

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	243	Press
		~~Mis.~~
Dated	17-2-19	1886

163-165

2/8

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
17th February 1866.*

Read the following papers:—

No. 163. From the Magistrate of Vizagapatam, to the Chief Secretary to Government, Fort Saint George; dated Vizagapatam, 9th October 1865, No. 324.

Referring to the Order of Government, Judicial, No. 1385, of 26th September ultimo, and to the order on the same subject,* I have the honor to state that,

* G. O., No. 1704, of 29th November 1864.

during the past year, I have taken several opportunities of examining the Police Monthly Returns of Warrants and Summonses, and I find that the form of compilation prevailing in the Police Department is still open to considerable amendment on one point.

2. Mr. Robinson complained that by issuing warrants in "petty cases" (where a summons would suffice) very serious annoyance to the people was caused, with great additional labor to the Police. The Magistracy of this District stood first in the list of offenders, but I showed that the Returns had been improperly swelled by entering warrants to carry out sentences, levy distress, and the like, amongst warrants in "petty cases."

3. This erroneous procedure was then corrected by a Circular from the Inspector General's Office; but I observe that, this year, the District is debited with 1924 warrants (embracing 5191 persons) in minor or petty cases.

These figures, 5191, are added to 17,934, the number of persons summoned. The total is 23,125; and dividing the population by this, it is assumed that 1 in 74 was brought before the Magistracy by warrant or summons in petty cases, during the year.

4. But, from the investigation I have made, I am satisfied that nearly the whole of these 5191 persons are included in the 17,934 persons summoned. When a party (defendant or witness) fails to appear to a summons, it is a clear direction of the law to procure his attendance by a warrant; and from the inquiry I have conducted in several cases (a very laborious affair, as the original warrants, after their return by the Police, have all to be carefully sorted) it is clear that it is the continual default of parties summoned that leads to the large number of warrants issued in "petty cases."

5. I do not say that such warrants should, therefore, be excluded from the Returns of Police operations in any Districts, but it should be stated how many of them are "original" warrants, and how many are warrants "on neglect of summons"; otherwise, a very unfair estimate will be made of the discretion exercised by the Magistracy.

6. The separation will also answer other useful purposes. A contemplation of the result, year after year, would probably lead to a recognition of the necessity of an increase to the present Magisterial Agency, or to other improvements and changes. I have no doubt, myself, that it is the enormous distances people have now to travel that causes (mainly) this default of witnesses. A compromise may be made between the parties, or the complainant himself may make default. "The Court is so many miles off. Why should I lose my labor on the farm? I will 'take my chance.'" This is obviously one likely reason for so many defaults; but there may be others. The Sub-Magistrates may take cases out of their turn,

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or conduct cases with reprehensible delay, or sentence defaulting witnesses to nominal fines only. To all these points, the attention of Government and the Magistracy would be directed by a division, in petty cases of warrants, into warrants "original" and warrants "on neglect of summons." The Returns are made up for the Government at the close of the year, but the Magistrate requires them every month, and in detail for each Taluq, so that he could at once institute a careful inquiry.

Referred to the Inspector General of Police for remarks.

FORT SAINT GEORGE,
17th October 1866.

(Signed) W. HUDLESTON,
Acting Secretary to Government.

No. 164. From the Inspector General of Police, to the Chief Secretary to Government, Fort Saint George; dated Madras, 20th October 1865, No. 2061.

With reference to the suggestions contained in Mr. Carmichael's letter, dated 9th instant, I do not think that further specification is required in the Police Department. As it is, the whole matter is attended with great and increasing labor and expenditure of public time in this Department, and District Offices can scarcely overtake the work now required of them. We cannot do more than we do, or safely add to the sources from which correspondence and discussion of this kind arise.

2. The Police returns are accurate as they stand. The summonee has had the summons served on him, and the transaction is properly entered under the appropriate head. If he offends further by not attending as required, a warrant issues under the Local Law, and this process is again entered under its proper head. The Police cannot and have no business with discriminating whether the warrant be an original one, or on neglect of summons. This is a Magisterial matter.

3. The Agent has apparently some object of his own for wishing a distinction made. The matter is obviously in his own hands, and what he wants will be done far more accurately, and more to his satisfaction, by requiring his Sub-Magistrate to send in a return of the number of cases in which persons originally summoned failed to appear and were brought up by warrant. The number of his Magistrates is small, the Officers are intelligent, and have the cases and facts before them. Our returns on the other hand, have to be drawn from a large number of Station houses, many of which are in charge of Deputy Head Constables and 1st Class Constables, and the chances of inaccuracy and consequent correspondence will, if we require a distinction of this kind, be unnecessarily multiplied.

No. 165. ORDER THEREON, 17th February 1866, No. 243.

It appears to the Governor in Council that the Inspector General of Police has not fully met the question raised by the Collector of Vizagapatam.

2. Mr. Carmichael does not raise the point as one affecting the Police Returns, but the criminal statistics of the country, the collection of which has been entrusted to the Inspector General. He states that the grouping now adopted is calculated to mislead, by swelling the apparent amount of crime, since the persons against whom warrants of arrest are issued on their making default of appearance in obedience to summons are entered twice over, once as summoned, once as arrested—the apparent number of persons brought under the operation of the Criminal Courts

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being thus increased by the number of persons against whom warrants are issued in consequence of their disobeying the former process, namely summons.

3. There is no doubt that, as Mr. Robinson hints in his second paragraph, a person disobeying summons has committed an offence (not necessarily a "further" offence, since he may have been summoned as a witness), but this in no way touches the main question involved, which is, how many persons in a given district are brought up before the Criminal Courts in a given period.

4. The Government consider that Mr. Carmichael's letter points out a real defect, and one which must exist in all districts, more or less, since the same causes are at work in all to discourage obedience to summons, and they consider that he has made out a sufficient case to render desirable a revision of the form of the returns, which should, in future, show separately the items "warrants originally issued" and "warrants issued on neglect of summons."

5. It appears, however, to the Government to be matter for doubt whether this object can be attained, unless the Police are directly aided by the Magistracy. In case of non-appearance in obedience to summons (and in some cases in anticipation of appearance), the Magistrate may issue a warrant simply to compel attendance, or he may issue a warrant on the charge of disobedience to summons, as a substantive offence, under Section 174 of the Penal Code. Cases of the latter description do not appear to differ in nature from other cases, in which one person is charged with more than one offence during the year. The Government do not consider that these cases should be shown separately. In the average of crime it makes no difference whether one person commits two crimes, or two persons each commit one, and hence this class need not be dealt with.

6. The remaining case, that in which a warrant is issued, subsequently to a summons, simply to compel attendance, should be separately shown, and the Government request that the Inspector General will consider and report the means by which the necessary information may be procured.

7. It would seem that this may be done without much difficulty from the warrants themselves, which, if issued for the apprehension of persons charged with offences should, under the Code of Criminal Procedure, specify the offence for which the warrant is issued; while warrants to ensure the attendance of witnesses will specify the object for which they are issued.

(True Extract).

A. J. ARBUTHNOT,
Chief Secretary.

To the Magistrate of Vizagapatam.
" Inspector General of Police.
" Magistrate of

Exd. J. H. Burns.

Constables and 1st class Constables, and the
chances of inaccuracy and consequent
correspondence will if we require of distinction
of the kinds be unnecessarily multiplied.

I have the honor to be

Sir,

Your Most Obedient Servant

W. Robinson

Inspector General of the
Police.

I don't think Mr. Robinson meets the
question.

The preparation of the criminal
statistics has been entrusted to him - & I
understand Mr. Cammell has objected that
in one respect the system now adopted by the
Insp. Gen. is calculated to mislead by
swelling the apparent amount of crime - the cases
of warrants issued in default of attendance and summons
being shown twice over - once under summons
& once under warrant - & the aggregate of
summons & warrant cases - being shown
as representing the total of crime cases that occurred
in the period locally concerned.

Mr. R. treats the objection as if it were
merely a question affecting the Police returns
& must. but understands Mr. C. to raise it as
affecting the Criminal statistics of the year.

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Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letters;

From the Magistrate of Vizagapatam - (Received 9th October 1865. No. 324)
" Inspector General of Police - (" 20th " " No. 2061)

Order thereon 17th November 1865. No. 2543

Mr. Carmichael does not raise the point as one affecting the Police Returns, but the criminal statistics of the country, the collection of which has been entrusted to the Inspector General. He states that the grouping now adopted is calculated to mislead by swelling the apparent amount of crime, since the persons against whom warrants of arrest are issued

I am pleased to adopt the view of the Inspector General of Police that the persons against whom warrants of arrest are issued are not persons who are actually guilty of crime, but persons who are merely suspected of crime, and who are therefore liable to be arrested.

29-10-1865
26-11-1865
27-12-1865

Decided 1865 & passed

From

The District Magistrate of

Police

Inspector General of

Police

Police

Police

Police

Police

17-12-1865

1/4

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are issued in consequence of
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second paragraph, a person
disobeying summons has com-
mitted an offence (not necessarily
a "further" offence since he
may have been summoned
as a witness) but this in no
way touches the main question
involved, which is, how many
persons in a given district
are brought up before the
Criminal Courts in a given
period.

3. The Government consider
that Mr. Carmichael's letter
points.

Myself of warrants
as an executive act, the
Police are called on to execute
two leave the District Magistrate
to take steps in clearly defining
the two classes, i.e. the
warrant of which they should
comply to the District Magistrate.

W.R.

on looking over the subject.
See Mr. Robinson will have no great
difficulty in discriminating between
the two classes, if, as they ought
to do, the Magistrate adhere
strictly to the form of warrant
"B" prescribed by the Code. In such
warrants it ought to be stated
what the offence is for which the warrant
has been issued, so that in cases where
a warrant is issued for a witness who
has evaded service of a summons
the Station Police could easily justify
their how many such warrants
had been issued in a
month or for the year.

~~But the difficulty is to a person
summons issued in a
substantive offence
offence.~~

It might perhaps be well
to point this out.

See end of letter.

points out a real defect and one which
must exist in all districts, more or
less, since the same causes are
at work in all to discourage obe-
dience to summons and they
consider that he has made
out a sufficient case to render
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5. The remaining case, that in which a warrant is issued, subsequently to a summons, simply to compel attendance should be separately shown, and the Government ^{inform} ~~direct~~ the Inspector General to consider and report the means by which the necessary information may be procured.

h/r

To the Magistrate of Viragapatam
 Asst. Comm. of Police
 To the Magistrate of all Districts

6. It would seem that this ~~point~~ may be done without

if issued for the apprehension of persons charged with offences charged with offences

much difficulty from the warrants themselves, which must make the rule of Criminal Procedure of copy the offence ~~under~~ which the warrant is issued - while warrants to ^{the} attendance of witnesses will specify the object for which they are issued.

CW

h/r

140-2340
 dated 15th at
 name

*Defence in the Criminal
 Cases of the
 Magistrate*

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Judicial 1865. Department.

No. 243.

PROCEEDINGS OF GOVERNMENT.

Off 447.

Dated 17 February 1865.

6 No. 243-247
29/11/64
282-293
26/9/65

1032/65-

see page 18 Feb 65

