

MADRAS RECORD OFFICE.

Government of Madras.

Indial DEPARTMENT.

G.O. No.	746	Press <u>Mis.</u>
153-154		
Dated	17 — 8.	19-1866

S/b

Not to be folded or roughly handled

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

No. 153. Read the following letter from J. D. MAYNE, Esq., Officiating Advocate General, J. SHAW, Esq., Officiating Principal Inspector General, Medical Department, W. ROBINSON, Esq., Inspector General of Police, to the Chief Secretary to Government, Fort Saint George; dated Madras, 26th April 1866, No. 673.

We have considered the questions submitted to us in the Order of Government, 16th February 1866, No. 239, and now submit our Report thereon.

1. There is no general Law in India at present by which either the possession or sale of poisons is rendered penal, or is restricted to persons licensed to sell such drugs. The state of the law as regards the detection and punishment of offences of poisoning is clearly detailed in the letter of the Government of India, 6th March 1863, No. 1545. No change has been in the law since that date.

2. We do not think that any measure, such as that contained in Bill IX of 1865 (Bombay), is desirable; that is to say, we do not think that it would accomplish any result either in the way of preventing poisoning, or of furnishing facilities for its detection, which would compensate for the expense of carrying out the measure, for the additional labor which it would cast upon the executive, and for the annoyance and oppression to which it would give rise.

3. With regard to mineral poisons, there is no doubt that they are frequently resorted to; arsenic figures prominently in the records of the Criminal Courts, probably because its presence is so easily detected. A law, such as that suggested, would certainly render it more difficult to procure it and poisons of the same class; but to make such a law really effective, it would be necessary to go much further, and to render the unlicensed possession of such drugs penal, as well as their sale. Arsenic is largely used by Native practitioners as a medicine. Their possession of it in considerable quantities would be innocent, and it would still be easy enough to procure it from them, or from others who had become innocently possessed of it, without any infraction of the provisions of the proposed law. It would be generally impossible to prove a sale, and without a sale there would be no offence. But if the mere possession were constituted an offence, this could rarely, if ever, be discovered until the commission of a crime had brought it to light. The law would be valueless as a means of preventing poisoning, though it might in some cases be used for the purpose of inflicting a minor punishment upon a party who was acquitted of the heavier charge.

4. As regards the much more dangerous class of vegetable poisons, the law could have no effect whatever. Many of these, such as *Cannabis Sativa*, *Croton tiglium*, and *Datura* are of common growth, and a person who wanted them for Criminal purposes would not purchase them from a dealer but would pick them up in the nearest field. We are of opinion then, that, for purposes of prevention, the proposed law would, in the case of mineral poisons, have an infinitesimal effect, and in the case of vegetable poisons would have none at all.

5. We do not believe that the law would have any effect in facilitating the detection of crime. Supposing it to be rigorously enforced, the probable result would be that, upon the discovery of a case of poisoning by arsenic, for instance, a search into the books of the licensed dealers would show a few sales to Native Doctors or agriculturists, but to no one who could in any way be connected with

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

the crime. But it must be remembered that the law would not be rigorously enforced. It would require a very large sale of poisonous drugs to make it worth any man's while to pay a license fee of Rupees 5 annually in advance. Except in very large towns, the law would be evaded, and the only result would be that, after a murder, the vendor, who has now no interest in concealing the sale, would withhold his evidence to screen himself from the penalties of the licensing law. If, however, the difficulty of purchasing arsenic, &c., was sensibly increased, the immediate effect would be to drive intended criminals to the use of vegetable poisons, whose detection in the system is as difficult as that of the mineral poisons is easy. Here again we see no advantage in the proposed law, but rather the reverse.

6. Further, we doubt the possibility of enforcing any such law without entailing enormous additional labor upon the Police, or without adding to, or altering the character of, the force. It would be no slight matter to supervise the sale of poisonous drugs in every village in India, and to do so with effect would require a knowledge of Mineralogy and of Botany, which can hardly be expected from the ordinary Policeman. Indeed, the Superintendent of the Thuggee Department, in his letter of the 13th September 1865, seems to admit the necessity of "supplementing the Police with a detective organization, under a single but not independent administration, for the purpose of more effectually repressing this and other heinous crimes of the same exceptional character." We are not aware of any other exceptional crimes in this Presidency which require such an organization. We cannot disguise from ourselves that a body of officials, armed with the powers of search and inquiry necessary to enforce any really effective law of the sort now suggested, would, before very long, be felt to be a nuisance of the first magnitude, and would be resented as an evil far greater than any they would prevent.

7. On the whole, we are of opinion that poisoning, though undoubtedly a common form of crime, must be left to the ordinary resources of the law. It might be possible to check the use of arsenic and other mineral poisons which require careful preparation, but the result would only be to direct the poisoner to vegetables which require no preparation, and whose presence it is impossible to trace. An active Police, ready to take immediate cognizance of suspicious deaths, and prompt medical examination, furnish as much security against undetected crime as a Government can afford. As long as motives for poisoning exist, the means will never be wanting.

No. 154. To the Secretary to the Government of India, Home Department, dated Fort Saint George, 17th May 1866, No. 746.

In reply to Mr. Under Secretary Ward's letter of the 30th November 1865, No. 4707, requesting the opinion of this Government as to the advisability of legislative action in the matter of regulating and restricting the sale of poisons, I am

Principal Inspector General, Medical Department,
Inspector General of Police,
Advocate General.

directed to forward copy of a letter received from the Officers noted in the margin, who were requested to form a Committee and to submit a report, showing the present state of the law regarding the sale of poisons, and of what amendment, if any, it was susceptible.

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

2. The conclusion arrived at by the Committee is that, in preventing the criminal use of poisons and in facilitating detection, the result likely to be obtained by the introduction of a measure such as that proposed in Bill IX of 1865, (Bombay) would be in no way commensurate with the labor and expense to Government, or with the general annoyance and oppression which the inquisitory nature of its provisions would involve. They observe that, to have any effect, the unlicensed possession, as well as the sale, of poisons must be made penal; that under such a law it might be possible to restrict the use of mineral poisons, but that this restriction would only reach mineral poisons, and would direct the poisoner to the use of vegetable poisons, which are easily procured, require no preparation, and the presence of which it is impossible to detect. The Committee further remark upon the enormous additional labor which would be thrown upon the Police, and the absence among them of that special knowledge which is requisite for a thorough supervision of the sale of poisonous drugs.

3. Adverting to the reply* made by the Governor General in Council to a previous application from this Government regarding the same subject, I am desired to observe that, in the correspondence† forwarded with your letter, no new matter appears to be suggested, and to state that the Right Honorable the Governor in Council, concurring with the opinions expressed in the Report of the Madras Committee, does not consider it advisable to restrict by general legislation the sale and possession of poisons.

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

* From Under Secretary to Government of India, to Assistant Secretary to Government of Madras, Legislative Department, 29th December 1864, No. 7030.

† From General Superintendent of Operations for the Suppression of Thuggee and Dacoity, Simla, No. 930, dated 13th September 1865.

Exd. J. H. Burns.

P. 10. 11. 161
 162. 66
 42. 44
 2. 9. 64
 21. 22
 30. 1. 65
 30. 1. 65
 10. 1. 60
 10. 1. 60
 10. 1. 60

74

Judicial Department
 No. 746

To
 The Secretary to the Government
 of India,

Home Department

Sir,

In reply to your letter
 of the 30th November 1865,
 No. 4707 requesting the
 opinion of the Government
 as to the advisability of
 legislative action in the
 matter of regulating and
 restricting the sale of
 poisons, I am directed to
 forward copy of a letter
 received from the ^{officers} ~~authorities~~
 noted in the margin who
 were requested to form a
 Committee and to submit
 a report showing the present
 state of the law regarding
 the sale of poisons, and of
 what

Mr. Supdt. Genl. hnd. Deptt.
 Supdt. Genl. of Police.
 Advocate General.

W.M.

what amendment, if any,
it was susceptible.

2. The conclusion
arrived at by the Committee
is that, in preventing the
~~Criminal~~ use of poisons and
in facilitating detection, the
result likely to be obtained
by the introduction of a
measure such as that pro-
posed in Bill IX of 1865
(Bombay) would be in
no way commensurate
with the labor and expense
to Government, or with the
general annoyance and
oppression which the in-
quisitory nature of its
provisions would involve.
they believe that to have
any effect the unlicensed
profession as well as the
sale of poisons must be
made penal; that under
such

Since the Bill has
just passed - so
that the Government
will not be able to
do anything more.

* From India Secy to Govt of India
to Asst Secy to Govt of Madras Secy Dept
29 Dec 1865 No 7030

92
such a law it might be
possible to restrict the
use of mineral poisons;
but that this restriction
would only reach mineral
poisons and would direct
the poisoner to the use of
vegetable poisons, which
are easily procured, require
no preparation, and the
presence of which it is im-
possible to detect. The
Committee further remark
upon the enormous additional
labour which would be
thrown upon the Police,
and the abuse among
them of that special
knowledge which is requisite
for a thorough supervision
of the sale of poisonous
drugs.

3. Adverting to the
reply made by the Governor
General

General in Council, to a
previous application from
the Government regarding
the same subject, I am
desirous to observe that in
the correspondence forwarded
with your letter, no new
matter appears to be sug-
gested, and to state that
the Right Honble the Governor
in Council, concurring
with the opinions expressed
in the report of the Madras
Committee, does not consider
it advisable to restrict by
general legislation the
sale and possession of
poisons.

11/11

For St. George
17 May 1865

⁺ From Genl. Secy of operations for the
suppression of Thuggee & Dacoity. Serial
No 930 2/13th Sept. 1865

12/7/76

22.99

21.75

Judicial Robt. E. E. E. E.

21.75

3. J. P. Under Secretary
of India

21.75

153.152

copy of 21.75