more or less effective, such as they can never hope to exercise over the stipendiary officials. The higher courts might be made as perfect as possible, but such perfection is not required for the humbler courts now contemplated. We are too apt to regard with complacency and satisfaction the symmetry and smooth working of courts presided over by trained officers, while all may be rottenness beneath the surface. But the creation of institutions more indigenous and unofficial in their character will tend rapidly to restore the wholesome exercise of public opinion, which the former, as heretofore exclusively relied on, have tended virtually to suppress.

The Government draws the revenues. It is one of its first duties to administer quick, cheap, and satisfactory justice, civil and criminal. In great cities there are educated classes with leisure who may perhaps assist the Government, but to throw upon the provincial notables the task of assembling and deciding cases would neither be expedient nor practical. Nothing would be more painful than the forcible collection of unwilling, unremunerated, and unskilled judges, to do the work which every Government considers to be its own duty and privilege.

Arbitrators have failed because the issues for decision have not been clearly put before them. No precision could be expected from a fortuitous board of ignorant and prejudiced men, who have no knowledge of the law of procedure and evidence. To exact a heavy stamp from a litigant and make over his case to such a Board would not be justifiable. He could get this limited amount of justice from his Punchayet without

The Judicial Commissioner.

(Mr. Cust.)

troubling the Government, or paying any stamp duty. If men of local consideration do dispose of judicial work, out of court, the circumstance is satisfactory. Our object should be that the mass of litigation be disposed of without the parties paying stamps, or getting involved in technicalities. But if any courts are to be established let them be respectable courts; if any law, it should be good law,—competent judges, paid and trained for their work, and bound to do it.

In Madras a very small percentage of causes is disposed of by village officials. A return for the last ten years should be called for from that presidency. If such a state of things, as contemplated, was found to exist, it might have been maintained; but to *create* it is a different thing from that. If necessary, the system was more adapted for introduction immediately after annexation. The patriarchal stage has now passed away. Why has not the employment of village agency been found necessary in Bengal, possessed of extraordinary wealth and teeming population as it is?

If the limit of civil suits to be disposed of by the Board was fixed below 50 rupees, the limit would, perhaps, take in more than half the litigation of the province.

To talk of court days for such Boards is very well; but the various stages through which a case has to go require continuous and unfailing attendance of the same Board. Would this be practicable, or could this be hoped for? Domestic, social, and matters connected with village economy, would interfere. It is asked how civil cases were disposed of before annexation. The reply is another question, viz., how they are disposed of now in Puttiala, Bhawulpore, and Kuppoorthulla—not at all.

There is reason to believe that during the last ten years, the accumulated cases of the Sikh period have been cleared off in our courts. There is no superabundance of civil cases in the Delhi and Hissar divisions after 50 years of our rule. Our courts are always open: the people resort to them gratefully. We should not strive to lose this deserved popularity, and make over the creditors to irresponsible Punchayets and fluctuating Boards.

The phrase "Magistrate" is applied nowhere to an adjudicator of civil cases except in the Punjab, and even here since lately only.

The Government should not delegate any *Criminal* power to such Boards. Even in England, where the Board consists of educated honorable men, terrible failures of justice occur occasionally. In the Punjab the measure would end in this: the Board wielding the sharp weapon of the Penal Code would find themselves prosecuted and sentenced; and when children are allowed to play with edge tools such a result would be matter of no surprise.

As regards the legality of such a measure, there is no power under the Act XXV of 1861 to vest a Board with Magisterial powers. Nor under the orders of the Supreme Government could a Board be invested with civil powers without an Act of the Legislature. Under Act XXV of 1861 no Tuhseeldar can be made judge of appeal in criminal matters, unless he exercise "*the powers of a Magistrate.*" There is not a single Tuhseeldar whom the Judicial Commissioner could recommend for such powers.

The measure proposed is likely to give great satisfaction to the people generally, but is one which should be introduced tentatively, and only in districts which can afford the material, and which are controlled by officers (European) who will take an interest in working the plan; for inaction of the officer to whom they are entrusted has been shewn by experience to entirely defeat the most excellent reforms. But, even under favorable circumstances, before action the feelings of the people should be ascertained. In the Kangra district, where Punchayets have been appointed for the disposal of betrothal and marriage cases, much success has been gained, and the regular courts have been relieved of much work, for the disposal of which English trained officers are ill suited.

It has always been his favorite idea to make over betrothal and marriage cases to the Punchayets in the plains. The scheme now proposed by Government is more comprehensive, as it will include other civil suits also.

Petty civil suits might be disposed of by these Boards, acting as Courts of Conciliation to keep

Commissioner Lahore Division.
MR. T. D. FORSYTH.

litigants out of our regular courts. They might become, as it were, the Registrars of agreements and amicable arrangements, which could be enforced, if necessary, through our regular courts. But if cases arise depending on law, and not merely on custom, for decision, they should be tried in our regular courts, for which we are doing our utmost to select trained judges, who shall administer the best law.

As regards criminal powers, the example of the city Magistrates at Lahore is an earnest of the probable success of the Board of Petty Magistrates. If objections be raised on the ground of irregular proceedings, a Legislative enactment might be sought for from the Supreme Government.

It should be remembered that, until we have more Magistrates studded over the face of the country, we cannot expect from the people that attention to our laws which the Penal Code demands. It often happens at present, that a man has to go forty miles, and be absent many days from his home, to appear as prosecutor or witness in a case, just at the time of year most precious to him, as cultivator. This causes frequent loss, and is one great reason why natives are so averse to reporting crime. It is not that they are averse to seeing the criminal punished, but that they dread the delay and inconvenience of all kinds to which they are subjected by a visit to our courts. On this subject the opinion of the natives is clear and decided, and should be attended to.

Other arguments may be brought forward. But theoretical arguments and objections are worth nothing in the balance with positive practice. Such arguments and objections have been brought to crush the proposal for Punchayets in Kangra, for a New Police in the Punjab, or for any other measure of progress and reform. But, considering what has been the result of an honest trial, it seems that the only way to decide whether a measure, apparently good in all respects, is really what it seems, is to put it to the crucial test of actual experience. For this reason he wishes to try the present proposal in one district before extending it to the whole of the Lahore division. Is averse to the proposal to subject the Boards to the Tuhseeldars.

Offg. Commissioner Lahore Division.
(Mr. Egerton.)

The measure proposed is likely to work well; but appeals should not lie to the Tuhseeldar. He should merely inspect the registers, and report any cases requiring notice. Expects great advantage from the decision of petty civil suits by Punchayets under supervision of the Petty Magistrates.

Commissioner Umritsur Division.
(Mr. E. A. Prinsep.)

The proposed local tribunals are much wanted and will be very popular, and after a few years will work well. Under our elaborate judicial system, our courts are burdened with innumerable petty cases which can be better settled by heads of tribes and committees, under proper sanctions and checks, out of the regular courts.

Makes the following suggestions :—

The Boards should never consist of less than five members, to be selected with great care, not only of village notables, but leading men of smaller interior towns, and with the approval of the Commissioner. The same men not to sit more than two months, or else the Boards will be looked on as standing ones, and mischief may result. Board's courts to be open only twice in the year, and for two months at a time. The months to be fixed by Deputy Commissioner after consulting the Tuhseeldar.

In each purgunnah or circle of 300 villages raised plat-forms should be built in convenient sites, selected by the Deputy Commissioner, for the Board' scourt. Plaintiffs and defendants both to have the option of taking their cases to the Board or regular courts. Clear rules should be drawn out for the guidance of the members. They should be told what they should do, and what they should *not* do.

For the first year appeals in civil cases to be to Deputy Commissioner. This will keep an additional check over men who may be badly selected.

All cases below 50 rupees in value to be decided by the Boards. Decisions by arbitrators chosen by the parties should be indispensable. As a rule, names of arbitrators should be entered in petition of plaint. On defendant's

appearance, he should be asked if he agrees to enquiry before the Board; by what person as his arbitrator; whether he has any objection to offer against any arbitrator.

Appeal should lie to Deputy Commissioner; not to Tuhseeldar.

On Criminal side, Board should be changed every six months; meet once a week or fortnight, not daily, which would be irksome, and take away from the solemnity of the occasions.

Boards not to be vested with powers of Subordinate Magistrates of 2nd class. For the first year Boards only to record sentences, and Tuhseeldars to confirm and carry them out. If Tuhseeldar disagree, *his* order to be acted upon. Appeal should lie to Deputy Commissioner.

Enquiry in all cases (Civil or Criminal) to be oral. Brief order to be recorded on back of petition, with a view to future execution. Order to bear signature of each member. All documentary proof to be filed with petition.

Betrothal, caste, and other social claims, to be settled by Tribal Punchayuts, whose final orders should always be recorded to serve as precedents. Decisions of English officers are not satisfactory in such cases, from ignorance of peculiar customs of different tribes.

By employment of this approved and primitive agency, the relief to the higher paid judicial officers will be very great, and the patriarchal system introduced and maintained by the Lawrences, as adapted to the people, will be upheld. At present officers trained for nobler exploits, under complex procedure and harassing circulars, are obliged to pay attention to *forms*, and are occupied the whole day inside the kucherries writing English abstracts of petty cases. Work of greater importance is thus sacrificed.

At first defects will be found to exist, but after correction has been afforded, and exemplary conduct noticed, there will spring up an institution which *has* taught the people to trust themselves, and *us* how to govern the people through themselves.

careful and effectual control. But he would not employ them at all as Petty Magistrates, for the trial of criminal cases, and, in the civil department he would only employ them at the suddur station.

The notables in such district should be selected by Commissioner and Deputy Commissioner, and lists prepared of them.

Five should be formed into a court for trial of such cases as might be made over to them by Deputy Commissioner, *with the consent of both parties*, and more particularly those cases hinging on local custom, and connected with marriage or betrothal; and an appeal should be allowed from their orders to the Deputy Commissioner.

Courts to be closed during the harvest, or for four months in the year.

Members to receive a personal allowance of one rupee each for every day they served.

A clerk of the court to be appointed on Rs. 25 per mensem.

Commissioner Umballa Division.
(Colonel Sir H. B. Edwardes.

The plan is an excellent one. The only doubt he has is in regard to appeals, in criminal cases, lying to the Tuhseeldar. The Board might be more really independent if the appeal lay only to the Deputy Commissioner.

Commissioner Delhi Division.
(Mr. Melvill.)

Would not introduce any more changes, at present, in our judicial machinery. The great changes introduced during the last three years have unsettled the minds of the people, and therefore further improvements should not be attempted just now. The Tuhseeldars in the Delhi division are not overworked, and it would be difficult to find men who could be advantageously employed on Rural Boards. Agricultural Chowdries might be so employed with advantage in the Hoshiarpore and Kangra districts, as good

men are forthcoming there. The districts are far larger in the Madras Presidency than in the Punjab, and yet we have the advantage of more Government officers, with greater powers.

The scheme proposed might answer in selected positions, and the capacity of the people would be advanced by its introduction, but this is not the time for the experiment.

Commissioner Hissar Division.
(Mr. Naesmyth.)

Is in favor of the measure, but would limit it, for the present at least, to civil cases, as these would be less likely to be mismanaged than criminal matters, from the fact of their being adjusted by Punchayets selected by the parties, and these would be the cases the people would most readily bring before a Board of Magistrates. It is not the pressure of criminal work, but the limited jurisdiction of Subordinate Magistrates which interferes with the full benefit accruing to the people from the establishment of Mofussil criminal courts. Besides, Tuhseeldars are seldom if ever burthened by criminal business, and there would, therefore, be no practical advantage in assigning a portion of such work to a Board of Magistrates. Where suitable men can be found, such courts would of course be appreciated, but the success of the measure would necessarily depend on the selections made.

Commissioner Derajat Division.
(Lieut. Colonel Becher.)

Believes that local tribunals exist to a larger extent than is generally supposed. Wherever these are to be found, either under the names of "Jeergah," "Maruka," or "Shura," he would like to see considerable use made of their advice and opinion, though he would not make their decisions final. They are all useful adjuncts to the machinery of our courts of justice; and besides them we have Assessors, Moonsiffs, and Punchayets, all very valuable as long as they do not become standing counsellors. Would not

entrust the trial of *criminal cases* to Tuhseel Boards. They would abuse the power vested in them, and their services are not needed. Even the courts of Jagheerdars and Honorary Magistrates will require constant supervision. The administration of justice is one of our strongest holds on a foreign country; we cannot afford to debase its standard.

In regard to *civil cases* there are less objections. Punchayets and Moonsiffs are already extensively employed; but doubts whether their decisions, uncontrolled by our officers, would give satisfaction. Their employment under native rule is no positive argument for their conscientiousness and efficiency. For what other means of obtaining justice had the people? On the whole, he would prefer our own existing agencies availing themselves of those of the country, to the constitution of further separate jurisdictions; and can see no real advantage in "legalizing" them, and calling them by English names.

Doubts the advisability of introducing the system in the Peshawur Division, at present. So many feuds prevail in every village community that justice would not be done at first, and the complaints against the Board would be as onerous to the officers as trying the cases; but things might improve, and it might have the effect of raising the character and position of a certain number of the leading men, and therefore has no objection to the experiment being tried.

Commissioner Peshawur Division.
(Lieut.-Colonel Taylor.)

The plan proposed would answer admirably, if qualified individuals, to form the Board, could be found. In the Lahore District, good men are mostly illiterate, and live at inconvenient distances from each other to meet at any stated place. No Tuhseeldar in the district has larger powers than a Subordinate Magistrate of 2nd class. The Board of Petty Magistrates would

Officiating Deputy Commissioner of Lahore.
(Captain Hall.)

therefore be on a footing of equality with the Tuhseeldars.

On general grounds the measure would not be popular everywhere. The ramifications of relationship and connection, and the dealings which the members of the Punchayets generally have had with their litigants, would lead to bitterness and animosity, even if fair and impartial justice were administered.

In cities where there are educated people, the system would doubtless work well. Honorary City Magistrates are already doing very well.

Is not in favour of Punchayets. Mr. Cowan, Assistant Commissioner at Kussoor, suggested some time ago the employment of agency of "Khangee Moonsiffs." Deputy Commissioner himself thinks the people are seldom satisfied with the award of such Moonsiffs, and that the majority of such cases re-appear in court.

Deputy Commissioner of Goojranwala.
(Mr. A. Brandreth.)

Has delayed his reply from unwillingness to state his real opinion, and his difficulty in doing so without seeming disrespectful.

If there were any hopes of its succeeding, the measure would be desirable and advantageous in every way. But he fears that, for several reasons, *success is impossible.*

It depends entirely, *first*, on the men to whom it may be entrusted, and *secondly*, on the supervision and assistance of the European officer. If not encouraged, or ill supervised, or if *over* supervised and made to *feel* they are *distrusted*, the best men grow careless and indifferent, or merely use their power to gratify petty spite and enmity. Even in England educated Magistrates, surrounded with observant eyes, with everything reported in the daily press, sometimes give very peculiar orders, especially in the case of troublesome poachers. What then could be expected from *un*-educated men left to themselves in distant corners?

But the number of fit men is rapidly decreasing everywhere. Many have died during our rule and left no successors. The majority of those remaining *owe their influence and ability solely to the Sikh times, and their* sons also seem better fit to succeed them.

Offg. Deputy Commissioner Goordaspore.

(Captain Tighe.)

Members for the Board should be selected out of the Soofaid Poshes or village notables. Enquiries have been made in the district regarding these. There are 62 in the district who can be named at once.

Each Tuhseel should be divided into 2 circles. Head quarters of the Board should be fixed at a central place in the circle, not being the Tuhseel town. There should be a chairman, and a deputy : these with two members should form a quorum : petty sessions should be held in the first week of each quarter. The Board to be vested with powers of 2nd class Magistrate. Chairman and Deputy to be elected annually. If decision be unanimous, fine should not exceed 5 Rs. No appeal to be allowed.

In civil cases Board to have power in all cases below 50 rupees.

Record to be kept : only petition of plaint and final order in form of a diary.

Two chowkeedars should execute their summonses ; two putwarees to act as clerks of the court, and keep diary of proceedings ; copy of this to be furnished monthly to the sudder office where the statistics may be collated if required.

In civil cases appointment of assessors not be imperative. An immense proportion of cases would be settled by acknowledgment of debt with plea of too much interest charge, or by defendant requiring the account to be produced. The Board ought themselves to be able to settle such cases.

Every member should be paid ; the Chairman and Deputy at Rs. 1-8 daily, clerk of the court 8 annas, and two members one rupee per diem. The cost for one week in each quarter would be about 1,344 Rs. per annum for the district.

The district court would be relieved of the greater portion of the civil work. A proportion of Muzkoorees could be done away with, and the Board paid from the saving. Two might be allowed to Board if required. At first petitioners may at their option refer their cases to Tuhseeldar or to Board. Afterwards Tuhseeldars might refer cases to Board.

The most important points appear to be :

1st. That the sessions should open and close at some fixed time notified by Putwaree in all the villages of the circle.

2nd. That the Chairman of petty sessions should not be permanent, but should be ineligible for re-election till the 3rd year.

3rd. That the Board should be so remunerated as to make the sittings in petty cases no loss.

Captain Graham's opinion. Such petty cases as the Board are intended to dispose of are not well settled by European judges, and the time of the latter is occupied with these cases to the detriment of their other multifarious important duties. Hails the introduction of such a system as that proposed with pleasure.

Offg. Deputy Commissioner Sealkote.

(Mr. Macnabb.)

The Tuhseel Boards will work satisfactorily, and will be popular, but there exist two drawbacks which will give trouble.

1st. Jealousy in the other influential men of the district. No amount of tact in selection will always prevent this.

2ndly. Influence of local party feeling and family feuds in many parts of the country.

The first could be partially obviated by having several sets of Magistrates to sit alternately. This would also put them on their mettle, and a wholesome fear of retaliation would prevent an undue indulgence of personal feeling.

In really large towns, notwithstanding the above drawbacks, the plan would succeed ; and it is worth a fair trial, even in doubtful localities.

In criminal cases, those of theft of the most trifling description should not be made over to the Boards.

In civil cases, the defendant should have the option of objecting to trial by Boards, as the plaintiff of referring the case to Tuhseeldar or Board.

If both parties preferred trial by Board itself to appointing arbitrators, they should be allowed the option of doing so.

A special (not ordinary) appeal should be to Deputy Commissioner.

Deputy Commissioners should be allowed to punish severely any misuse of authority on the part of the Magistrates. If necessary, such cases might be sent up to Commissioners for approval, which would check hasty orders.

Would not make over criminal work to the Board. The Tuhseeldars understand our criminal laws with difficulty. It would be hopeless to infuse the requisite knowledge into the native gentry in the present generation.

People of his district are too clannish and ignorant. It would not do to invest them with any powers (civil or criminal).

Raises the general question as to whether it is expedient to bring litigation to the very doors of the people. The existing facilities are sufficient.

Work in his district not so extensive as to render necessary, for the present, any extension of judicial agency.

Deputy Commissioner Rawulpindee.
(Captain Cracroft.)

Proposed measure would much relieve judicial officers, Tuhseeldars especially; would be very accessible to the people, and cheap and ready mode of disposing of petty litigation.

In criminal cases, appeal to lie to Tuhseeldars.

In civil suits, Bombay plan to be adopted, viz. that if parties agree to abide by Board's decisions, in cases ordinarily beyond their power to dispose of, then their decision to be final.

But steps must be taken to secure stamp revenue. But as some cases might be disposed of without record, the plan would be that decrees be executed only on the Tuhseeldar or Record Keeper, sudder, certifying on the back of the decree holder's certificate that the full stamp in the case has been filed.

Deputy Commissioner Jhelum.
(Major Bristow.)

If the working of the proposed measure be carefully watched, the plan would give relief to judicial officers, and be advantageous and popular to the people.

Persons of influence to be selected and nominated by Deputy Commissioner. Deputy Commissioner also should have power to remove any of the Magistrates for inefficiency or misconduct; in both cases Deputy Commissioner's proceedings being subject to confirmation of higher authority.

Deputy Commissioner Goojrat.
(Captain E. H. Paske.)

The powers proposed to be conferred on the Magistrates are judicious. The aid of arbitrators should be invited *only* when the parties desire so; otherwise Board may decide themselves.

Appeals not to lie to *all* Tuhseeldars, but only to 1st class Tuhseeldars. If none exist in district, then to Assistant or Extra Assistant Commissioner with full powers. If appeals were allowed to *all* Tuhseeldars indiscriminately, this might lead to abuse. Appeals may be encouraged to increase their own importance by the Tuhseeldars, and, besides other disadvantages, there will still be a great burden of work on them.

At first there should not be more than one Board in each district; afterwards the system may be extended gradually. The Boards should be appointed sub-registrars or public notaries. Suits relating to breach of social contracts give the most trouble. If such contracts were registered, (and there would probably be no objection on the part of the parties to have them registered by such Boards) this class of cases would be simplified and reduced in number.

On the criminal side, if cases of divorce were registered, the truth or falsehood of such pleas, often urged by the accused party in his defence, would be easily determined.

Boards should sit on fixed days only, otherwise litigation would be increased needlessly. At Tuhseel stations aid of Tuhseel establishments could be given to the Boards in conducting their proceedings.

Deputy Commissioner Shahpoor.
(Captain W. G. Davies.)

Such Boards as those proposed could not be got together in towns of little commercial importance. Being unpaid, they could not be expected to move about. If they meet at large towns, there would already be some *paid* judicial agency available there. In such a case the saving of distant journeys to litigants would not be obtained.

A simpler plan would be to appoint individual persons in a circle of villages, and to vest them with powers similar to those proposed to be given to the Boards. One additional advantage of this plan would be this, that in thinly populated districts qualified *individuals* can be found more easily than sufficient members to form *Boards*.

This plan would be better adapted to the Shahpoor and similar tracts.

There is a good deal of party feeling among influential men in the district. No good result would follow if proposed measure were introduced. They would not work also without remuneration.

Deputy Commissioner Mooltan.
(GENERAL VANCORTLANDT.)

Relief to Tuhseeldars would be great if proposed measure were introduced.

Petty cases brought into court are very limited in number. This shews they are already settled by heads of villages.

This applies both to criminal and civil suits, to the latter with greater force.

Betrothal and marriage cases should, however, in the first instance be brought to the regular courts, the feeling of the people being in favor of treating women as an article of commerce.

In cases of bond debts, accounts, &c., the agency of these Boards, if properly checked, would be invaluable.

Deputy Commissioner of Moozuffergurh.
(CAPTAIN HAWES.)

In the Googaira district, the proposed agency would probably prove inoperative, and even if it did operate, it is doubtful if it would prove beneficial.

Deputy Commissioner of Googaira.
(CAPTAIN MAXWELL.)

"Paucity and pre-occupation of Judges" does not exist here. As regards distances, the people undertake long journeys to the sudder court of their own accord, rather than resort to nearer courts, although the cases are often referred to those nearer courts (Tuhssel courts) by the sudder courts. These observations apply both to civil and criminal justice.

As regards "arbitration," rather than multiply artificial machinery, or impart an artificial character to any spontaneous machinery which may now exist, the extra judicial and private arbitration of disputes by the people themselves and entirely among themselves, should be much fostered.

In the Googaira district, the people are scarcely ripe for such institutions. There have been so many and frequent changes recently (new criminal, stamp, codes, new taxes, &c.,) that the result is an uneasy and unsettled state of feeling, and a want of confidence in the stability of institutions, and a constant hope or apprehension of fresh changes. Under such circumstances any more innovations, not absolutely required, are to be deprecated.

Deputy Commissioner of Umballa.
(MAJOR BUSK.)

Petty criminal cases triable by Subordinate Magistrates of 2nd class not so numerous in the district as to require extra agency. Boards being proposed to be located at Tuhseel stations, there would be no saving of distance to litigants. Even if the proposed measure would afford facilities and cause more petty complaints to be made, it is questionable whether this is desirable. Most cases of the above classes are of such a nature that a little time cools down the aggrieved party.

Petty civil suits are indeed as important to the parties concerned as suits for larger amounts to richer persons, and it is hard that they should be debarred by distance from bringing them forward.

But Honorary Judges can give satisfaction only—

1st.—When they have hereditary and traditional authority over the men between whom they administer justice.

2nd.—When they are heads of commercial communities.

In the Umballa district, and in the Cis-Sutlej States, the former condition is fulfilled in the case of the disfranchised chiefs *only*, many of whom are Jageerdar Magistrates. No other class of people covet such authority.

As regards the 2nd condition, the bulk of petty cases in the Umballa district are between traders and zumeendars. It is doubtful if a Board could be constituted so as to judge impartially between them.

Before our rule different castes and communities *did* exercise a certain authority over their own members; but the principle involved in this appears to be different from that now proposed to be introduced.

If it is to be introduced, defendant should have the option, as plaintiff, of bringing the case before the Tuhseel court. The popularity of the Small Cause Courts is frequently inferred from the number of suits before it. But this is a one-sided view, as the defendants may have quite a different opinion.

An essential feature of the proposed measure should be that there should be no appeal from decision of arbitrators. The record could not be prepared so as to admit of appellate court forming any opinion from it, if it were attempted to prepare such record, the real power to be taken out of the hands of the Honorary Magistrates and given to the Moonshee who prepared the record. In order to avoid this, the record should be as brief as possible.

Deputy Commissioner of Loodiana.
(MAJOR MCNEILE.)

To give the proposed experiment a fair chance of success, care must be taken to adapt it to the peculiarities of each district. Extreme jealousy prevails among the people of the Loodiana district. He had most plain experience of this on the occasion of the introduction of the local trade taxes.

In the Loodiana district, the experiment should be tried in this way. The Lumberdars (as a body) of certain of the larger villages at a distance from the Tuhseel should be constituted

a judicial punchayet for their own villages respectively, their revenue and judicial jurisdictions remaining conterminous. Three should be a quorum, to meet at the village gate every Monday, and dispose of cases within their power *orally*, and only of such cases as both sides might agree to their deciding. The people are too illiterate to permit of there being a record, and with the condition stated, no record would be necessary, as the privilege of appeal would be dispensed with.

No criminal power whatever should be given at first. Petitions might be taken in civil suits up to 64 rupees on stamp paper. The Board to be entitled to services of the Schoolmaster, as there would be nobody else able to write the Persian character. The decree should be recorded after verbal enquiry on the back of the petition, and a certificate given to the winning party. The petition should then go to the Tuhseeldar to include in his returns, and the Tulubana accounted for monthly, with a deduction of ten per cent as the Punchayet's fees. Perhaps the Tulubana might be levied at a lower rate than the present excessive charge, which makes the Punjab the most expensive province in the country as regards civil suits.

Execution of decrees (in which attachment of property would be involved) to be sued out in the Tuhseel court, unless Judgment Debtor pay in presence of the Board of his own accord or by their advice, without judicial proceedings being taken by the Board.

Deputy Commissioner Simla.
(MAJOR R. LAWRENCE.)

The proposed Boards cannot be formed in his district, as the Naib-Tuhseeldars (there are no Tuhseeldars) do not themselves exercise magisterial powers.

The proposed scheme would be very advantageous. It would offer means of settling a great number of trivial cases which now encumber our files; and at the same time raise the social status of the most respectable and intelligent men in each Tuhseel. The plan might be tried experimentally for one year.

Deputy Commissioner of Jullundur.
(CAPTAIN ELPHINSTONE.)

Work is increasing beyond the capabilities of existing judicial agency year by year. Petty Magistrates should be created both to meet this requirement, and with the view of educating the village notables, and obtaining speedy justice for the aggrieved.

Deputy Commissioner Hoshyarpore.
(CAPTAIN YOUNG.)

Criminal Work.—12 men should be nominated by Deputy Commissioner, and confirmed in each Tuhseel. 3 should serve by roster every three months. At first they should be subject to removal at pleasure. Every week day Magistrates to meet in a Tuhseel room. Remuneration a rupee a day to each, to be charged in contingent bill, on Tuhseeldar's certificate of attendance. 3 to constitute a quorum. If Magistrates not unanimous, defendant to be acquitted. A permanent clerk of the court should be given on 30 rupees per mensem.

Civil work.—Summons issued to Tuhseel Sheriff. Defendant to be at liberty to take his summons to the Tuhseeldar, and claim that he send for the petition and hear the case.

Arbitrators to be chosen not *necessarily* from the notables, nor to be necessarily present when chosen. After arbitrators have been named, summons not to be issued for 7 days, to allow time for objections being made to the arbitrators after enquiry. If necessary fresh arbitrators to be appointed, in presence of both parties. Decisions of arbitrators to be unanimous, or case to be transferred to Tuhseeldar. In former case no appeal to be allowed.

The limit of cases to be thus heard had better be under 32 rupees at first, that is, the limit covered by one rupee stamp in petition.

Deputy Commissioner Kangra.
(MR. P. EGERTON.)

There are already native Punchayets in the district. Some work well, but the majority have not the ability to discern the points at issue, nor can give an equitable decision on the facts proved. The Deputy Commissioner has, in these circumstances, expressed unfavorable opinion of them as a body. Still, they have relieved the court of a large amount of work, and, in majority of cases the parties accept their decisions without appeal. A very palpable cause of their inefficiency is the inadequacy of their remuneration.

If the sphere of action of these courts were enlarged, and some adequate remuneration provided for the Punch, a satisfactory agency for the disposal of petty suits might be established.

In large cities where there exists a class of low budmashes, who are constantly committing low crimes, criminal powers may be given to the Magistrates, who, as they would be respectable and intelligent, may be safely allowed to deal with such budmashes; but such a tribunal for petty magisterial work would not be popular in rural districts.

In civil cases an appeal might be allowed to the Tuhseeldar, and a special appeal to the Deputy Commissioner.

Deputy Commissioner of Delhi.
(MR. COOPER.)

Would defer the introduction of the scheme until it is seen how the City Magistrates perform their work.

There are no personages in the Delhi district of sufficient rural standing, wealth and character, whom he could name for the work; and attributes this to the disturbances which overwhelmed society a few years ago.

Deputy Commissioner of Goorgaon.
(MR. JACOMB.)

A system somewhat analagous to the proposed scheme is recognized in the Bombay presidency. Attributes the ill success of the measures adopted to the preference of natives for deciding matters in conclave, and to the narrow limits of the

powers conferred. These errors seem avoided in the proposal for the Punjab. Jagheerdars invested with criminal powers, even in the Punjab, take no deep interest in their duties. Associate three or more with the isolated Jagheerdars and a very different result will follow. Stipendiaries will act alone as effectually as in a body, but Honorary Magistrates, however talented, are not trained to decide without a little discussion.

Another advantage of combination is that partiality will be reduced to a minimum. Hindoo members will check Mahomedans, and *vice versa*.

In selection, there are certain essentials :—

That a majority of the people approve of the nominees; that no doubtful men be allowed to creep in; that the selection be made from the old influential families of both Hindoos and Mahomedans, not excluding Chowdrees and Kazees who have in olden times exercised similar authority; and that the large and respectable castes (*e. g.* Aheers in Rewarry) have a preference in selection proportioned to their numbers and rank.

Would not insist on a Punchayet in every civil case. But when Punchayets are appointed, their decision should be final when endorsed by the Tuhseel Board. Good measures are often marred by complicated and perplexing checks; the procedure should therefore be as simple as possible, almost verbal. The Tuhseeldar should express an opinion on criminal decisions, but the appeal should be reserved for a Magistrate with full powers.

Deputy Commissioner of Kurnaul.
(Major Eliott.)

Is averse to the proposition. It is not advisable to afford any further facility or encouragement than what already exists to the institution of petty criminal complaints. Section 95 of the Indian Penal Code was made with the object of enabling the courts to *check* the institution of such cases. But should the introduction of the measure be decided on, there are grave objections to the proposed plan of investing the Board with judicial powers *only* in their *joint* capacity. It could only pass sentence in the few cases where

all the members were unanimous; the moral and legal responsibility of such a Board for the just decisions would be simply *nil*, and there would be no security whatever for their honesty.

It would be preferable to invest one or two competent persons of respectable character with judicial powers *individually*, with liberty, in a puzzling case to unite and decide it in unison. The native opinion is, that the office will not be coveted, if appeal is permitted to the Tuhseeldars, aad that the proposal to empower these Boards to take petitions on the proper stamp in all suits not exceedingly rupees 50 in value, and refer them for the decision of arbitrators chosen by the parties, would not succeed, inasmuch that it is hopeless to expect Punchayets (selected as they are by reason of their local knowledge and experience as arbitrators) to be *impartial judges* of disputed matters of fact, and that if there be no appeal all justice will be at an end.

The measure of success attending their employment in our Courts, they remark, is in proportion to the measure of control exercised over them by our judicial officers.

Deputy Commissioner of Hissar.
(Captain Fendall.)

There is no one in his district whom he could recommend for either criminal or civil powers, with any hope that those powers would be exercised judiciously or even willingly. Hostile factions are very numerous, and the Punchayet at Bhewanee already seem to think that the municipal work is a heavy tax on their time.

The work allotted to Tehseeldars in this district is not heavy.

Bhewanee enjoys an immense trade, but no claims for large amounts are brought into court, as the merchants have a Punchayet of their own for the adjustment of their disputed cases. A civil court might be established there, but it would not be desirable to disturb the present arrangement, which is giving satisfaction.

Is averse to the scheme. Tuhseel Boards will be easily coerced by police subordinates and local influence, and a desire to effect popularity will prevent their performing their duties with impartiality. But would not object to invest subordinate civil powers in a Board of village elders, presided over by an intelligent Lumburdar as Sirpunch, and would empower them to adjudicate matters of civil rights under rupees 50 valuation, with an appeal to Deputy Commissioner or one of his European Assistants. The practical details of even such a measure are beset with serious difficulties, though, with attention, the principle may yet justify itself by success.	*Deputy Commissioner of Rohtuk.* (COLONEL VOYLE.)
Has consulted the leading men of his district, and concurs with them in opinion that the measure will be both popular and successful. There will be a saving to litigants, both in time and journey, and the system of referring appeals to Punchayets is much appreciated by the people. The supervision of Punchayets by the Board of Magistrates will also be an advantage.	*Deputy Commissioner Sirsa.* (MR. OLIVER.)
Does not advocate its introduction as regards petty criminal cases. Jealousies and animosity exist to a great extent, and there is no one in the district who can be entrusted with such responsibility. For civil suits a Tuhseel Board would be an advantage; but would allow an appeal; and, for the present, would establish such Boards only at the suddur station.	*Deputy Commissioner Dera Ismael Khan.* (LIEUT. OMMANNEY.)

Deputy Commissioner Dera Ghazee Khan. (CAPTAIN MINCHIN.)	The measure might be carried out with great advantage in certain localities. Jampore, Dajul, and Fazulpore, are the most suitable. The principle is entirely in accordance with the feelings of the people, and the check on the Board of arbitrators, and the influence of public opinion, would prevent injustice being done.
Deputy Commissioner of Bunnoo. (CAPTAIN URMSTON.)	Is not in favor of its introduction. The civil work is light, and criminal work should be kept in hands of the judicial officers. Even the respectable members of society are merely illiterate yoemen, with strong party feelings and bitter animosities, and the Punchayet system is consequently seldom resorted to.
Deputy Commissioner of Peshawur. (CAPTAIN SHORTT.)	The scheme would work well in the city of Peshawur, where the members would be drawn from different classes having different interests, and would be popular and useful under careful surpervision. But would not succeed elsewhere, owing to the great extent of party feeling existing among the Puthans. Excepting the Huzroo Tuhseel, neither criminal nor civil work fall heavily on any Tuhseeldar.
Deputy Commissioner of Huzara. (MAJOR ADAMS.)	Doubts possibility of introducing the measure, with good effect, in his district at present. Owing to diversity of clans and disunion of interests, it would be impracticable to select suitable men for the work, but does not despair of the system succeeding in Lower Huzara at some future time.

The introduction of the scheme, as regards criminal cases (except in a partial way) would be hazardous and difficult. Both the Tuhseeldars in the district, though respectable men, are illiterate, and are not vested with judicial powers. These cases are also generally mixed up with political considerations, and should therefore remain in the hands of the European officers. At Hungoo, the Khan and Tuhseeldar could advantageously be entrusted with the trial of civil cases not exceeding Rs. 50 in amount.

In the Khuttuk part of the district, Khwaja Mahomed Khan exercises the powers of a Jagheerdar Magistrate, and is successful and popular. At Shukurdurra, Gholam Mahomed Khan, Lugharee, and Jaffir Khan Khuttuk in Neelab, might be entrusted with civil cases under close supervision, the head men of their respective jurisdictions being associated with them, and appeal should be allowed.

In Kohat it is customary for the district officer to associate the head men and Khans with himself in carrying on the Government work, and the plan has hitherto succeeded.

Deputy Commissioner of Kohat.
(CAPTAIN MUNRO.)

In reply to Secretary's letter dated 6th October 1862, applauds the proposition made by Government for investing influential Zemindars with civil and criminal powers, and states that this measure would be productive of very beneficial results, and be greatly useful to Government.

The Government proposes to select either 3 or 5 influential men from the circle of each Tuhseelee jurisdiction to form a Board, and to invest them, *collectively*, with the powers of a 2nd class Magistrate described in section 22 of Act 25 of 1861. With reference thereto, begs to offer the following objections. In this case they could decide cases only when *collected* in a body; and as it is impossible that they could meet daily, the result would be a delay in the taking up of cases; and besides, the parties would have to travel to the place of the meeting, and as these meetings would be held at certain intervals, people would have to wait till the time

MOONSHEE JEYSHEERAM,
Extra Assistant Commissioner.

of the meeting. Hence the object of Government, namely to procure a quick and cheap justice, would not be fully attained. 1stly, with regard to the selection of members for the Board, states that the principal thing should be to have excellent members, who should be selected by Tuhseeldars of old standing; and wherever transfers of Tuhseeldars have recently taken place, the old Tuhseeldars, wherever situated, should be called upon to make the selections. 2ndly, the circle of each member's jurisdiction should be defined, the extent of each circle varying according to the extent of each man's influence and possessions. Wherever good men be not procurable, none should be appointed; for it would be better to have none at all than bad men. 3rdly, the members composing the Board should have the powers both individually and collectively, and both kinds of powers should be clearly defined and laid down. For instance, powers should be given individually in such cases as arise within the limit of each man's jurisdiction, and even these should be limited to certain classes of cases cognizable by a 2nd class Magistrate. There are numerous cases which constantly occur in agricultural society, and relate to such matters, which are indispensable to their existence. Such cases should be taken up and decided at once by individual members. This course would ensure a correct decision. A Zemindar deciding cases of his own circle, would be in the position of a pater familias adjusting disputes among the members of his own family, provided the selection were good. For instance, in the event of damages done to crops, the sufferer would immediately bring forward his claim, and the Zemindar Magistrate would simultaneously repair to the spot, or depute any of his relatives to the spot, see the injury done, and pass the sentence and award compensation accordingly. If any cultivator complained that the furrow of his plough had been stolen away by a certain body, the Zemindar Magistrate, after a cursory enquiry, which would be sufficient to elicit the case, would cause the furrow to be restored to the claimant, and thus, without any hindrance, the agricultural work would go on uninterruptedly. Even at the present day thousands of such cases are decided by the Zemindars, and it would not be a new and strange thing if this power were conceded to them by Government.

The Board collectively will decide all the cases cognizable by a 2nd class Magistrate, and occurring within the limits of its circle. In these meetings, besides the members, other respectable Zemindars would also meet.

With regard to the preparation of misl, states that it is unnecessary, and should be dispensed with, and instead thereof two registers should be opened, the one for abstracts, and the other for decisions of cases; and the Magistrates should be instructed how to keep these registers.

The Tuhseeldars should be made competent to hear appeals from the orders of these Magistrates, and directed to convey instructions from time to time for the efficient exercise of their powers, in order that they might understand business and discharge it usefully. If these Magistrates consider any case instituted before them as beyond the limits of their powers, they should refer it to the Tuhseeldar, and the Tuhseeldars should be empowered to call for any case they pleased.

The difference between the civil and criminal cases is this, that criminal cases cannot and must not admit of any delay, whilst in civil cases delay is not very injurious. Hence civil cases could be safely placed at the disposal of the collective Board.

The evidence produced before a Punchayet is different in tenor from that before an officer, such at least is the case now-a-days. Witnesses speak falsehood very seldom before a Punchayet, but not so before a Judge, before whom they try as much as possible to conceal the truth, because in the latter case they cannot speak freely.

During previous rules all cases were decided by the Punchayets, and this course was very good, for then decree holders had no occasion to have resort to execution of decrees, the award having been immediately submitted to by the losers. Cases in Punchayets are brief, while in a regular court they stretch to a considerable length. The circumstances which the court finds out after months of investigation are immediately known to the people.

The reasons why Punchayets of old fell into disrepute are: 1st, the same which is assigned in the Government letter; 2nd, those Punchayets were subservient to regular courts, and acted under the authority of the Judges and Magis-

trates, and not upon their own responsibility; while the Boards in contemplation would not be so fettered. Men of bad principles exist in the world. Therefore these Boards ought to be well supervised.

They should be instructed to publish the time, duration and locality of their meetings, and the nature of the cases to be taken up for disposal, and also the limit of the circle within which the cases would be cognizable. Likewise turns or rotations should be prescribed, according to which other influential Zemindars should be present at the meeting.

These meetings should be held 4 times a year, and should last 15 days; and it should be proclaimed that within the first ten days of these meetings petitions would be taken and the remaining 5 days would be employed in the disposal of cases. At the initiation of these meetings an officer of the district should also attend the meetings in order to direct the members to pursue a right course and furnish instructions. This step would be necessary at 2 or 3 meetings, and after that the members would be sufficiently acquainted with the right procedure. The time of meetings should be so arranged that the district officer might be able to attend all the meetings within his district. Their powers should, as proposed by Government, be limited to the value of 50 rupees in cases appertaining to debts or commercial transactions, and in these their decision should be held final and not subject to appeal. There are other cases, besides, which especially lie within the province of the Punchayet. Such are disputes regarding promises of marriage, betrothals, caste or tribe, division of joint shares, &c. They should all be made over to the Punchayet.

Even at present they are disposed of by Punchayets, whatever be their estimated value. The Tuhseeldars should supervise the proceedings of these Boards.

In regard to stamp,—it is a Government fee, and depends upon the will of Government to enforce it in these meetings; but I do not consider it advisable to enforce the Stamp Act in all its details in these meetings, on the following grounds:—

1st. Most of the cases which would be referred to these Committees are at present taken up and

disposed of by private committees, and the stamp duty is never imposed thereupon.

2nd. These committees will not receive any remuneration for their work from Government; consequently, as these institutions would be inexpensive, so they should not be made lucrative.

3rd. A reduction of stamp duty, say to one-fourth of the prescribed rate, would be a great inducement to the people to prefer their claims in these rural courts. But this reduction should not be made immediately, but after a sufficient trial of the working of these Boards. In appeals the full amount of stamp duty should be charged, such as is done in revenue cases.

The above are my remarks on the point now contemplated by His Honor the Lieut. Governor. I now take this opportunity to suggest that instead of individual Honorary Magistrates, similar Boards may be established for cities and towns, on the same footing and under the same arrangement as that above described for the rural Boards.

Besides the members, other chiefs should also attend the meeting. These Boards should not only decide civil and criminal cases, but also keep their supervision over commercial concerns. They would from time to time see what causes have led to and what have impeded the progress of trade or improvement of art, and would accordingly adopt measures which should tend to accelerate the progress and improvement of trade and arts, and remove the causes which retard them. For instance, the adulteration of Pushm wool in the Shawl manufactures, which has recently been observed in England, would not have taken place had such Boards existed, or if it had taken place it would have been speedily put down. With regard to education, people are conscious of its great advantages, but nevertheless show an apathy towards its progress. These Boards could discuss the subject with the people and cause them to devote their attention to this important point.

SIRDAR NIHAL SING CHACHEE.

Approves of the measure, and says that, 1st, the inconvenience which the people suffer in attending courts in petty cases would be removed; 2nd, these cases which principally annoy the community would meet with a ready adjustment; 3rd, lying, which is now-a-days so often resorted to by the people in courts, would be suppressed. It is evident and known to all that people seldom speak falsehood in private assemblies, but not so in courts, where they do not have the least hesitation to mis-state facts; 4th, the Tuhseeldars and other revenue officers would be greatly relieved of their judicial work.

In some Tuhseels only 2 men would be sufficient to form a Board. In others 5 would be appropriate. But the selection of these men is a very important task, upon which the success of the new system mainly depends. The members should be changed periodically, either monthly or quarterly, from among the qualified men within each Tuhseel. Wherever Tuhseeldars are good men their supervision and control would be beneficial, but otherwise the decisions would be according to their wish and caprice and not agreeably to the dictates of justice. Hence the proceedings of the Boards should be unfettered from the interference of Tuhseeldars, but their appeals should be cognizable by Tuhseeldars. The meetings should take place in the Tuhseelee buildings. The cause of increase of cases during the British rule is that they are all referred to courts, whereas in former times most of them were decided by private parties and referred for arbitration to Punchayets. The reason why the Punchayets formerly established by Government fell into disrepute was the increase of cases, their ignorance of the intention of Government, and the introduction of pleaders in these courts.

RAJA SAHIBDIAL.

Approves of the measure contemplated by Government, and says that petty cases would increase. The reason why they are not instituted so numerously is: 1st, the trouble and delay incident to parties referring their claims to courts, compared with the amount of the claims; 2nd, the

infamy of prosecution for petty claims. Both these obstacles would be removed by the Boards. The same would be the case with petty criminal cases such as assault, &c., which injuries are now-a-days borne patiently by weaker parties or increased in retaliation. The Boards in their investigations would arrive at more accuracy than the regular courts. The men selected for the duty would consider it a favor and feel grateful to Government. All petty cases which are now instituted in courts would be referred to these Boards. But some men of consequence, according to custom, and owing to idleness and want of work, have contracted a habit of ease. Consequently discretion ought to be used in selecting members, and the task should not be confided to the Tuhseeldars, but kept in the hands of the Deputy Commissioners; because, if selected by Tuhseeldars, they would be subservient to the will or caprice of the Tuhseeldars, and therefore in most cases the end contemplated by Government would not be attained. Men addicted to ease and luxury should not be appointed to the Board. The project of limiting appeals from their orders to the courts of Tuhseeldars is good, but at least during the 1st month appeals from their decisions should lie to the Deputy Commissioner, who would thereby be able to issue proper instructions for the guidance of the Boards and to see that their decisions did not require his supervision and control.

BYJNATH.
Extra Assistant Commissioner.

Approves of the proposition, which is based on the system followed during the Seikh rule; but says that petty cases frequently occur and are very numerous, and if made over to the Boards for disposal without taking the following precautions, instead of good, evils are likely to arise. 1st, suitable men should be selected for the duty; they should be men of influence, learning, sound judgment, physical capabilities and good morals. Mutual jealousies and quarrels exist in the native community; and the members of the Boards are liable to abuse their power in putting down their foes. 2nd, the selection should be conducted through the Tuhseeldar, who may be honest, wise, and well acquainted with the character and conduct of the people of his Punchayet; and out of these the Deputy Commissioner should select either 3 or 5 men to form a Board, and these should comprise Hindoos, Mussulmans and Seiks, and be kept on probation for some months before their appointment. The Tuhseeldars should keep a strict eye over their proceedings, and see if complaints made against them are groundless or right.

RAY LALL CHUND.
President of the Amritsur Municipal Committee.

Approves of the proposition; and says that people will benefit by this arrangement, in consequence of the new judges being more acquainted with the people and country than the Government officers, and also by reason of the vicinity of the bench to the scene of action. In small Tuhseels 3, and in large ones 5, members would suffice, and should be collectively entrusted with the power of disposing of cases. Enquiries should be carried on verbally, as is done by Honorary Magistrates. In criminal cases appeals should lie to the Tuhseeldar. In selection, regard should be made of character, conduct, family, rank and ability. The men entrusted with this power should receive a mark of honor from Government in order to tempt men to undertake this duty and discharge it with integrity and zeal.

In the time of former rulers, civil cases of all sorts were referred to and disposed of by Punchayets, who carried on verbal enquiries and did not resort to the system of recording cases. The peculiarity in those cases was that the parties did not speak falsehood before the Punchayet, and litigation was carried on with candour, and the Board passed such orders in cases as satisfied both parties. Cases in which any party felt aggrieved from the decision of the Punchayet were very rare, and were speedily taken up on appeal by Government officers, and decided according to equity. No period of limitation was formerly laid down for the hearing of cases. Civil disputes are even still referred to and decided by private Punchayets in the city of Amritsur, and the decisions of the Punchayets are generally just and agreeable to custom and law.

These Boards should not refer all cases to Moonsiffs for opinion, but only the complicated ones. The Moonsiffs should be men of good character and respectability. Those of indifferent character should be scrupulously excluded. On the day of the meeting other men of respectability should also meet, and cases should be disposed of the same day they are instituted. It should be left optional with the people that they might prefer their cases either to the Tuhseeldar or the Board, but the Tuhseeldars should be authorized if they think fit to make over any case to the Boards. Appeals from the decisions of the Boards should not lie to the Tuhseeldars, but in special cases to the Deputy Commissioner, who alone should be competent to issue instructions for their guidance.

RAY MOOL SING.

Approves of the proposition, as conducive to the convenience of the public. Says that this system will be popular with the people, as it had existed in former times in the Punjab. Petty cases will be expeditiously decided, and Government officers relieved of a great burden upon their shoulders. That litigation has not increased during the British rule, compared to former times when transactions were not perceptibly less; besides there was then no restriction placed upon the institution of cases, and trade was increasing day by day; and the boundaries of villages and fields not having been settled, such disputes among the agriculturists were more numerous than at present. Nevertheless, no cases were allowed to accumulate. The reason was that they were decided by the Punchayets before the Tuhseeldars. These Punchayets existed in every city, town and village.

The reason why the Punchayets at the commencement of British rule fell into disrepute was their ignorance of affairs, and they were not kept under proper control. But the system proposed by His Honor the Lieutenant Governor is likely to prove beneficial. However, a great deal of caution is required in the selection of Punches; and the Commissioner, assisted by the Deputy Commissioner, should make the selection. Each Board should have a President, also, and be supervised not only by the Tuhseeldar, but by the Deputy Commissioner also.

MIRZA KULLUB ABID,
Extra Assistant Commissioner.

Approves of the proposition, as conducive to the convenience of the public. If among the headmen of villages there be some who possess sound judgment and capacity for business, affability, trust, and influence among the people, there is no reason why such men should not be entrusted with the powers by Government, when they are already resorted to in a private capacity by the people in the adjustment of their petty disputes. The measure, if introduced, will also relieve the Government officers of a great part of their burden, and secure the gratitude and satisfaction of the people. Thers are many cases which are never referred to the court of justice. They relate to mutual transactions, or are such wherein women or indigent persons are concerned. To these, the distance from the head quarters, considerable expense and interruption to business, are a scarecrow to frighten away the agriculturists from the court. Besides, justice is not so well administered in court as by private Boards, in consequence of the difficulty of eliciting the truth in regular courts, which are hampered too much with forms, and obliged to adhere too closely to the written evidence. All these impediments will be removed by the institution of the Boards, and consequently they will be a great boon to the people. The decisions of the Punchayets are generally just and good, and in many cases referred to Punchayets, had their opinions not been taken, the truth would not have been elicited. But these Magistrates may in the commencement be devoid of education, practice, and experience, and therefore be liable to blunders of form. But blunder of form is far preferable to non-elicitation of truth, and can be removed in a short space of time, because the rural classes are not deficient in wisdom, discernment, and genius, from the urban classes. The difference only lies in their want of education. For illustration, village putwarees, at the commencement of the settlement operations, were ignorant and incapable of the ordinary routine, but after a course of training and practice, have become so clever in business that they have excelled the Moonshees of old, and assist the Tuhseelee Umla when pressed with work. The same has been the case with the Choudhrees employed in checking the settlement records, and the Honorary Police officers. But the mainspring and rectifier of this machinery is a suitable supervision on the part of the Government officers, which ought to be exercised with free and social intercourse with

the Magistrates and the people, and frequent excursions into the country.

The power of the Boards should, as proposed by Government, be limited to the cognizance of summary cases of the value of 50 rupees and less; but cases of extortion, ouster, removal of boundary pillars, adjustment of boundaries, &c., which depend upon the evidence of the Putwaree's records, should also be made over to them. After one or two months the Boards should be required to submit all their decisions in such cases to the Tuhseeldar, for inspection. With regard to the formation of the Boards, each Tuhseel should be divided into three circles. The middle circle should remain within the jurisdiction of the Tuhseel, and does not require the establishment of a Board, but the right and left hand circles should have separate Boards. It should be left optional with the people whether to institute their claims in the Boards of their respective circles, or in the Tuhseelee court.

These Magistrates should be remunerated for their work, similar to the Honorary Police officers, by an addition to their former jageers or inam holdings.

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Deputy at Jeloy -

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Judicial Department

No. 108.

To

The Secretary to the Government

of the Punjaub,

Lahore

Sir,

In acknowledging the receipt of your letter of the 22nd August last, No. 618, I am directed by His Excellency the Governor in Council to transmit to you the accompanying Memorandum describing the powers, both civil and criminal, vested in the Village Moonsiffs in this Presidency, and a copy of the Proceedings of Government, under date the 1st April 1857, No. 381 containing a full report by the Board of Revenue on the working of the Village Moonsiffs

Moonsiffs Courts in this Presidency; from which it will be seen that the Emoluments of the office usually consist partly of land and partly of fees, that they are generally very small; the Village Moonsiffs in some Districts receiving little or no remu=neration; while in others the Emoluments attached to the office are lost in a great measure to the actual incumbents, in consequence of their being shared in by others. The tenure is, in most Dis=tricts, hereditary.

2 During the year 1862, the last for which returns have been received, the Village Moonsiffs disposed of 55,006 suits, or 22 per cents of the entire number of suits disposed of by Courts of all grades, and dealt with 28,836 persons charged with petty offences, or 13 per cent of the number of those dealt with by Courts of all grades.

3 The Government have impressed upon the subordinate Magistrates the expediency of leaving petty charges of a nature cognizable by the Village Moonsiff to be dealt with by those officers, and an attempt has been made in some Districts to or=ganize Village Sessions by Collecting the Moonsiffs of a few villages meeting at some central point for the disposal of all cases coming before them, but hitherto the measure has not been attended with much success. A Bill is now before the Madras Counc

Council for making Laws
and Regulations for legalizing
the levy of a local cess
in lieu of the village service
fee, by which the Village
Moonsiffs and other village
servants other than the
village artizans at
present derive a part
of their remuneration.
Copies of this bill and
of the orders of Government
relating to the holding
of Village Sessions
are enclosed.

Fort St. George
26 January 1864

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