

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

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*Proceedings of the Madras Government, Judicial Department,
29th February 1864.*

Statement showing the number and classes of Complaints under Act XIII of 1859, filed in the Madras Presidency from the introduction of the Act in August 1859, up to the end of the 2nd quarter of 1863.

Districts and Zillahs.	Trade or Profession of Prosecutors.	Trade or Profession of Defendants.								
		Artificers including all skilled workmen.			Other workmen including Contractors for the performance of works, &c.			Laborers or Coolies.		
		Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.	Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.	Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.
Bellary...	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	...	...	...	5	2	3	1	...	...
	Planters.....	...	...	...	...	...	...	...	...	...
	Europeans, Merchants or others on their own account.....	6	...	4	...	...	...	...	...	6
	Natives on their own account.....	2	...	...	1	...	1	1	...	1
	Total...	8	...	4	6	2	4	2	...	1
Coimbatore...	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	1	...	1	13	3	3	1	...	15
	Planters.....	1	...	...	5	...	1	...	...	6
	Europeans, Merchants or others on their own account.....	10	...	...	25	1	7	7	...	2
	Natives on their own account.....	25	...	...	24	1	1	9	...	1
	Total...	37	...	1	67	5	12	17	...	3
Cuddapah...	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	...	...	...	10	...	...	...	...	10
	Planters.....	...	...	...	...	...	...	...	...	...
	Europeans, Merchants or others on their own account.....	2	1	1	...	...	...	...	...	2
	Natives on their own account.....	1	...	...	...	...	...	...	...	1
	Total...	3	1	1	10	...	...	...	...	13

Proceedings of the Madras Government, Judicial Department,
29th February 1864.

Statement showing the number and classes of Complaints, &c.—(Continued.)

Districts and Zillahs.	Trade or Profession of Prosecutors.	Trade or Profession of Defendants.								
		Artificers including all skilled workmen.			Other workmen including Contractors for the performance of works, &c.			Laborers or Coolies.		
		Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.	Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.	Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.
Ganjam (containing Zillah of Chicacole, and Agency of Ganjam.)	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	...	...	...	2	2	...	...	...	2
	Planters.....	...	...	...	...	...	...	...	...	...
	Europeans, Merchants or others on their own account.....	...	...	...	...	...	...	...	...	...
	Natives on their own account.....	...	...	...	...	...	...	...	...	...
	Total...	...	...	...	2	2	...	...	...	2
Godavery (Zillah of Rajahmundry.)	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	4	...	...	7	...	...	...	...	11
	Planters.....	...	...	...	...	...	...	...	...	...
	Europeans, Merchants or others on their own account.....	...	...	...	5	3	...	...	...	5
	Natives on their own account.....	11	...	...	118	1	2	7	...	136
	Total...	15	...	...	130	4	2	7	...	152
Kistna (Zillah of Guntur.)	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	...	...	...	1	...	1	2	2	3
	Planters.....	...	...	...	...	...	...	...	...	...
	Europeans, Merchants or others on their own account.....	1	...	...	...	...	...	...	...	1
	Natives on their own account.....	4	...	...	7	1	1	3	1	14
	Total...	5	...	...	8	1	2	5	3	18

Proceedings of the Madras Government, Judicial Department,
29th February 1864.

Statement showing the number and classes of Complaints, &c.—(Continued.)

Districts and Zillahs.	Trade or Profession of Prosecutors.	Trade or Profession of Defendants.								
		Artificers including all skilled workmen.			Other workmen including Contractors for the performance of works, &c.			Laborers or Coolies.		
		Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.	Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.	Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.
Kurnool (Zillah of Nundial.)	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	...	...	...	1	...	1	312	11	...
	Planters.....	...	...	...	...	...	...	...	...	...
	Europeans, Merchants or others on their own account.....	...	...	...	...	...	...	...	...	...
	Natives on their own account.....	2	...	...	37	3	10	...	...	...
	Total...	2	...	...	38	3	11	312	11	...
Madras (Zillah of Chingleput.)	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	...	...	...	...	...	...	...	...	...
	Planters.....	...	...	...	...	...	...	...	...	...
	Europeans, Merchants or others on their own account.....	...	...	...	...	...	...	...	...	...
	Natives on their own account.....	385	...	...	197	...	...	967	1	...
	Total...	385	...	...	197	...	...	967	1	...
Madura.....	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	6	...	...	1	...	...	...	...	7
	Planters.....	2	...	...	1	...	...	...	...	3
	Europeans, Merchants or others on their own account.....	6	1	...	4	...	1	...	...	10
	Natives on their own account.....	59	1	1	10	1	1	7	...	76
	Total...	73	2	1	16	1	2	7	...	96

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Statement showing the number and classes of Complaints, &c.—(Continued.)

Proceedings of the Madras Government, Judicial Department,
29th February 1864.

Statement showing the number and classes of Complaints, &c.—(Continued.)

Districts and Zillahs.	Trade or Profession of Prosecutors.	Trade or Profession of Defendants.							
		Artificers including all skilled workmen.		Other workmen including Contractors for the performance of works, &c.		Laborers or Coolies.		Grand Total of cases.	
		Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.	Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.		
Tanjore (Zillahs of Tanjore and Negapatam.)	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	1	...	1	1	...	1	...	2
	Planters.....	...	...	...	...	...	...	...	...
	Europeans, Merchants or others on their own account.....	1	...	1	...	...	...	...	1
	Natives on their own account.....	1	...	...	...	...	...	...	1
	Total...	3	...	2	1	...	1	...	4
Tinnevely.....	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company..	1	1	...	...	...	...	1	2
	Planters.....	...	...	...	...	...	...	1	...
	Europeans, Merchants or others on their own account.....	5	1	4	6	...	3	2	13
	Natives on their own account.....	3	...	...	1	...	...	1	5
	Total...	9	2	4	7	...	3	4	20
Trichinopoly...	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company.....	5	...	...	2	...	...	1	8
	Planters.....	...	...	...	...	...	...	...	...
	Europeans, Merchants or others on their own account.....	2	...	...	4	...	...	2	8
	Natives on their own account.....	37	...	1	5	...	...	5	47
	Total...	44	...	1	11	...	...	8	63

Proceedings of the Madras Government, Judicial Department,
29th February 1864.

Statement showing the number and classes of Complaints, &c.—(Continued.)

Districts and Zillahs.	Trade or Profession of Prosecutors.	Trade or Profession of Defendants.							
		Artificers including all skilled workmen.		Other workmen including Contractors for the performance of works, &c.		Laborers or Coolies.		Grand Total of cases.	
		Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.	Total number of cases.	No. of cases in which Defendants were imprisoned.	No. of cases in which security was taken.		
Vizagapatam (Zillah and Agency of Vizagapatam.)	Employé or Agent on behalf of any Department of the Government service, or of a Railway or other Company... ..	...	...	...	...	...	...	...	...
	Planters.....	...	...	...	...	...	...	...	...
	Europeans, Merchants or others on their own account.....	...	...	...	1	...	...	...	1
	Natives on their own account.....	...	...	...	...	...	...	...	...
	Total...	...	...	...	1	...	...	...	1

PORT SAINT GEORGE,
29th February 1864.

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

despatch 27/3
for Hyderabad
Share Copies forwarded
by Book Post

No. 266 *Justice Department.*

To

The Secretary to the Government
of India.

Home Department.

Sir,

Adverting to the request
made in the second para of
Mr. Under Secretary Wyllie's
letter of the 10th April last,
I am directed by His Excellency
the Governor in Council to
submit for the information
of the Govt. of India the
following report on the operation
of Act XIII of 1859 in this
Presidency. I enclose also a
separate statement giving
the statistics agreed in para.
2. The Contract Act was
made applicable to the
whole of the Madras Pre-
sidency by an order passed
during

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August 25th 1859.

during the Government of
Sir Charles Trevelyan very
shortly after its first pro-
mulgation, authority to
dispose of cases under it
being granted to all Magis-
trates competent to exercise
the jurisdiction conferred by
Section 54 of Act VII of
1843, and, at Judicial Stations,
to Subordinate Judges and
Principal Sudder Amiens.
This order, so far as the
act is concerned, is still in
force, the powers ^{conferred} by it being
exercised by all officers having
the full powers of a Magistrate,
by certain Subordinate
Magistrates specially au-
thorized by Government, and,
as before at Judicial Stations,
by the Principal Sudder Amiens.
The statement accompanying
this letter includes therefore
the whole of the complaints
filed

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filed under the Act in
this Presidency, excluding
the town of Madras, during
the term of 3 years and 10 months
ending on the 30th June last.

3 The aggregate number
of these complaints was
4974, but these were as
might have been expected,
very unequally distributed
among the different districts.
In some districts the
act has been apparently
almost inoperative, while
one or two other districts
furnished a fourth, or nearly
~~more~~ a fourth of the
whole number of cases.

The nature of the cases will
however be best seen by
examining the comparative
number of prosecutors and
Defendants taken from
each class, which is shown
by the details given in the

Statement

Statement, to be as follows.

Cases in which the Pro- secutor was an employee or agent of a Govt Dept. or the Railway or Immigration Co.	Number of cases
A Planter	990
Other European Resident	167
A Native	3185
Total	4974

Cases in which defendants were artificers or skilled workmen	Number of cases
Professional Contractors, Cart owners &c	1338
Common Laborers or Coolies	2643
Total	4974

4. It will be seen from the above that although Europeans engaged in carrying on large works and Planters / nearly the whole of whom are residents of the (Mynad?) were prosecutors in a comparatively very large portion of the complaints, the natives have also, in many cases, shown themselves ready

to take advantage of the remedy for fraudulent breaches of contract provided by the Act. This was particularly the case in the Districts of Madras and South Arcot, though it appears doubtful, from the remarks made by the Magistrate, whether the complaints filed in the former District, a very small number of which were decided on their merits, were in many instances such as could have been disposed of under the Act.

5. The results of the Act should not, however, in His Excellency's opinion be estimated by the number of complaints preferred. There is no doubt, that, as remarked by some Magistrates, the knowledge of the existence of the

the Act has in itself been a valuable check against fraud and trickery, and has thus considerably diminished the necessity for the complaints for which it was intended to provide a remedy.

6. In regard to the question put by the Government of India, "whether the Act has been found to operate unjustly or with undue pressure on any class", the Governor in Council considers that the fact that the penal provisions of the Act were enforced in only 514 cases out of a total of 4974 throughout the Presidency in 1917 by the imprisonment of defendants, and in 317 by the requisition of security for

for the performance of the work, is conclusive evidence that, in this Presidency, it does not do so. That it does not do so, is also the almost unanimous opinion of the District Officers who have had practical experience of its working. His Excellency is of opinion, however, that, even had the results of the complaints been different, and had the majority resulted in sentences unfavorable to the Defendants, instead of as they have done in an amicable arrangement or a dismissal of the charge, the Act could not be said to have operated unjustly to the Defendants' prejudice. His Excellency is aware of the objections that have been raised on
General

general principles to the
treating of Breaches of
Contract as criminal of-
fences, and is fully sensible
how essential it is for the
protection of the weaker party
that the nature of the
contracts should be carefully
investigated before their per-
formance is enforced, but
he cannot consider that
the defendants, in a case
under this act, who re-
fuse to pay back the
advance he has received,
or to perform the work he
has contracted to do, can
fairly complain of the
severity of a law which
makes him liable to
imprisonment for 3 months
on conviction of having
"wilfully and without law-
ful and reasonable

Excuse"

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Excuse" broken his contract.
An enactment which
without giving the em-
ployer any power that
can be seriously abused,
provides him with a
remedy against men
who would in most cases
be able to defraud him
with complete impunity,
must, in the opinion of
His Excellency, prove rather
and beneficial to both
classes.

7. The cost of the service of
Processes issued under
this Act is now, as the
Government of India are
aware, required by an
Act of the Madras
Legislative Council, to be
borne by the parties to the
complaints, but the time
that had elapsed since

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its introduction when the
greater part of the Magis-
trates' reports were written,
was too short to admit
of any opinion being formed
on the result of the
change.

8 In conclusion, I
am to express His Excellency
the Governor in Council's
regret that the difficulty
experienced in procuring
from the Districts the
returns necessary for this
report, have caused its
submission to be so long
delayed.

W.A.

W.A.

Print the Statement
separately -
24 Copies
of each

Fort St. George }
29 February 1864 }

W.A.

30-9-13

Q-8.171

21-3-22

6-6-23

Judicia 1861, 8. front

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W. H. L. to the Gov
of India

Ant. 29 - February 1864

Q. 8. 802

Of forwarding a report
on the operations of the
XIII of 1859 in the Province
of India.

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Paul Smith
P.O. 29
12-8-60

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