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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial DEPARTMENT

G.O. No.
B.P. No.

217

Press.
Mis.

(B No. 1-23)

Dated

1-2-1875

197

folded or roughly handled

PROCESSES.

Read the following papers:—

- No. 1. From Lieutenant-Colonel W. S. DREVER, Acting Inspector-General of Police, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Coimbatore, 15th November 1873, No. 93-C:—

Referring to G.O., No. 1525, of 24th September 1873, on the subject of

Colonel W. O. Swanston, Deputy Inspector-General, Southern Range.
Major H. D. Cloete, Deputy Inspector-General, Central Range.
Captain H. W. Cox, Superintendent, North Arcot.
Captain H. E. Coningham, Superintendent, Tinnevely.
Captain W. Hicks, Superintendent, Kurnool.
Do. R. G. Jenkins, do. South Canara.
Captain C. J. B. Harris, Superintendent, Kistna.
Do. W. Pickarea, Superintendent, Ganjam District.

Process Service Establishments, I have the honor to forward, in original, the reports received from my officers marginally named, to whom the matter was submitted, and to append the following observations.

2. As was to be expected, some difference of opinion exists among these officers on the general question as to whether a separate special establishment is, or is not, desirable; but it seems to me that the only reason for advocating the same is that the general Constabulary would thereby be, to a certain extent, relieved of some of its duties.

3. I will not occupy the time of Government in further pointing out the disadvantages of having any such casual establishment for these purposes; it would simply be a return to the uncontrolled rabble of Oomoidwars, &c., which existed till Madras Police Act XXIV. of 1859 swept it away. Mr. Sullivan has spoken on the subject in a manner which I feel confident will have been re-echoed by every District Magistrate in the Presidency, and there is consequently no need for me to say much more. I will only briefly mention that, irrespective of all other considerations, with limited special establishments under the proposed rules, "proof of service" could not possibly be continuously secured and at the same time ulterior processes be also served without grievous delay and interruptions to Courts and the public. The service of criminal processes, whether in cognizable or non-cognizable cases, must consequently continue to be performed, as hitherto, by the regular Constabulary alone. I would further venture to remark that it seems doubtful whether the enlistment of a special body of process-servers under the Court Fees Act (VII. of 1870) does not contravene the letter as well as the spirit of Sections

153—161 of Act X. of 1872, which specially direct the execution of processes by Police save under the exceptional circumstances therein stated.

4. The question incidentally raised in this discussion as to the numerical sufficiency of existing Police establishments appears altogether foreign to the matter in issue. I am not aware of a single complaint ever having been made by a Magistrate of delay in the service of his processes by the Police, and were there cause for such remonstrance it is but reasonable to conclude it would have been heard. It is clearly incumbent on the Inspector-General, through each of his District Superintendents, to provide for the efficient performance of these primary duties of an organized Constabulary, and the absence of complaint is, I conceive,

a perfectly legitimate argument in support of the general belief that they are fairly executed. The result of levying fees for processes will, moreover, unquestionably tend to reduce the number issued, so that the immediate practical effect of these rules will be to lessen, probably to a considerable extent, the Police work in this very matter. Under such circumstances, the logical course would seem to be rather to decrease than to increase existing establishments. But I think it will be wiser to wait till experience shall have developed facts on which reliance may be placed.

5. Police registers now in use do not separate processes issued in "cognizable" from those in "non-cognizable" cases, the distinction departmentally maintained being "grave" and "minor." Many non-cognizable cases are, however, included in the former and some cognizable offences we shall consequently obtain "minor" cases to represent non-cognizable than in favor of future "actuals." In the three years (1870, 1871, and 1872) the average number of processes served by the Police was in petty cases—

Warrants	...	19,900
Summons	...	331,841
Total	...	351,741

At one picon for 300 processes this would give 1,182 batta peons.

6. Next, as to the amount of fees recoverable, the rates are—

For a Warrant	...	12
For a Summons	...	8
but only 4 Annas for latter when one of a batch.	...	
10,900 x 12 Annas =	...	14,925
331,821 x 8	...	1,67,420
Total	...	1,82,345

As many summonses would only cost 4 Annas, and the returns now in use do not distinguish those in each case, the above sum is necessarily in excess of what the fees would amount to without reference to the effect of Section 31 of the Court Fees Act in still further reducing this amount.

7. The average annual cost of a Police Constable being Rupees 107-5-9 a total of 1,704 Constables could be added to the Force without extra charge to Government if the above sum were realized.

Leaving an ample margin for the reduced fees for batches of summonses, we may, therefore, safely say that 1,000 Constables, or fifty per district, might be entertained at the cost of suitors in these cases.

8. While fully admitting that an increase to even a greater extent in some districts may be necessary. I scarcely think it desirable that I should here discuss the subject in connexion with the assets to be derived from the Court Fees Act. I conceive it had far better be left for the Inspector-General himself to place before Government, should he deem it requisite, on his return, now shortly expected.

MEMORANDUM by Deputy Inspector-General, Southern Range, on letter from H. E. SULLIVAN, Esq., Acting Magistrate of South Arcot, to the Chief Secretary to Government, dated 28th August 1873.

I quite agree with Mr. Sullivan in thinking that it would be much safer for every one concerned that all processes in criminal matters should be served by the Police, but I cannot agree with him as to the proposition that "the additional Force should be entertained as supernumeraries, whose services would not count for pension until they were by degrees absorbed into the permanent Force."

2. If this plan of Mr. Sullivan's were carried out we should have a number of Omeidwars in Police dress and on Police pass attached to the different Magistrates' Courts for the purpose of serving processes in criminal matters. They would be a sort of independent Police Officer, over whom we should have very little, if any, control, and I think such a Force would be even more dangerous than the batta peon Mr. Sullivan so much dreads.

3. If these Police process-servers were to be entitled to no pension we could not, in justice to them, exact any Police work from them, and they would not have the half-dozen eyes on them referred to by Mr. Sullivan.

4. No. I think if the Police are to be increased so as to provide for the service of these processes the men so entertained must be regular Policemen, available for all Police duties, and the Superintendents of districts must be left, as at present, to see the processes served.

5. By the rules of the High Court I see that at first one batta peon for every 300 processes is to be entertained, and his pay is to be Rupees 7 per mensem; it would not, therefore, be very difficult to calculate for each district, taking the average for the last three years, the number of Policemen that could be entertained for service of these processes.

6. I have before me a return for 1872 of the number of processes served in the Salem District by the Police in cases in which Police cannot arrest without a warrant, and I find there were 1,769 warrants and 16,828 summons, or a total of 18,617 processes served. This would give, according to the rate laid down by the High Court, sixty-two batta peons on Rupees 7 per mensem or Rupees 5,203 per annum, so that taking the cost of a Police Constable, including his clothing, at Rupees 123-9-0 (about) per annum we should be able to entertain in the Salem District forty-two extra men for service of these processes.

7. Whether it would be better to thus add to the strength of the Police Force for this purpose or to employ batta peons is, of course, a matter of opinion. I think it would.

SALEM,
5th October 1873.

(Signed) W. O. SWANSTON,
Deputy Inspector-General.

From Major H. D. CLOETE, Deputy Inspector-General, Central Range, to Lieutenant-Colonel W. S. DREVER, Inspector-General of Police, Madras, dated Cuddapah, 3rd October 1873, No. 123.

With reference to Proceedings of Government, Judicial Department, dated 24th September, No. 1525, forwarded to me for report and received this day, I have the honor to observe that, though I agree with Mr. Sullivan in all he says in paragraph 3 of his letter, I fail to see what advantage would be gained by continuing Police agency in the service of processes in criminal cases if the evils he points out are to continue in civil cases by the employment of batta peons. There is no doubt that these peons act as described because there is no attempt at supervision; but I cannot see why a batta peon as well as a Policeman should not be made to execute a warrant and be dismissed, fined, or suspended if he returns with such excuses as mentioned by Mr. Sullivan or until the warrant is executed; at all events, I think that some means might be devised whereby there should be some kind of check on them. The system has, I believe, been in vogue in Bengal for some time, and I do not suppose that a Madras batta peon is any worse than a Bengalee.

2. Mr. Sullivan uses as an argument in favor of employment of Police the fact that an augmentation of the Police is much needed. Though I perfectly agree with him in this, I cannot

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quite see how an additional fifty men to each district, who will be almost always employed in serving processes, can be of any use to the district in other respects, and, therefore, the plan proposed would not in any way bring up the Police to an efficient standard; in fact, the relief afforded to the Police by the employment of peons to serve processes in non-cognizable cases is much more likely to render the present Police establishment effective than the addition of a few supernumerary Constables.

3. The illustration of the town of Chellamburam, mentioned in paragraph 4 of Mr. Sullivan's letter, though proving the numerical inefficiency of the Police, does not by any means prove that the employment of Constables to serve processes would improve the condition of the town of Chellamburam or afford more protection to its inhabitants. Apart from the difficulty that pensionary claims for these extra Constables would fall on the State, I very much doubt if the payment of fees for services of processes would cover the charge of pay, clothing, equipment, &c. of these men. Under all these circumstances, I am of opinion that it would be advisable to try the system laid down in Proceedings of Government, Judicial Department, dated 1st August, No. 1210, for a year or so, and, if it is found from complaints made by persons summoned or arrested that the employment of batta peons leads to the levy of blackmail from them, the High Court might be solicited to alter the rules.

4. If the Amin attached to a Court does his duty properly, and keeps a register of processes with date of issue and return, he should act as a check on his peons and would stand in the same relation to them that a Station-house Officer does to his Constables.

From Captain H. W. COX, Superintendent of Police, North Arcot, to Captain C. L. HIGHMOOR, Acting Assistant Inspector-General of Police, Madras, dated Chittoor, 3rd October 1873, No. 666.

With reference to your endorsement No. 3100, in Proceedings of the Madras Government, Judicial Department, dated 24th ultimo, I have the honor to report that I am of opinion that the plan of entrusting the execution of criminal processes in non-cognizable cases to batta peons will give rise to great irregularities.

2. The Police will be relieved to some extent, but the only other persons who will derive any benefit from the proposed arrangement are the peons themselves and defendants who have money to spare.

3. The effect of levying fees on the issue of processes will doubtless be to diminish the number issued, and these can, as hitherto, be easily executed by the ordinary Police without detriment to their ordinary work. If a case can be made out for strengthening the Police Force in all towns where there is a resident Magistrate it will be a good thing, for except at Vellore and Wallajahpett the present allotment is quite inadequate; but I am not prepared to state that the number of processes issued in non-cognizable cases ever has been at any place in this district so great as on that account alone to justify an increase in the Police Force.

From Captain H. E. CONINGHAM, Superintendent of Police, Tinnevely, to Captain C. L. HIGHMOOR, Acting Assistant Inspector-General of Police, Madras, dated Palamcottah, 7th October 1873, No. 263.

I have the honor to acknowledge the receipt of your order, No. 3100-II, forwarded with G.O., dated 24th September 1873, No. 1525, and to inform you that I consider it very necessary that the Police Force of this district should be augmented with a view to the services of the additional number being utilized for the service of processes in non-cognizable criminal cases.

2. I beg herewith to submit a statement showing the various processes issued last year by the Magistracy of Tinnevely in non-cognizable cases. There were altogether 17,117 processes, and, if the new establishment is to be fixed at the rate of one Constable for every 500 processes that have been executed, the additional strength required for this district will be fifty-seven Constables. I regret that no information is available in this office in regard to the number of processes in non-cognizable cases issued in previous years.

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3. I propose to fix the additional establishment at fifty Constables, one-third being of the first class and two-thirds of the second class. Their pay will then be as follows:—

	Per Mensem.	Per Annum.
Seventeen 1st-Class Constables, at Rupees 8 =	Rupees 136 =	Rupees 1,632
Thirty-three 2nd-Class .. at .. 7 =	.. 231 =	.. 2,772
Total	..	4,404

4. If we take 15,000 as the average of processes in non-cognizable cases that have been served by the Police during the past three years, and fix the fees at an average of 6 Annas for every person summoned and arrested, we shall have a sum of Rupees 5,625 that may reasonably be expected to accumulate yearly from the levying of fees. This will be sufficient for the payment of the extra establishment, their clothing and accoutrements included, and a yearly saving might also be effected, and the men pensioned without additional cost to the State.

From Captain W. HICKS, Superintendent of Police, Kurnool, to Lieutenant-Colonel W. S. DREVER, Acting Inspector-General of Police, Madras, dated Budneed, 7th October 1873, No. 2.

With reference to G.O., No. 1525, dated 24th September 1873, I have the honor to report that I entirely agree with the Magistrate of South Arcot in his objection to employing any other establishment save the Police for the service of criminal process. During twelve years' Police service I have (in my travels about the country) seen and heard quite enough of the irregularities practised by Civil Courts and other batta peons not to feel that the employment of similar means for serving criminal processes, even in non-cognizable cases, would lead to great irregularity, extortion, and abuse of authority. Such batta peons would be under no control, and the picture drawn by Mr. Sullivan of their probable mode of work is not, I think, overdrawn.

2. On these grounds I strongly recommend that the Police continue to be employed to serve all criminal processes both in cognizable and non-cognizable cases.

3. I do not understand if my opinion is sought on the augmentation of the Police, but I consider some augmentation is necessary, and an increase in the number of Head Constables is, as I have already officially reported, a most urgent necessity, as without a proper number of this grade at all stations there can be no efficient and constant supervision.

From Captain R. G. JENKINS, Superintendent of Police, South Canara, to Lieutenant-Colonel W. S. DREVER, Acting Inspector-General of Police, Madras, dated Mangalore, 8th October 1873, No. 238.

With reference to the Order of Government forwarding letter of the Acting Magistrate of South Arcot for report on the service of processes in petty cases, the work thus thrown on

the Police is certainly excessively heavy, but with the exception of Municipal towns and offences under the Municipal Act processes can be more satisfactorily executed and the duty better performed by the Police than by batta peons.

2. In Municipal towns, however, in which there is a Town Sub-Magistrate he would be able to supervise the working of batta peons, and, as so many cases come under the Municipal Act, summonses might be well served by means of their agency, but all warrants could be executed by the Police.

3. The amount realized by the service of processes except in municipal cases might be well paid over to the Police Department, and I would recommend a slight increase be made accordingly in their pay. It is, however, impossible at present to come to any conclusion as to the amount to

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be realized by the levy of fees, as in all probability party cases will decrease considerably when parties discover they have to pay for the execution of their wilful processes.

4. I am of opinion that many Sub-Magistrates do not observe sufficiently the provisions of Section 361, Criminal Procedure Code, but often issue processes in a most needless manner.

5. The work of the Police would also be considerably lessened if the Sub-Magistrates were a little more considerate in referring parties to the Police, which they often do, and the case necessitates a long inquiry and a deal of writing, eventually turning out to be either false or of a civil nature and altogether exaggerated in the first instance. A short inquiry by the Sub-Magistrate from the complainant would convince them of the chief facts of the case, and thus a considerable saving of time and labour would be effected for the Police.

From Captain C. J. B. HARRIS, Acting Superintendent of Police, Kistna District, to Captain C. L. HIGHMOOR, Acting Assistant Inspector-General of Police, Madras, dated Masulipatam, 13th October 1873, No. 235.

In reply to your endorsement, No. 3136, on the Proceedings of Government, dated 24th September 1873, No. 1525, I have the honor to report that I see no objection to the Police being employed to serve criminal processes provided the Force is adequately increased. The Magistrate of this district informs me that he estimated the number of peons required to be sixty-eight.

2. I conclude that the extra Police entertained would be available for other duties and would not be restricted to serving processes only. If this be the case I am of opinion that they should be enlisted as regular Police and, as such, their service would count for pension.

From Captain W. J. PICKANCE, Acting Superintendent of Police, Ganjam District, to Captain C. L. HIGHMOOR, Acting Assistant Inspector-General of Police, Madras, dated Gornalapore, 12th October 1873, No. 573.

With reference to G.O., 24th September 1873, No. 1525, received last night, I have the honor to submit that the service of processes by probationary Constables, whose cost is to be repaid to the State by the fees derived therefrom, appears highly desirable.

2. As you are aware we are much below an efficient working strength; there will be no difficulty in carrying out Mr. Sullivan's proposition in this district as far as obtaining men is concerned.

3. Being far from head-quarters I have not the estimate framed by the District Magistrate of the additional number of process-servers required in Ganjam, but have desired that this information may be obtained and added in a postscript to this letter.

P.S.—It was proposed by the District Magistrate to employ fifty peons, at 6 Repees each per mensem, as process-servers.

No. 2. From C. G. MASTER, Esq., District Magistrate of Ganjam, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Ramagiri, 28th November 1873, No. 2882.

I have the honor to report, with reference to G. O., 24th September last, No. 1525, Judicial Department, that the Divisional Magistrates in this district entirely agree with me in thinking the proposal made by Mr. Sullivan for leaving with the Police the service of criminal process in non-cognizable cases to be a very desirable one. In addition to the objections already described it is to be noted that batta peons would be ignorant of procedure.

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No. 3. From J. R. DANIEL, Esq., Acting Magistrate of Vizagapatam, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Vizianagram, 24th November 1873, No. 498.

In reply to the Order of Government, dated 24th September, No. 1525, calling for report upon the question of serving criminal processes through the Police or by a special staff of service peons, I have the honor to state that, in my opinion, the present system of service through the Police is preferable.

2. I think service by the Police would be more expeditious because they have the more intimate knowledge of the villages and people within the limits of their station, and processes would less frequently be returned unexecuted than if entrusted to a batta peon. The probability of oppression and extortion is also less because the Police are under closer and more constant supervision than a batta peon could possibly be. There would be no one between the batta peon and the Sub-Magistrate, and the probability of his actions escaping notice would be much greater than in the case of a Police Officer; besides the tenure of a batta peon's post would be precarious, and he would have every inducement to make the most of his opportunities, whereas a Policeman knows that his Government employment is permanent if he conducts himself properly.

3. Even if batta peons were appointed the Police would still serve processes in all cognizable cases, and it seems to me unadvisable to have two different agencies for the performance of similar work, and, in any case, warrants should be executed by the Police.

4. The Superintendent of Police writes to me that the Police Force is barely sufficient for its ordinary requirements. The services of processes takes precedence of all other work, and an increase to the Police Force would enable process-serving together with all other work to be carried out with greatly increased facility.

No. 4. From W. S. FOSTER, Esq., Acting Magistrate of the Godavery District, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Cocanada, 18th November 1873, No. 319.

In reply to G. O., No. 1525, dated 24th September 1873, I have the honor to report my opinion regarding Mr. Sullivan's proposals for serving Court processes by means of a new staff of Police.

2. I do not give in my adherence to Mr. Sullivan's views, and my reasons for differing from him are as follow:—

(1.) Mr. Sullivan proposes to raise a new subsidiary Police Force for general Police duties but to employ them specially on the service of processes. He thinks that this will be better than having processes served by batta peons, because the latter would delay service and harass and oppress their "victims." I do not see that the Police would be any better. They have even more opportunities, appearing, as they do, in uniform, for oppressing the people than batta peons in plain clothes.

(2.) I have observed that the Police invariably look upon process-serving as one of their least important duties, and in this they are often, if not generally,

supported by their superiors. It is very natural that it should be so, as undoubtedly the detection of crime and attention to drill appears more important than the carrying of a Court process from one village to another; moreover, the Inspectors, whose duty it is to return the processes to the Court, are never very punctual in the performance of this duty. I have constantly found great delays arising in consequence of this, and I think that the batta peons serving, as they would, in each Court and directly responsible to the Magistrate for the speedy service and immediate return of the processes, could be more easily supervised and kept punctual to their work.

(3.) An addition to the Police Force might be a very good thing; but under Mr. Sullivan's system I think that, if viewed principally as Policemen, the new Force would neglect their process-serving duties in future, if not now. They would become simply Police Constables, and in a short time it would be forgotten that they were ever appointed under a system which enacted punctual process-serving as their main duty. On the other hand, if viewed principally as process-servers, their duties as Police Constables would be neglected, and I think the Superintendents of Police and their junior officers would find great difficulty in keeping them in order. They would rather be without them.

(4.) Their uniforms and accoutrements would be an increased cost to the State, not counterbalanced by any substantial benefit.

No. 5. From G. D. LEMAN, Esq., District Magistrate of Kistna, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Masulipatam, 16th October 1873, No. 1154.

I have the honor to reply to G.O., dated 21st September 1873, No. 1525, Judicial Department, that my experience is that there is much force in Mr. Sullivan's assertions that the batta peon entrusted with the service of a criminal process is likely to be a great rogue, and that his chances of roguery will be much curtailed if he be a Police Constable.

2. I think that his proposal is a good one and quite feasible.

3. It cannot anywhere be denied that the Police Force in the Mofussil needs augmentation.

4. One objection, however, has been brought to my notice by the Superintendent of Police, and that is, that by Sections 11 and 12 of the Police Act a man once enrolled in the Force is entitled to claim pension, and therefore that part of the proposal which contemplates the enrolment of supernumeraries must be given up. I agree with him there, but I do not think the increase of pensionary claims is a matter to be feared. If the deductions of pay are made upon safe calculations, there should be no fear of the Superannuation Fund becoming insolvent.

No. 6. From J. HOPE, Esq., Acting Magistrate of Kurnool, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Kurnool, 22nd October 1873, No. 343.

With reference to G.O., No. 1525, of the 24th ultimo, I have the honor to state that I concur in opinion with the Magistrate of South Arcot as to the expediency

of continuing to make use of the agency of the Police for the service of summons in criminal cases. I do not think that his picture of the irregularities likely to ensue on the employment of batta peons in serving summons and executing warrants is at all overdrawn. In the interests of justice the work should be done in the most efficient manner possible, and there can be no question as to the superior efficiency secured by employing Police agency in preference to any other.

2. Of the four Divisional Magistrates three are also of the same opinion as myself. The Acting Head Assistant remarks: "The picture drawn by the Acting Magistrate of South Arcot is by no means highly colored, and represents the state of things which we may reasonably suspect if the officers who perform revenue and magisterial duties are given additional subordinates to control. As it is, the check exercised by a Divisional Officer seldom reaches to a Taluq Gamastah or Village Reddi.

"The fact that there were about six times as many applicants here for each post of process-server on 6 Rupees as for a daloct's post lately vacant on Rupees 7 is significant of expected gain from the former post.

"A Police Superintendent and his Assistant generally know five times more about individual Constables than a Revenue and Magisterial Divisional Officer knows of his village officers. The inference I draw is that it would be much safer to increase the number of subordinates of the former than of the latter."

3. The Peapally Deputy Magistrate, D. Timmapah, adds other objections to those cited by Mr. Sullivan. The number of peons employed will almost necessarily be too small, the few who are employed will almost always be absent from Court on some pretext or other. Occasionally there will be no one available for the service of a process, and delays prejudicial to justice will be the consequence. He further anticipates from the entertainment of batta peons, and I think with reason, an increase in the number of offences under Chapter X. of the Penal Code (contempt of the lawful authority of public servants) and such offences as intentionally omitting to apprehend a person (Section 221), intentionally suffering a person to escape (Section 223), resisting or obstructing apprehension (Section 224), escape from custody, and the like. Again, he points out that the duty of serving processes will fall much less heavily on Police Constables who patrol the whole country than on others. The number of warrants always bears a small proportion to that of summonses, and it is only the former which require execution by a particular Constable. The latter go in due course to the Station-house Officer, and are conveyed by Beat Constables to other stations, until they reach the villages where the parties to be summoned reside.

4. The Nandial Deputy Magistrate, A. Ramachandra Rao, alone is of a somewhat different opinion. He would have a separate establishment for serving processes; but he, too, admits that the evils depicted by Mr. Sullivan are inseparable from a batta establishment, and he advocates the employment of special Police Constables to be styled "Magistrates' Orderlies" or "Process-serving Constables." These would be paid from the fees collected, and would be as much under the control of the superior Police officers as other Constables.

5. The Additional Deputy Magistrate expresses a strong opinion in favor of the view taken by the Magistrate of South Arcot.

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No. 7. From H. SEWELL, Esq., Acting Magistrate of Cuddapah, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Cuddapah, 18th October 1873, No. 27.

As directed in paragraph 2 of the G.O., No. 1525, dated 24th September 1873, I have the honor to report that the present system of serving criminal processes through the Police is far preferable, as these men are always under strict control and authority of superiors which the batta peons are not. Unless some provision is made for the superintendence of the latter officials, no good can be anticipated; but this arrangement would undoubtedly involve an additional cost. I would, therefore, recommend the continuance of the present mode as proposed by Mr. Sullivan. I may add that all the Divisional Officers agree in this view.

No. 8. From W. S. WHITESIDE, Esq., Magistrate of North Arcot, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Palmanair, 16th October 1873, No. 71.

I have the honor, with reference to the Proceedings of Government, No. 1525, dated 24th ultimo, to state that I fully concur in the observations of the Magistrate of South Arcot, contained in his letter of the 28th August, on which the above-quoted Proceedings were passed, and at the time when I received them I had a letter drafted in which I was drawing the attention of Government to the very points noticed by Mr. Sullivan.

2. There can be, I think, no doubt but that the change inaugurated by the recently promulgated rules for the employment of batta peons is one pregnant with evil of various kinds. Hitherto all magisterial processes have been served through the Police, and their action in all matters connected with such service is carefully scrutinized and supervised by the local officers. Under the new system, however, a Magistrate is compelled to entrust what are undeniably some of the most important duties of the Police Department (viz., service of processes for the arrest of parties, search for stolen property, &c.) to a set of men of whom he knows little or nothing, who are unarmed, dressed in no uniform, and wearing no distinctive badge.

3. It appears to me that this is a step that brings us back at one stride to the old days when the Collectors' peons did magisterial and revenue work indiscriminately, and too often took such terrible advantage of their position. I can speak from experience of the evils of that system. When Assistant Magistrate of this district in 1857 a case came within my own knowledge in which one of these peons, having been entrusted with a warrant for the arrest of an individual known by some very common name, posted himself for several weeks at a place where bandies halted on their way down from Mysore through Chittoor to Vellore, and almost day by day arrested somebody of the name entered in the process held by him, releasing the prisoner after he had sufficiently terrified and extorted the desired bribe from him. Under the new system this state of things can, and most likely will, be revived very speedily; for the process-servers have not been made subordinate to the Superintendent of Police or other officers, and they can, therefore, practise all kinds of irregularities almost with impunity. The Govern-

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ment are aware that the natives of this country are always ready to pay money to extricate themselves from any difficulty, and the new process-servers, free from all check of superior officers, will assuredly not be slow to fill their pockets whenever they get a chance.

4. I look upon it as an especial and serious misfortune that under the new system Magistrates are obliged to employ this untrustworthy agency in the service of processes authorizing the search of suspected parties' premises. It frequently happens that a Magistrate receives information of the existence of some article which will constitute an important link in the chain of evidence in a case pending before him. It is of course highly advisable that the search for that article should be as prompt as possible so as to allow as little time as may be for its being made away with. Under the new system, however, the Magistrate of the district, who has such a case before him, is by the rules precluded from himself authorizing such a search. He has to issue the process and forward it to the nearest Sub-Magistrate, who will then entrust it to somebody for service.

5. As a case in point, I may mention that a couple of days before these new rules came into force I was holding my office at Ranipet, when a complaint was made to me charging a very wealthy and influential man with forgery, and the forged document was alleged to be then in his house at Ranipet. I at once issued a search-warrant. The search was made by a trustworthy Police Inspector in the regular manner, and the forged document was discovered. If the new rules had been in force, I should have been obliged to send the process with an official letter to the Taluq Magistrate, whose office is four miles distant at Wallajahpett, and he would then have sent a process-server to make the search. Of course, long before these formalities had been gone through, the paper for which the search was ordered would have been destroyed; or supposing that by a fortunate chance the process-server got hold of it, he could have taken a bribe to surrender it with infinitely less chance of detection than in the case of a Policeman.

6. In the case I have just mentioned, I happened to be not very far from the Sub-Magistrate, who would, under the new rules, have had to serve my process; but the Government are, of course, aware that it very often happens that the office of a full-power Magistrate, when on circuit, is twenty or thirty miles distant from that of the nearest Sub or Taluq Magistrate, while the place where the process is to be served may be close at hand; and, when we consider the time that must necessarily elapse in the transmission of processes from one office to another, and then back to the village for execution, it is manifest how grievous a failure of justice must in many cases occur.

7. Again the question arises how are process-servers to be paid in the many cases in which Government is the prosecutor. This will form a very large item of expenditure in every district, and I am not aware that the budget provides funds to meet the heavy charges that will be incurred monthly throughout the Presidency. The Magistracy have been authorized to excuse the payment of process fees by very poor persons; but the processes will have to be served all the same, and the servers must be paid, and this will form an additional charge on the State funds. This, however, is a trivial matter when compared with the evil I have mentioned above of constituting a new and large force of men, to be employed

all over the country, and with little or no supervision in the discharge of what have been hitherto regarded as some of the most important functions of the Police. The present Police Force has been raised most carefully and at enormous cost and pains; it is most anxiously supervised by a zealous and hard-working body of officers, and it is admittedly working satisfactorily. I would, therefore, respectfully, but most earnestly, deprecate the hasty retrograde step that the new rules force upon us.

8. If the Government have finally decided that all magisterial processes are in future to be paid for by the parties at whose instance or on whose behalf they are issued, I beg to recommend that the regular Police Force in every district be augmented by just so many additional Constables as are required for process-servers. These additional Policemen should be dressed and employed exactly as men of the regular Force, but be paid from process fees a monthly salary equivalent to the ordinary pay drawn by Constables from Government. This plan would, I think, do away, in great measure, with the evils of the system that has just been sanctioned, and I venture to recommend it for the favorable consideration of Government.

No. 9. From R. W. BARLOW, Esq., Acting Magistrate of the Chingleput District, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Saidapet, 1st October 1873, No. 22.

In reply to the Order of Government, Judicial Department, No. 1525, dated the 24th ultimo, I have the honor to report that, if it can be arranged that the service of processes in non-cognizable criminal cases shall still be executed by the Police, such course would, I have not the slightest hesitation in saying, be far preferable and less likely to lead to abuses than putting them into the hands of batta peons, who are really under little or no control when they leave head-quarters. The evils pointed out by Mr. Sullivan at paragraph 3 are more or less the necessary result of entertaining such agency.

2. As regards paragraph 2 of the Government Order under reply, I have the honor to state that a circular letter has been addressed to the Magistracy of this district, drawing attention to the provisions of Section 31 of the Court Fees Act quoted.

No. 10. From G. VANSAGNEW, Esq., Magistrate of Nellore, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Nellore, 3rd October 1873, No. 253.

Adverting to G. O., Judicial Department, dated 24th ultimo, No. 1525, I have the honor to state that I cordially concur in the remarks of the Acting Magistrate of South Arcot about process-servers or batta peons, and in his alternative proposal to utilize the proceeds of fees in augmenting the Police Force.

2. The Police Budget has been so curtailed of late as to render efficiency, and even obedience to the provisions of the law, impossible. There are at this moment thirty-two Head Constables wanting in this district. Section 136, Criminal Procedure Code, restricts the exercise of the powers of an officer in charge of a

Police Station to the officer next in rank *above the rank of a Constable*, yet there are twenty-three Police Stations to which no Constables have been allotted, and in which first-class Constables drawing the ordinary pay of their rank are exercising the powers of Station Officers in breach of the law.

3. Then there are nine taluq cusbah stations with only one Head Constable a-piece, and the employment of Head Constables on treasury guards and escorts having by recent orders been made obligatory, it is obvious that each of these stations requires a second Head Constable to be in charge of the Police station.

4. I think that, in consideration of the Police undertaking the serving of all processes, it would be quite justifiable to appropriate the proceeds of the fees towards increasing the efficiency of the Force, either in point of quality or number.

No. 11. From F. PRICE, Esq., Acting District Magistrate of Salem, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Karipattee, 3rd December 1873, No. 394.

I have the honor to reply to the Proceedings of Government, Judicial Department, No. 1525, dated 24th September last.

2. I quite agree with the District Magistrate of South Arcot in considering that the service of all processes should be effected through the agency of the Police.

3. It would be utterly impossible to look after peons, and I think that the people would not consider a summons so binding when delivered by an ordinary peon as when served by a Policeman.

4. The Police as men may not be a whit more honest than their fellow-natives; but, as Mr. Sullivan remarks, they have always some one looking after them, and have not the opportunities for being dishonest which would be afforded to a peon who practically could not be watched by any one.

5. I think that it would be desirable to calculate the number of men required to serve processes for the whole district, to increase the strength of the Police by this number, and to pay the extra Constables from the proceeds of the Court fees levied. It very often happens that half-a-dozen witnesses residing in different parts of one taluq are all summoned in one case, and are required to attend upon the same day. It would, in many such cases, be impossible for one man to serve all the processes within the time allowed, and I think, therefore, that it would be better to pay the Police Department a lump sum down for the year, on the understanding that they serve all the processes issued. I do not like the system of having a specified Constable or Constables attached to each Court as process-servers. They would sometimes be leading a life of utter idleness, and sometimes be worked off their legs.

6. Under the plan which I propose the Police of each district would be increased by the number of process-servers required by the Magistracy and Civil and Revenue Courts; the addition would be at no extra cost to the State; the time of the men would be properly employed, and they would be kept under supervision and discipline.

7. As regards the question of pension, I do not suppose that it was intended that the fees for the issue of processes under the Court Fees Act should be made a source of revenue. It appears to me, therefore, that the Police who perform the duty of serving summonses might fairly be pensioned from a Fund formed by setting aside the surplus collections under this head, which must in time form a very considerable sum.

No. 12. From J. B. PENNINGTON, Esq., Acting District Magistrate of Trichinopoly, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Trichinopoly, 2nd October 1873, No. 58.
With reference to G.O., dated 21st September 1873, I have the honor to state that I entirely agree with Mr. Sullivan.

No. 13. From R. K. PUCKLE, Esq., District Magistrate of Tinnevely, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Nannagaram, 11th October 1873, No. 262.

In reply to Government Proceedings, No. 1525, dated 21st ultimo, I have the honor to inform you that I am quite of Mr. Sullivan's opinion as to the impolicy of raising a band of undisciplined process-servers, whose first aim and object would be to benefit themselves to the utmost at the expense of the people, and over whose proceedings there would be no regular check.

2. The Police now execute processes to the extent of 14,000 per annum, and I have heard no complaints as to their conduct when performing this particular duty. They cannot cause needless delay, as they are carefully looked after, and they cannot extort very much as the channels of complaint are well known, and complaints are promptly attended to.

3. The Police Force, moreover, is so exceedingly weak that every additional man is of consequence, and an accession of forty-six men to the Force in one district will be a material benefit.

4. The number of processes as mentioned above are about 14,000, which, at 300 per man, should employ forty-six men. The fees to be collected, however, even on 10,000 of these processes, at an average of 8 Annas each, would give 5,000 Rupees, and this amount would pay fifty-two men, at 8 Rupees per mensem.

No. 14. From the Hon. D. ARBUTHNOTT, District Magistrate of Tanjore, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Vallam, 12th November 1873, No. 562.

With reference to the Proceedings of Government, dated 21st September 1873, No. 1525, I have the honor to inform you that I am decidedly of opinion that no change should be made in the present practice of getting the processes issued in all criminal cases served by the Police, and that if the strength of the establishment is insufficient, it should be augmented for this purpose.

2. Mr. Sullivan's remarks on the evils arising from the employment of an undisciplined establishment of batta peons, practically under no check or control,

and possessed of the means of oppressing the people with impunity, and not likely to be scrupulous in the use of these means, are exactly applicable to the circumstances of this district also.

3. I have consulted all the Divisional Officers on this subject, and they all concur with me in this opinion. The report of the Sub-Collector, Mr. Stokes, copy of which is herewith forwarded, is particularly valuable, as coming from an officer who, while acting as a District Judge, had ample opportunities of observing personally the evils of the batta peon's establishment system.

From D. J. STOKES, Esq., Joint Magistrate of Negapatam, to the Hon. D. ARBUTHNOTT, District Magistrate of Tanjore, dated Negapatam, 31st October 1873, No. 290.

With reference to your endorsement, dated 7th instant, No. 287, on Government Proceedings, No. 117, asking for my opinion on Mr. Sullivan's proposal to employ the Police on serving magisterial processes rather than establishment of batta peons, I have the honor to inform you that my own opinion and those of all the Sub-Magistrates in this division, except one, are in favor of Mr. Sullivan's plan.

2. I think it is essential that summonses and warrants should be entrusted to responsible persons and that the Police on account of their organization are more responsible than batta peons could ever be, and I think also that the use of batta peons will involve great delay, which is not incurred under the present system.

3. There is hardly a case in which the defendants would not be willing to pay money to a batta peon to avoid service of warrant or summons. In criminal affairs this is far more the case than in civil, for most natives consider mere appearance in a Criminal Court a disgrace, and this is not the case with respect to Civil Courts. Again, a batta peon of a Civil Court is often accompanied by the person at whose instance the process is issued, who assists in execution of the process, and at the same time having an interest in seeing that the duty is properly performed is a guarantee to some extent of the peon's conduct. This will seldom be the case in criminal trials. In these the batta peon will be alone, there will be no one to watch him or to testify against him if he neglects his duty, and great temptations will be thrown in his way. On the one hand, the complainant, as continually happens, may have brought his complaint merely to disgrace the accused person. This object will be best attained if a warrant is issued. He will be interested then in inducing the batta peon not to serve the summons, and to make a return that the accused person is absconding to avoid the service. On the other hand, the defendant will in almost every case be interested in delaying to appear. By doing so he gains time to escape, to prepare his case, or undermine his opponents. He will, therefore, get the peon to return the process unserved, and by this simple means gain the above advantages and in addition put the complainant to the trouble and expense of having fresh processes issued.

4. Again, nothing could be easier than to get up a fictitious charge of resisting the service of processes, and I have no doubt this would be continually done if the important duty was in the hands of badly paid men of low class, who acted under no supervision. Another evil which would certainly arise would be that of batta peons living on the persons whom they were sent to arrest. This is by no means unusual in Civil Courts. We had lately a case in Tritrapundi of a batta peon of the Munsif's Court, who was entrusted with a warrant of arrest in October 1871 and was not heard of till August 1872. During this time he had been living at the expense of the debtor. Indeed, when processes were entrusted to lax or supervised persons this evil existed to such an extent that Section 41 of Regulation IX. of 1866 provided specially for it and afforded a means of criminally punishing peons and others who demanded and received diet money, allowances, and gratuities from complainants and accused persons.

5. I have mentioned these circumstances with a view to show how extremely necessary it is to have responsible men employed in the duty of serving processes. This duty has been as efficiently performed by the Police as their limited numbers would permit, and there has seldom

been occasion for complaint, and I cannot but think it would be most unwise to depart from a system which has been found to attain the objects desired for one against which so many preliminary objections can be urged.

6. Before passing on to the next part of the subject, viz., that of delay, I may remark that it will be on the Magistracy that the burden of supervising the batta peons will fall and of inquiring into their misconduct. The supervision can only be nominal, and their time is sufficiently occupied already to make it desirable not to increase the number of their duties.

7. Delay will be caused in various ways. The batta peons will not have the same knowledge of place and person that Constables at the various stations have, and will, therefore, have more difficulty than they in finding the persons wanted, and will more often make mistakes. In many cases processes have to be served on persons living in villages far apart, and these will generally have to be entrusted to one batta peon. Three or four peons will be the usual number at a Sub-Magistrate's station, and it will often happen that they will all be absent at the same time. None of these inconveniences can be experienced under the present system. Suppose a warrant is unexecuted because the person sought for has escaped to a foreign territory or absconded elsewhere, at present the warrant is retained at the station where the person lives and executed at any time he may return. Under the proposed system either the batta peon must stay away an indefinite time (which there will be every inducement to him to do), or he will have to return the warrant at once as unexecutable. In either case there will be greater chance of delay than there is at present. Indeed, it may be remarked generally that a batta peon paid a fixed salary will have no inducement to be diligent in serving processes, but rather the other way, for the slower he goes the easier he earns his pay.

8. Besides the above objections to batta peons it should also be remembered that in many cases where a warrant has to be executed it is necessary to have one or more assistants to prevent the chance of resistance; it often happens, too, that the person of the prisoner has to be searched (Section 387), and this duty a single batta peon would seldom be competent for; sometimes, too, it is necessary to search and break open the doors, &c., of houses (Sections 179 and 180), which could hardly be done by a single batta peon; sometimes several persons have to be arrested simultaneously, and one person could not be expected to keep them in his charge. The duty, too, of taking bail in bailable offences is one that requires to be discharged by an officer on whom some reliance can be placed.

9. I should, therefore, strongly advocate increasing the Police Force and entrusting to them the service of all processes.

No. 15. From H. W. BLISS, Esq., Acting Magistrate of Madras, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Madras, 4th October 1873, No. 266.

In reply to G.O., dated 24th September 1873, No. 1525, Judicial Department, I have the honor to report that I entirely concur with Mr. Sullivan both as to the undesirableness of the employment of batta peons in the service of process and as to the advisability of an increase of the Police Force.

2. My short experience in a Small Cause Court leads me to believe that Mr. Sullivan has accurately described the way in which batta peons make money. I have also from time to time had reason to believe that the same sort of irregularities are committed by the Police in the case of persons who have money to pay them and whom they may have been sent to arrest, for I have not unfrequently noticed that such persons appear, as it were voluntarily, and state that they have come to the Court as they have heard that warrants have been issued for their arrest. I can only suppose this to have been the result of an agreement with the Constable charged with the execution of the warrant to avoid the indignity of

being brought up in custody, and no doubt it would happen much oftener if warrants were entrusted for service to batta peons.

3. There is no town of the same size in this district so completely unprotected by the Police as Chellumbrum; but there are many smaller ones where a small Town Police Force would be most useful; and I think that there can be no doubt that the Police generally have been reduced in strength to the very verge of safety, and that if means can be found to effect it without enhanced cost to the State an increase of the Force throughout the country would be highly desirable.

4. I may add that the Superintendent of Police entirely concurs with me in the above remarks.

No. 16. From A. WEDDERBURN, Esq., Magistrate of Coimbatore, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Coimbatore, 3rd October 1873, No. 52.

In reply to Proceedings and Order of Government, dated 24th September 1873, No. 1525, paragraph 2, I have the honor to state that the Police still continue to serve criminal processes, and that it is desirable that they should continue to do so.

2. There is much reason to believe that a criminal process-server would act in the manner described by Mr. Sullivan. Even a taluq revenue peon with an official default is liable to be seized with illness which prevents or delays his attachment of property of an influential party.

3. I have had the Police Force of this district increased for the suppression of crime, and there is no reason for an increase on account of process-serving.

4. Nor would I recommend the employment of supernumeraries on such duty who might prefer present illicit gains to future permanent employment.

No. 17. From H. B. GRIGG, Esq., Acting District Magistrate of the Nilgiris, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Ootacamund, 8th October 1873, No. 123.

Referring to the Orders of Government, dated 24th September 1873, No. 1525, I beg to state that I concur generally in the remarks of the Acting District Magistrate of South Arcot as regards the evil of entrusting processes in criminal cases, whether warrants or summons, to a body of peons, who would be under no strict control. The least of the evils which would probably follow would be the increased delay in the disposal of such cases by the Magistracy.

2. The operation of Rule 2, under which all processes of a District or Division Court are to be served through the Sub-Magistrate in whose jurisdiction the party concerned resides or is supposed to reside, would increase this evil and lead to numerous complications. There will be delay in the office of the Magistrate who issues the process in ascertaining the jurisdiction within which the party resides, and naturally frequent mistakes in this matter alone; then, there will be further delay in the Sub-Magistrate's office, whilst the Magistrate who is directly responsible that no unnecessary delay takes place in the course of justice will virtually have no control over the process-servers; and, should any charge of misconduct be made, he cannot directly inquire into the same but must call upon the Sub-Magistrate

under whose direct control the process-server is to make such inquiry, and, as processes will constantly be served in different divisions of the district, the Magistrate moving will have to refer the matter to the Magistrate of the division within whose jurisdiction the Sub-Magistrate concerned is either directly or through the District Magistrate. It is needless to enlarge on the difficulties and disadvantages that suggest themselves if this system—the system laid down in the rules—is to be faithfully followed; that heretofore in force has on the whole worked satisfactorily, and such being the case it cannot be a wise policy to replace it by another untried and open to so many valid objections. It is, in my humble opinion, a retrograde movement, a going back to the old evils of the peon establishments, and destitute of the pleas that might be urged in their favor. Those establishments had at least this advantage, that they either in appearance or in fact strengthened the position of the Collector and Magistrate of the district, whilst this system will remove these officers of the Court further than ever from the control of the head of the district, placing them almost entirely under the native Sub-Magistracy—a resolution which, at present at least, is hardly to be desired. If the change be necessary on economical grounds then this end would perhaps be equally well attained by crediting the proceeds derived from fees in the Police Budget and thus disposing at once of the objections which suggest themselves in regard to a supernumerary Police Force. Should, however, it be decided that process-servers shall be entertained, then I would earnestly urge that the arrangement referred to above for the service of processes issued by District and Division Magistrates should be annulled and each Magistrate have at least the same control over this establishment as that exercised by a District or a Sub-Judge, or a District Munsif over the batta peons of his Court.

No. 13. From A. MACGREGOR, Esq., Magistrate of Malabar, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Calicut, 2nd October 1873, No. 84.

I have the honor to acknowledge the receipt of G.O., dated 24th September 1873, No. 1525, calling for opinion as to the appointment of process-service peons.

2. I entirely agree in the views expressed by Mr. Sullivan, and do not think that there is the slightest exaggeration in the portrait of a batta peon sketched in paragraph 3 of his letter. I would only add to it the point that nothing could prevent these appointments from falling into the hands of poor dependents and hangers-on of the Taluq or Huzur magnates, so that to other incentives to corruption would be added the reliance on a certain degree of support from influential quarters in case of complaint.

3. I have always considered that one of the greatest advantages that resulted from the introduction of the regular Police was the immense improvement that was at once noticeable in the speedy and certain service of process. The regularly organized method of process-service, following as it did on the old system, or rather utter absence of system, was, more than anything else, effectual in bringing about the marked diminution in the average time occupied by the disposal of cases and gave a corresponding blow to malpractices. I must admit that I have contemplated the recent orders on the subject with little short of dismay, and have not as

yet been able to see my way to any mode of carrying them out in this district. Nothing can for this purpose be so effectual as a slight augmentation of the Police Force. It is obvious that a body of men, however honest and well trained, acting from a centre, viz, the taluq cusbah, can never compete with an organization possessing within the same area half a dozen or a dozen carefully-selected local centres. No one man can be acquainted with the whole taluq; but if the small Force that under the new rules would be available were to be sub-divided so as to assign different quarters to different men the result would be an immense delay.

4. Supposing the men to be *not* incorruptible, the fact of their always having to start from the cusbah, where unprincipled Vakeels and Agents are always at hand, gives an opportunity for tampering, which in the case of the regular Police does not exist. A summons to be served by the Police is forwarded by post or Beat Constable to the appropriate station-house and is then entrusted to the constable who happens to be for beat that day in the direction where the man lives. If he is bought off there will be another Constable next day and so on all round the Force. The service by Police, moreover, admits of far closer supervision and comparison of results which in the long run tell their own tale. As this comparison must be carried out by the Police in regard to all graver cases but little extra trouble will be involved in applying the same machinery to all cases.

5. This mode, too, would doubtless result in considerable economy, as a Policeman who has to go to a particular parish to serve processes in *cognizable* cases can serve them in summary cases as well with absolutely no appreciable increase of expense. The High Court laid down a certain maximum based on the number of processes served, but I find that in many parts of this district, where the parishes are extensive and wild, no such limit could have been worked to.

6. As regards the general advantage of a slight addition to the Police Force throughout the country, there can be scarcely two opinions. The Force has now been pared down to such narrow limits that there is in ordinary times barely the means of protecting the arms left in the station-houses, which thus actually supply an element of danger to the public peace. On the occasion of the recent outbreak at Kolatur, of which information reached the taluq cusbah, seven miles distant, at daylight, a Force of no more than ten Constables could be assembled up to 5 o'clock in the afternoon, when the European troops arrived on the scene.

7. At Malliapuram the result was even more surprising as the detachment moved off with baggage, camp-followers, &c., without the presence of a single Constable, and actually started in the wrong direction though fortunately the error was at once rectified. The solitary Constable not on beat had to remain at the station-house half a mile from barracks.

8. Now, it is clear that while a batta peon could perform only the service of processes, and that very badly, other duty not at all, the extra Constables entertained as proposed by Mr. Sullivan would be ready for any emergency, would serve processes in cognizable cases as well as guard station-houses, escort prisoners, &c.

9. In breach of contract cases in Wynaad we have had experience of the batta-peon class. A gentleman resident there informed me only a short time ago that though for several years he had got warrants out in breach of contract cases in no single case had the warrants ever been executed, and he has now left off applying for them.

*Proceedings of the Madras Government, Judicial Department,
1st February 1875.*

10. I most strongly advocate the revocation of the late orders regarding process-service peons and the application of the funds to the necessary strengthening of the regular Police.

No. 19. From H. S. THOMAS, Esq., Magistrate of South Canara, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Panatadi, 7th October 1873, No. 1703.

With reference to the Proceedings of Government of the 24th September 1873, No. 1525, I have the honor to report that I entirely concur with Mr. Sullivan, and that I was about to submit the same views myself with the addition that by strengthening the Police and having the whole Force available delays also are obviated and justice facilitated, for it cannot but be that with a limited number of separate criminal process-servers they must often be quite overmatched with work, whereas a large body like the Police is able to meet exceptional calls and much of the summon work can be done by the Beat Constables with no addition to their ordinary routine work. The extra body of trained and supervised Constabulary will be valuable generally, and specially so in riots and other criminal emergencies.

2. The same remarks apply to the revenue process-servers. During the list periods they will scarcely be equal to the pressure of work under the Rent Recovery Act, for all engagements under it are made to fall due at the time of the lists; during other months they will have absolutely nothing to do. If the fees are used for strengthening the taluq establishment the whole body will be available to meet pressure and the Tuhildars can find other work for them at idle times. The additional men might be supernumeraries not entitled to pension.

No. 20. From H. S. THOMAS, Esq., District Magistrate of South Canara to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Haladi, 16th January 1874, No. 81.

Prior to Government Order in the Judicial Department, dated 28th March 1873, No. 508, batta peons were entertained for the service of processes under Act XIII. of 1859 (Breach of Contract), and they were paid by fees from the parties. By that order, and the rules framed by the High Court under Sections 20 and 22 of the Court Fees Act, process-service peons and Court Fee stamps were substituted. The process-service peons have since been eliminated,* and there remain stamps and Police. But this class of processes (for Breach of contract) are

* G.O., 24th September 1873, No. 1525, J. D. not such as should be executed† by the Police, and batta peons cannot be revived, as formerly, without either a return to cash in lieu of stamp payments or Government sanction for their salary payments.

2. I have the honor to seek orders, therefore, how this class of processes are to be served.

3. For the present I have requested the Superintendent of Police to allow the Police to execute them.

*Proceedings of the Madras Government, Judicial Department,
1st February 1875.*

No. 21. From J. H. MASTER, Esq., Magistrate of Bellary, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Bellary, 14th March 1874, No. 43.

I have the honor to acknowledge the receipt of your Official Memorandum, Judicial Department, No. 91, dated the 26th ultimo, and to express my regret that the Proceedings of Government, Judicial Department, No. 1525, dated the 24th September 1873, have remained hitherto unanswered. It was entirely owing to an oversight.

2. I beg to express my decided opinion that the service of processes in criminal cases should continue to be made through the Agency of the Police, the Court Fees being of course levied. The Police have always performed this work, and therefore it is no hardship to oblige them to continue it.

3. I quite agree with Mr. Sullivan that it would be most undesirable to have an undisciplined rabble of persons hanging about the different Courts. It is certain that they would be a source of oppression to the people.

4. If the Government think fit to apply any portion of the revenue derived from Process Service Fees to the augmentation of the Police Force, so much the better, but the augmentation cannot be said to be required for the service of the processes.

No. 22. From W. S. FOSTER, Esq., Acting Magistrate of the Godavery District, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Rajahmundry, 4th December 1874, No. 369.

In continuation of my report, dated the 18th November 1873, No. 319, and with reference to paragraph 2 of the G.O. of the 24th September 1873, No. 1525, I have the honor to bring once more to the notice of Government the delay that continually occurs in the service of processes and in returning the duplicate summonses. I do not wish to throw blame on the Police; but I do think that, as a fee has been introduced for the service of these processes, it is but right that the service should be improved, instead of being left just as it was before any payment was required.

2. I should have no objection to the duty of serving these processes and returning the duplicates being left with the Police. I fancy that the fees collected would allow of an extra Constable being placed at the headquarters of each Division Inspector, so that there might always be one available for this duty, and ready to take off the summons at once to the village where it is to be served, without taking Constables off their beats.

3. The average amount of collections for the last seven months was Rupees 353: this would allow fifty Constables at 7 Rupees a-month, or about two for every Magistrate.

No. 23. ORDER THEREON, 1st February 1875, No. 217.

By their Order, dated 1st August 1873, No. 1210, in the Judicial Department, Government directed the publication in the Official Gazette of certain Rules which

had been drawn up by the High Court of Madras and approved by the Governor-General in Council, for levying fees for the service of processes pursuant to Section 26 of the Court Fees Act, VII. of 1870; two schedules being attached thereto, of which Schedule B prescribed the rates at which summons and other processes issued from Criminal Courts were to be taxed, in order to cover the cost of the Agency employed in such service. As far as the service of criminal processes was concerned, the Rules thus promulgated provided that the pay of each peon so engaged was to be from 6 to 7 Rupees a-month; that a separate establishment for the service of criminal processes was to be entertained in the Courts of the Magistrates of the second and third classes only; that all processes issued by Magistrates of the first class were to be sent to Magistrates of the second or third class within whose jurisdiction they were to be served; and that the number of peons to be entertained was to be at the rate of one peon for every 300 processes that had been theretofore annually served or executed by the Police on the average of the last three years.

2. These Rules thus threatened to bring into existence a rival force alongside of the Police to do what is avowedly Police work; and without that protection against oppression and extortion, and those guarantees for discipline, order, and punctuality which the regularly organized Constabulary is calculated to ensure. Mr. Sullivan, then Acting District Magistrate of South Arcot, was the first to call the attention of Government specially to the evils of a system which he described as a return to the days when Omeidwars and Ratta peons hung about Magistrates' Outcherries, before the organization of the Police between 1853 and 1860. Mr. Sullivan's letter was referred to the Inspector-General of Police, for early

Order of Government, Judicial Department,
24th September 1873, No. 1525.

to report upon it. Government at the same time desired that the service of criminal processes should meanwhile be continued by the agency of the Police, no additional establishment being entertained for the purpose. In their Order noted G.O., 4th November 1873, No. 1764, Judicial Department.

criminal processes should be maintained as far as possible, and observed that no body of criminal process servers should be created if it could be avoided, as the evils inherent in the system were immense. The letters above recorded are the replies of the officers to whom the reference in question was made.

3. Every District Magistrate, with the exception of the Godavery District, has

3. Every District Magistrate, with the single exception of Mr. Foster of the Godavery District, has now stated his preference for the continued employment of the Police in process serving; and even Mr. Foster, in the further communication 4th December 1874, No. 369, since received from him, apparently withdraws his objection to the agency of the Police, although he still charges this agency with considerable delay in executing the processes entrusted to it. In the same way all the officers consulted by Colonel Drever, then in charge of the office of Inspector-General of Police, agree in advocating the continued employment of the Police, with the single exception of

Major Cloete of the Central Range, who is apparently in favor of the Batta-peon system. With certain shades of difference, and with the exceptions noted, there is a unanimous opinion in favor of not forming a separate branch of the Police for this special service; in other words, the Police employed in serving processes are not to be supernumeraries, but an integrant part of the force, under one system of supervision and control. All in favor of the system appear also to be generally agreed that there must be some addition to the existing Police Force to admit of the service being effectually performed; and Mr. Foster now recommends the entertainment of extra Constables, at the rate of about two to every Magistrate in the district, whose wages would be covered by the fees collected under the Act.

4. The Criminal Procedure Code does indeed give a Magistrate a discretion to serve a summons or execute a warrant through "any other person" if he sees fit; but it is obvious that the Legislature intended that the employment of the Police shall be the rule, and the pressing into the service of "any other person" shall be the exception. Having now carefully considered the subject, with the advantage of the opinions before him, the Governor in Council resolves that the service of all criminal processes shall be effected, with the rare exceptions allowed by the Legislature, through the agency of the regularly organized Police alone.

5. The primary object of levying fees under the Court Fees Act was to raise money for the express purpose of re-couping the cost of existing establishments, not of unnecessarily adding to, or extending them; but here it is the opinion, from actual experience, both of the District Magistrates and the Officers of Police, that some addition is imperatively called for to the present strength of the Constabulary, in order to ensure efficient and prompt service and punctual return of the duplicates of the processes to the Courts by which they are issued. In paragraph 7 of his letter above recorded, Colonel Drever estimates the average annual cost of a Police Constable at Rupees 107-5-9, which it is presumed includes the cost of his clothing and equipment, and that at this rate about 1,704 Constables could be added to the force without any extra charge to the Government, as the fees collected under the Act would fully meet the charge. Colonel Drever considers that about fifty Constables might be wanted for each district and that, leaving a large margin for return of fees levied in certain cases, that number might be safely entertained without extra expense. As to the number required for each district, Colonel Drever's estimate exactly tallies with that now reported by Mr. Foster, who thinks that about fifty Constables would be required in the Godavery District, in order to allow to each Magistrate in the district the services of two Constables for the processes issuing from his Court.

6. The numerical inadequacy of the Police Force of the Presidency to meet the ordinary demands of their duty has recently been brought prominently to the notice of Government in the annual reports of the District Magistracy and the Inspector-General. Taking the cost of a single Constable at 108 Rupees per annum, the charge for 1,000 men (at the average rate of fifty for each Police District) would amount to Rupees 1,08,000. It appears, however, from the Budget Estimate for 1875-76, that the receipts expected to be derived in Magistrates' Courts from "Court Fees Stamps," and "Process Service Fees," will not exceed Rupees 77,381.

*Proceedings of the Madras Government, Judicial Department,
1st February 1875.*

This sum would provide for about 713 Constables or about thirty-six to each district, and as it is shown to be expedient that the Police, and not any special Agency, should undertake the function, the Governor in Council resolves to direct the Inspector-General to take measures accordingly for the early commencement of this addition to the force: which will be distributed over the districts as the Inspector-General may deem most desirable. It is of course to be clearly understood that these men will be available for all the ordinary duties of the Constabulary and vice versa and that the force shall not contain within it any special corps whose duty is limited to process serving. The Inspector-General of Police will report at the end of six months whether the staff of Constables now sanctioned is sufficient for the work. The District Magistrates will also report what were the receipts actually realized by them during that period from Court Fees, Stamps and Process Service Fees.

7. In regard to the question of return of fees to complainants in certain cases, as provided by Section 31 of the Court Fees Act, which has been raised in the course of this correspondence, it is to be observed that, irrespective of those cases in which the Courts are authorized by the Departmental Rules, drawn by the High Court and approved by Government, to remit fees payable by a complainant or defendant on account of the poverty of the party or other good and sufficient cause, which of course must be taken into account in the arrangements now to be made, Section 31 provides that when the accused is convicted, he shall be directed to repay to the complainant, in addition to any penalty imposed, the fees paid by each complainant, and that all fees ordered to be repaid under the Section may be recovered as if they were fines imposed by the Court, so that, in these cases, the fees payable by complainants are nevertheless credited to the State.

(True Extract.)

D. F. CARMICHAEL,
Acting Chief Secretary.

To the Honorable the Judges of the High Court
.. the Board of Revenue.
.. the Inspector-General of Police.
.. all District Magistrates
.. all Session Judges.
.. the Accountant-General.

Proceedings of the Madras Government, Judicial Department,

March 1874.

Read the following papers:—

No. . From Lieutenant-Colonel W. S. DREVER, Acting Inspector-General of Police, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Coimbatore, 15th November 1873, No. 93-C. :—

Referring to G.O., No. 1525, of 24th September 1873, on the subject of

Colonel W. O. Swanston, Deputy Inspector-General, Southern Range.

Major H. D. Cloete, Deputy Inspector-General, Central Range.

Captain H. W. Cox, Superintendent, North Arcot.

Captain H. E. Coningham, Superintendent, Tinnevely.

Captain W. Hicks, Superintendent, Kurnool.

Do. R. G. Jenkins, do. South Canara.

Captain C. J. B. Harris, Superintendent, Kistna.

Do. W. Pickance, Superintendent, Ganjam District.

process service establishments, I have the honour to forward, in original, the reports received from my officers marginally named, to whom the matter was submitted, and to append the following observations.

2. As was to be expected, some difference of opinion exists among these officers on the general question as to whether a separate special establishment is, or is not, desirable; but it seems to

me that the only reason for advocating the same is that the general Constabulary would thereby be, to a certain extent, relieved of some of its duties.

3. I will not occupy the time of Government in further pointing out the disadvantages of having any such casual establishment for these purposes; it would simply be a return to the uncontrolled rabble of Oomcidwars, &c., which existed till Madras Police Act XXIV. of 1859 swept it away. Mr. Sullivan has spoken on the subject in a manner which I feel confident will have been re-echoed by every District Magistrate in the Presidency and there is consequently no need for me to say much more. I will only briefly mention that, irrespective of all other considerations, with limited special establishments under the proposed rules, "proof of service" could not possibly be continuously secured and at the same time ulterior processes be also served without grievous delay and interruptions to Courts and the public. The service of criminal processes, whether in cognizable or non-cognizable cases, must consequently continue to be performed, as hitherto, by the regular Constabulary alone. I would further venture to remark that it seems doubtful whether the enlistment of a special body of process-servers under the Court Fees Act (VII. of 1870) does not contravene the letter as well as the spirit of Sections

Criminal Procedure Code.

153—161 of Act X. of 1872, which specially direct the execution of processes

by Police save under the exceptional circumstances therein stated.

4. The question incidentally raised in this discussion as to the numerical sufficiency of existing Police establishments appears altogether foreign to the matter in issue. I am not aware of a single complaint ever having been made by a Magistrate of delay in the service of his processes by the Police, and, were there cause for such remonstrance, it is but reasonable to conclude it would have been heard. It is clearly incumbent on the Inspector-General, through each of his District Superintendents, to provide for the efficient performance of these primary duties of an organized Constabulary, and the absence of complaint is, I conceive, perfectly legitimate argument in support of the general belief that they are fairly executed. The result of levying fees for processes will, moreover, unquestionably

tend to reduce the number issued so that the immediate practical effect of these rules will be to lessen, probably to a considerable extent, the Police work in this very matter. Under such circumstances, the logical course would seem to be rather to decrease than to increase existing establishments. But I think it will be wiser to wait till experience shall have developed facts on which reliance may be placed.

5. Police registers now in use do not separate processes issued in "cognizable" from those in "non-cognizable" cases, the distinction departmentally maintained being "grave" and "minor." Many non-cognizable cases are, however, included in the former and some cognizable cases among the latter. By assuming "minor" cases to represent non-cognizable offences we shall consequently obtain an approximate estimate rather against than in favour of future "actuals." In the three years (1870, 1871, and 1872) the average number of processes served by the Police was in petty cases—

Warrants	...	...	...	...	...	19,900
Summons	...	...	...	...	...	334,841
Total	...	...	...	...	...	354,741

At one peon for 300 processes this would give 1182 batta peons.

6. Next, as to the amount of fees recoverable, the rates are—

For a Warrant	...	...	...	...	...	12
For a Summons	...	...	...	...	...	8

but only 4 Annas for latter when one of a batch.

19,900 × 12 Annas =	...	...	...	...	...	14,925
334,841 × 8	...	...	...	...	...	1,67,420
Total	...	...	...	...	...	1,82,345

As many summonses would only cost 4 Annas, and the returns now in use do not distinguish those in each case, the above sum is necessarily in excess of what the fees would amount to without reference to the effect of Section 31 of the Court Fees Act in still further reducing this amount.

7. The average annual cost of a Police Constable being Rupees 107-5-9, a total of 1704 Constables could be added to the Force without extra charge to Government if the above sum were realized.

Leaving an ample margin for the reduced fees for batches of summonses, we may, therefore, safely say that 1000 Constables, or fifty per district, might be entertained at the cost of suitors in these cases.

8. While fully admitting that an increase to even a greater extent in some districts may be necessary I scarcely think it desirable that I should here discuss the subject in connexion with the assets to be derived from the Court Fees Act. I conceive it had far better be left for the Inspector-General himself to place before Government, should he deem it requisite, on his return, now shortly expected.

* This is just what Mr. Foster suggests in his letter of 11th Dec/74, No 34.

MEMORANDUM by Deputy Inspector-General, Southern Range, on letter from H. E. SULLIVAN, Esq., Acting Magistrate of South Arcot, to the Chief Secretary to Government, dated 28th August 1873.

I quite agree with Mr. Sullivan in thinking that it would be much safer for every one concerned that all processes in criminal matters should be served by the Police, but I cannot agree with him as to the proposition that "the additional Force should be entertained as supernumeraries, whose services would not count for pension until they were by degrees absorbed into the permanent Force."

2. If this plan of Mr. Sullivan's were carried out we should have a number of Oomeidwars in Police dress and on Police pass attached to the different Magistrates' Courts for the purpose of serving processes in criminal matters. They would be a sort of independent Police Officer, over whom we should have very little, if any, control, and I think such a Force would be even more dangerous than the batta peon Mr. Sullivan so much dreads.

3. If these Police process-servers were to be entitled to no pension we could not, in justice to them, exact any Police work from them, and they would not have the half-dozen eyes on them referred to by Mr. Sullivan.

4. No. I think if the Police are to be increased so as to provide for the service of these processes the men so entertained must be regular Policemen, available for all Police duties, and the Superintendents of districts must be left, as at present, to see the processes served.

5. By the rules of the High Court I see that at first one batta peon for every 300 processes is to be entertained and his pay is to be Rupees 7 per mensem; it would not, therefore, be very difficult to calculate for each district, taking the average for the last three years, the number of Policemen that could be entertained for service of these processes.

6. I have before me a return for 1872 of the number of processes served in the Salem District by the Police in cases in which Police cannot arrest without a warrant, and I find there were 1789 warrants and 16,828 summons, or a total of 18,617 processes served. This would give, according to the rate laid down by the High Court, sixty-two batta peons on Rupees 7 per mensem or Rupees 123-9-0 (about) per annum we should be able to entertain in the Salem District forty-two extra men for service of these processes.

7. Whether it would be better to thus add to the strength of the Police Force for this purpose or to employ batta peons is, of course, a matter of opinion. I think it would.

SALEM,
5th October 1873.

(Signed) W. O. SWANSTON,
Deputy Inspector-General.

From Major H. D. CLOETE, Deputy Inspector-General, Central Range, to Lieutenant-Colonel W. S. DREVER, Inspector-General of Police, Madras, dated Cuddapah, 3rd October 1873, No. 123.

With reference to Proceedings of Government, Judicial Department, dated 24th September, No. 1525, forwarded to me for report and received this day, I have the honour to observe that, though I agree with Mr. Sullivan in all he says in paragraph 3 of his letter, I fail to see what advantage would be gained by continuing Police agency in the service of processes in criminal cases if the evils he points out are to continue in civil cases by the employment of batta peons. There is no doubt that these peons act as described because there is no attempt at supervision; but I cannot see why a batta peon as well as a Policeman should not be made to execute a warrant or until the warrant is executed; at all events, I think that some means might be devised whereby there should be some kind of check on them. The system has, I believe, been in vogue in Bengal for some time, and I do not suppose that a Madras batta peon is any worse than a Bengalee.

2. Mr. Sullivan uses as an argument in favour of employment of Police the fact that an augmentation of the Police is much needed. Though I perfectly agree with him in this I cannot quite

see how an additional fifty men to each district, who will be almost always employed in serving processes, can be of any use to the district in other respects, and, therefore, the plan proposed would not in any way bring up the Police to an efficient standard; in fact, the relief afforded to the Police by the employment of peons to serve processes in non-cognizable cases is much more likely to render the present Police establishment effective than the addition of a few supernumerary Constables.

3. The illustration of the town of Chellumbrum, mentioned in paragraph 4 of Mr. Sullivan's letter, though proving the numerical inefficiency of the Police, does not by any means prove that the employment of Constables to serve processes would improve the condition of the town of Chellumbrum or afford more protection to its inhabitants. Apart from the difficulty that pensionary claims for these extra Constables would fall on the State, I very much doubt if the payment of fees for service of processes would cover the charge of pay, clothing, equipment, &c., of these men. Under all these circumstances, I am of opinion that it would be advisable to try the system laid down in Proceedings of Government, Judicial Department, dated 1st August, No. 1210, for a year or so, and, if it is found from complaints made by persons summoned or arrested that the employment of batta peons leads to the levy of blackmail from them, the High Court might be solicited to alter the rules.

4. If the Amin attached to a Court does his duty properly and keeps a register of processes with date of issue and return he should act as a check on his peons and would stand in the same relation to them that a Station-house Officer does to his Constables.

From Captain H. W. COX, Superintendent of Police, North Arcot, to Captain C. L. HIGHMOOR, Acting Assistant Inspector-General of Police, Madras, dated Chittoor, 3rd October 1873, No. 666.

With reference to your endorsement, No. 3136, on Proceedings of the Madras Government, Judicial Department, dated 24th ultimo, I have the honour to report that I am of opinion that the plan of entrusting the execution of criminal processes in non-cognizable cases to batta peons will give rise to great irregularities.

2. The Police will be relieved to some extent, but the only other persons who will derive any benefit from the proposed arrangement are the peons themselves and defendants who have money to spare.

3. The effect of levying fees on the issue of processes will doubtless be to diminish the number issued, and these can, as hitherto, be easily executed by the ordinary Police without detriment to their ordinary work. If a case can be made out for strengthening the Police Force in all towns where there is a resident Magistrate it will be a good thing, for except at Vellore and Wallajahpett the present allotment is quite inadequate; but I am not prepared to state that the number of processes issued in non-cognizable cases ever has been at any place in this district so great as on that account alone to justify an increase in the Police Force.

From Captain H. E. CONINGHAM, Superintendent of Police, Tinnevely, to Captain C. L. HIGHMOOR, Acting Assistant Inspector-General of Police, Madras, dated Palamcottah, 7th October 1873, No. 363.

I have the honour to acknowledge the receipt of your order, No. 3136-E., forwarded with G. O., dated 24th September 1873, No. 1525, and to inform you that I consider it very necessary that the Police Force of this district should be augmented with a view to the services of the additional number being utilized for the service of processes in non-cognizable criminal cases.

2. I beg herewith to submit a statement showing the various processes issued last year by the Magistracy of Tinnevely in non-cognizable cases. There were altogether 17,117 processes, and, if the new establishment is to be fixed at the rate of one Constable for every 300 processes that have been executed, the additional strength required for this district will be fifty-seven Constables. I regret that no information is available in this office in regard to the number of processes in non-cognizable cases issued in previous years.

3. I propose to fix the additional establishment at fifty Constables, one-third being of the first class and two-thirds of the second class. Their pay will then be as follows:—

	Per Mensem.	Per Annum.
Seventeen 1st-Class Constables, at Rupees 8 —	Rupees 136 —	Rupees 1,632
Thirty-three 2nd-Class .. at .. 7 —	231 —	2,772
Total		4,404

4. If we take 15,000 as the average of processes in non-cognizable cases that have been served by the Police during the past three years and fix the fees at an average of 6 Annas for every person summoned and arrested we shall have a sum of Rupees 5,625 that may reasonably be expected to accumulate yearly from the levying of fees. This will be sufficient for the payment of the extra establishment, their clothing and accoutrements included, and a yearly saving might also be effected and the men pensioned without additional cost to the State.

From Captain W. HICKS, Superintendent of Police, Kurnool, to Lieutenant-Colonel W. S. DREVER, Acting Inspector-General of Police, Madras, dated Budneed, 7th October 1873, No. 2.

With reference to G. O., No. 1525, dated 24th September 1873, I have the honour to report that I entirely agree with the Magistrate of South Arcot in his objection to employing any other establishment save the Police for the service of criminal process. During twelve years' Police service I have (in my travels about the country) seen and heard quite enough of the irregularities practised by Civil Court and other batta peons not to feel that the employment of similar means for serving criminal processes, even in non-cognizable cases, would lead to great irregularity, extortion, and abuse of authority. Such batta peons would be under no control, and the picture drawn by Mr. Sullivan of their probable mode of work is not, I think, overdrawn.

2. On these grounds I strongly recommend that the Police continue to be employed to serve all criminal processes both in cognizable and non-cognizable cases.

3. I do not understand if my opinion is sought on the augmentation of the Police, but I consider some augmentation is necessary, and an increase in the number of Head Constables is, as I have already officially reported, a most urgent necessity, as without a proper number of this grade at all stations there can be no efficient and constant supervision.

From Captain R. G. JENKINS, Superintendent of Police, South Canara, to Lieutenant-Colonel W. S. DREVER, Acting Inspector-General of Police, Madras, dated Mangalore, 8th October 1873, No. 238.

With reference to the Order of Government forwarding letter of the Acting Magistrate of South Arcot for report on the service of processes in petty cases, the work thus thrown on

the Police is certainly excessively heavy, but with the exception of Municipal towns and offences under the Municipal Act processes can be more satisfactorily executed and the duty better performed by the Police than by batta peons.

2. In Municipal towns, however, in which there is a Town Sub-Magistrate he would be able to supervise the working of batta peons, and, as so many cases come under the Municipal Act, summonses might be well served by means of their agency, but all warrants could be executed by the Police.

3. The amount realized by the service of processes except in municipal cases might be well paid over to the Police Department, and I would recommend a slight increase be made accordingly in their pay. It is, however, impossible at present to come to any conclusion as to the amount to

be realized by the levy of fees, as in all probability petty cases will decrease considerably when parties discover they have to pay for the execution of their witnesses' processes.

4. I am of opinion that many Sub-Magistrates do not observe sufficiently the provisions of Section 361, Criminal Procedure Code, but often issue processes in a most needless manner.

5. The work of the Police would also be considerably lessened if the Sub-Magistrates were a little more considerate in referring parties to the Police, which they often do, and the case necessitates a long inquiry and a deal of writing, eventually turning out to be either false or of a civil nature and altogether exaggerated in the first instance. A short inquiry by the Sub-Magistrate from the complainant would convince them of the chief facts of the case and thus a considerable saving of time and labour would be effected for the Police.

From Captain C. J. B. HARRIS, Acting Superintendent of Police, Kistna District, to Captain C. L. HIGHMOOR, Acting Assistant Inspector-General of Police, Madras, dated Masulipatam, 13th October 1873, No. 233.

In reply to your endorsement, No. 3136, on the Proceedings of Government, dated 24th September 1873, No. 1525, I have the honour to report that I see no objection to the Police being employed to serve criminal processes provided the Force is adequately increased. The Magistrate of this district informs me that he estimated the number of peons required to be sixty-eight.

2. I conclude that the extra Police entertained would be available for other duties and would not be restricted to serving processes only. If this be the case I am of opinion that they should be enlisted as regular Police and, as such, their service would count for pension.

From Captain W. J. PICKANCE, Acting Superintendent of Police, Ganjam District, to Captain C. L. HIGHMOOR, Acting Assistant Inspector-General of Police, Madras, dated Gorindapore, 12th October 1873, No. 579.

With reference to G.O., 24th September 1873, No. 1525, received last night, I have the honour to submit that the service of processes by probationary Constables, whose cost is to be repaid to the State by the fees derived therefrom, appears highly desirable.

2. As you are aware we are [much below an efficient working strength, there will be no difficulty in carrying out Mr. Sullivan's proposition in this district as far as obtaining men is concerned.

3. Being far from head-quarters I have not the estimate framed by the District Magistrate of the additional number of process-servers required in Ganjam but have desired that this information may be obtained and added in a postscript to this letter.

P.S.—It was proposed by the District Magistrate to employ fifty peons, at 6 Rupees each per mensem, as process-servers.

No. From C. G. MASTER, Esq., District Magistrate of Ganjam, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Ramagiri, 28th November 1873, No. 2882.

I have the honour to report, with reference to G.O., 24th September last, No. 1525, Judicial Department, that the Divisional Magistrates in this district entirely agree with me in thinking the proposal made by Mr. Sullivan for leaving with the Police the service of criminal process in non-cognizable cases to be a very desirable one. In addition to the objections already described it is to be noted that batta peons would be ignorant of procedure.

No. From J. R. DANIEL, Esq., Acting Magistrate of Vizagapatam, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Vizianagram, 24th November 1873, No. 498.

In reply to the Order of Government, dated 24th September, No. 1525, calling for report upon the question of serving criminal processes through the Police or by a special staff of service peons, I have the honour to state that, in my opinion, the present system of service through the Police is preferable.

2. I think service by the Police would be more expeditious because they have the more intimate knowledge of the villages and people within the limits of their station, and processes would less frequently be returned unexecuted than if entrusted to a batta peon. The probability of oppression and extortion is also less because the Police are under closer and more constant supervision than a batta peon could possibly be. There would be no one between the batta peon and the Sub-Magistrate, and the probability of his actions escaping notice would be much greater than in the case of a Police Officer; besides the tenure of a batta peon's post would be precarious and he would have every inducement to make the most of his opportunities, whereas a Policeman knows that his Government employment is permanent if he conducts himself properly.

3. Even if batta peons were appointed the Police would still serve processes in all cognizable cases, and it seems to me unadvisable to have two different agencies for the performance of similar work, and, in any case, warrants should be executed by the Police.

4. The Superintendent of Police writes to me that the Police Force is barely sufficient for its ordinary requirements. The services of processes takes precedence of all other work, and an increase to the Police Force would enable process-serving together with all other work to be carried out with greatly increased facility.

No. From W. S. FOSTER, Esq., Acting Magistrate of the Godavery District, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Cocanada, 18th November 1873, No. 319.

In reply to G.O., No. 1525, dated 24th September 1873, I have the honour to report my opinion regarding Mr. Sullivan's proposals for serving Court processes by means of a new staff of Police.

2. I do not give in my adherence to Mr. Sullivan's views, and my reasons for differing from him are as follow:—

(1.) Mr. Sullivan proposes to raise a new subsidiary Police Force for general Police duties but to employ them specially on the service of processes. He thinks that this will be better than having processes served by batta peons, because the latter would delay service and harass and oppress their "victims." I do not see that the Police would be any better. They have even more opportunities, appearing, as they do, in uniform, for oppressing the people than batta peons in plain clothes.

(2.) I have observed that the Police invariably look upon process-serving as one of their least important duties, and in this they are often, if not generally,

supported by their superiors. It is very natural that it should be so, as undoubtedly the detection of crime and attention to drill appears more important than the carrying of a Court process from one village to another; moreover, the Inspectors, whose duty it is to return the processes to the Court, are never very punctual in the performance of this duty. I have constantly found great delays arising in consequence of this, and I think that the batta peons serving, as they would, in each Court and directly responsible to the Magistrate for the speedy service and immediate return of the processes, could be more easily supervised and kept punctual to their work.

(3.) An addition to the Police Force might be a very good thing; but under Mr. Sullivan's system I think that, if viewed principally as Policemen, the new Force would neglect their process-serving duties in future, if not now. They would become simply Police Constables, and in a short time it would be forgotten that they were ever appointed under a system which enacted punctual process-serving as their main duty. On the other hand, if viewed principally as process-servers, their duties as Police Constables would be neglected, and I think the Superintendents of Police and their junior officers would find great difficulty in keeping them in order. They would rather be without them.

(4.) Their uniforms and accoutrements would be an increased cost to the State, not counterbalanced by any substantial benefit.

No. From G. D. LEMAN, Esq., District Magistrate of Kistna, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Masulipatam, 16th October 1873, No. 1154.

I have the honour to reply to G. O., dated 21st September 1873, No. 1525, Judicial Department, that my experience is that there is much force in Mr. Sullivan's assertions that the batta peon, entrusted with the service of a criminal process, is likely to be a great rogue, and that his chances of roguery will be much curtailed if he be a Police Constable.

2. I think that his proposal is a good one and quite feasible.

3. It cannot anywhere be denied that the Police Force in the Mofussil needs augmentation.

4. One objection, however, has been brought to my notice by the Superintendent of Police, and that is, that by Sections 11 and 12 of the Police Act a man once enrolled in the Force is entitled to claim pension, and therefore that part of the proposal which contemplates the enrolment of supernumeraries must be given up. I agree with him there, but I do not think the increase of pensionary claims is a matter to be feared. If the deductions of pay are made upon safe calculations, there should be no fear of the Superannuation Fund becoming insolvent.

No. From J. HOPE, Esq., Acting Magistrate of Kurnool, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Kurnool, 22nd October 1873, No. 343.

With reference to G. O., No. 1525, of the 21st ultimo, I have the honour to state that I concur in opinion with the Magistrate of South Arcot as to the expediency

of continuing to make use of the agency of the Police for the service of summons in criminal cases. I do not think that his picture of the irregularities likely to ensue on the employment of batta peons in serving summons and executing warrants is at all overdrawn. In the interests of justice the work should be done in the most efficient manner possible, and there can be no question as to the superior efficiency secured by employing Police agency in preference to any other.

2. Of the four Divisional Magistrates three are also of the same opinion as myself. The Acting Head Assistant remarks: "The picture drawn by the Acting Magistrate of South Arcot is by no means highly coloured, and represents the state of things which we may reasonably suspect if the officers who perform revenue and magisterial duties are given additional subordinates to control. As it is, the check exercised by a divisional officer seldom reaches to a Taluq Gumastah or Village Reddi.

"The fact that there were about six times as many applicants here for each post of process-server on 6 Rupees as for a daloyet's post lately vacant on Rupees 7 is significant of expected gain from the former post.

"A Police Superintendent and his Assistant generally know five times more about individual Constables than a revenue and magisterial divisional officer knows of his village officers. The inference I draw is that it would be much safer to increase the number of subordinates of the former than of the latter."

3. The Peapally Deputy Magistrate, D. Timmapah, adds other objections to those cited by Mr. Sullivan. The number of peons employed will almost necessarily be too small, the few who are employed will almost always be absent from Court on some pretext or other. Occasionally there will be no one available for the service of a process, and delays prejudicial to justice will be the consequence. He further anticipates from the entertainment of batta peons, and I think with reason, an increase in the number of offences under Chapter X. of the Penal Code (contempt of the lawful authority of public servants) and such offences as intentionally omitting to apprehend a person (Section 221), intentionally suffering a person to escape (Section 223), resisting or obstructing apprehension (Section 224), escape from custody, and the like. Again, he points out that the duty of serving processes will fall much less heavily on Police Constables who patrol the whole country than on others. The number of warrants always bears a small proportion to that of summonses, and it is only the former which require execution by a particular Constable. The latter go in due course to the Station-house Officer, and are conveyed by Beat Constables to other stations, until they reach the villages where the parties to be summoned reside.

4. The Nundial Deputy Magistrate, A. Ramachendra Rao, alone is of a somewhat different opinion. He would have a separate establishment for serving processes; but he, too, admits that the evils depicted by Mr. Sullivan are inseparable from a batta establishment, and he advocates the employment of special Police Constables to be styled "Magistrates' Orderlies" or "Process-serving Constables." These would be paid from the fees collected, and would be as much under the control of the superior Police officers as other Constables.

5. The Additional Deputy Magistrate expresses a strong opinion in favour of the view taken by the Magistrate of South Arcot.

No. . From H. SEWELL, Esq., Acting Magistrate of Cuddapah, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Cuddapah, 18th October 1873, No. 27.

As directed in paragraph 2 of the G. O., No. 1525, dated 24th September 1873, I have the honour to report that the present system of serving criminal processes through the Police is far preferable, as these men are always under strict control and authority of superiors which the batta peons are not. Unless some provision is made for the superintendence of the latter officials, no good can be anticipated; but this arrangement would undoubtedly involve an additional cost. I would, therefore, recommend the continuance of the present mode as proposed by Mr. Sullivan. I may add that all the divisional officers agree in this view.

No. . From W. S. WHITESIDE, Esq., Magistrate of North Arcot, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Palmanair, 18th October 1873, No. 71.

I have the honour, with reference to the Proceedings of Government, No. 1525, dated 24th ultimo, to state that I fully concur in the observations of the Magistrate of South Arcot, contained in his letter of the 28th August, on which the above-quoted Proceedings were passed, and, at the time when I received them, I had a letter drafted in which I was drawing the attention of Government to the very points noticed by Mr. Sullivan.

2. There can be, I think, no doubt but that the change inaugurated by the recently promulgated rules for the employment of batta peons is one pregnant with evil of various kinds. Hitherto all magisterial processes have been served through the Police, and their action in all matters connected with such service is carefully scrutinized and supervised by the local officers. Under the new system, however, a Magistrate is compelled to entrust what are undoubtedly some of the most important duties of the Police Department (viz., service of processes for the arrest of parties, search for stolen property, &c.) to a set of men of whom he knows little or nothing, who are unarmed, dressed in no uniform, and wearing no distinctive badge.

3. It appears to me that this is a step that brings us back at one stride to the old days when the Collectors' peons did magisterial and revenue work indiscriminately, and too often took such terrible advantage of their position. I can speak from experience of the evils of that system. When Assistant Magistrate of this district in 1857 a case came within my own knowledge in which one of these peons, having been entrusted with a warrant for the arrest of an individual known by some very common name, posted himself for several weeks at a place where bandies halted on their way down from Mysore through Chittoor to Vellore, and almost day by day arrested somebody of the name entered in the process and held by him, releasing the prisoner after he had sufficiently terrified and extorted the desired bribe from him. Under the new system this state of things can, and most likely will, be revived very speedily; for the process-servers have not been made subordinate to the Superintendent of Police or other officers, and they can, therefore, practise all kinds of irregularities almost with impunity. The Govern-

ment are aware that the natives of this country are always ready to pay money to extricate themselves from any difficulty, and the new process-servers, free from all check of superior officers, will assuredly not be slow to fill their pockets whenever they get a chance.

4. I look upon it as an especial and serious misfortune that under the new system Magistrates are obliged to employ this untrustworthy agency in the service of processes authorizing the search of suspected parties' premises. It frequently happens that a Magistrate receives information of the existence of some article which will constitute an important link in the chain of evidence in a case pending before him. It is of course, highly advisable that the search for that article should be as prompt as possible so as to allow as little time as may be for its being made away with. Under the new system, however, the Magistrate of the district, who has such a case before him, is, by the rules, precluded from himself authorizing such a search. He has to issue the process and forward it to the nearest Sub-Magistrate, who will then entrust it to somebody for service.

5. As a case in point, I may mention that a couple of days before these new rules came into force I was holding my office at Ranipet, when a complaint was made to me charging a very wealthy and influential man with forgery, and the forged document was alleged to be then in his house at Ranipet. I at once issued a search-warrant. The search was made by a trustworthy Police Inspector in the regular manner, and the forged document was discovered. If the new rules had been in force, I should have been obliged to send the process with an official letter to the Taluk Magistrate, whose office is four miles distant at Wallajahpet, and he would then have sent a process-server to make the search. Of course, long before these formalities had been gone through, the paper for which the search was ordered would have been destroyed; or supposing that, by a fortunate chance, the process-server got hold of it, he could have taken a bribe to surrender it with infinitely less chance of detection than in the case of a Policeman.

6. In the case I have just mentioned, I happened to be not very far from the Sub-Magistrate, who would, under the new rules, have had to serve my process; but the Government are, of course, aware that it very often happens that the office of a full-power Magistrate, when on circuit, is twenty or thirty miles distant from that of the nearest Sub or Taluk Magistrate, while the place where the process is to be served may be close at hand; and, when we consider the time that must necessarily elapse in the transmission of processes from one office to another, and then back to the village for execution, it is manifest how grievous a failure of justice must in many cases occur.

7. Again the question arises how are process-servers to be paid in the many cases in which Government is the prosecutor. This will form a very large item of expenditure in every district, and I am not aware that the budget provides funds to meet the heavy charges that will be incurred monthly throughout the Presidency. The Magistracy have been authorized to excuse the payment of process fees by very poor persons; but the processes will have to be served all the same, and the servers must be paid, and this will form an additional charge on the State funds. This, however, is a trivial matter when compared with the evil I have mentioned above of constituting a new and large force of men, to be employed

all over the country, and with little or no supervision in the discharge of what have been hitherto regarded as some of the most important functions of the Police. The present Police Force has been raised most carefully and at enormous cost and pains; it is most anxiously supervised by a zealous and hard-working body of officers, and it is admittedly working satisfactorily. I would, therefore, respectfully, but most earnestly, deprecate the hasty retrograde step that the new rules force upon us.

8. If the Government have finally decided that all magisterial processes are in future to be paid for by the parties at whose instance or on whose behalf they are issued, I beg to recommend that the regular Police Force in every district be augmented by just so many additional Constables as are required for process-servers. These additional Policemen should be dressed and employed exactly as men of the regular Force, but be paid from process fees a monthly salary equivalent to the ordinary pay drawn by Constables from Government. This plan would, I think, do away, in great measure, with the evils of the system that has just been sanctioned, and I venture to recommend it for the favourable consideration of Government.

No. From R. W. BARLOW, Esq., Acting Magistrate of the Chingleput District, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Saidapet, 1st October 1873, No. 92.

In reply to the Order of Government, Judicial Department, No. 1525, dated the 24th ultimo, I have the honour to report that, if it can be arranged that the service of processes in non-cognizable criminal cases shall still be executed by the Police, such course would, I have not the slightest hesitation in saying, be far preferable and less likely to lead to abuses than putting them into the hands of batta peons, who are really under little or no control when they leave head-quarters. The evils pointed out by Mr. Sullivan, at paragraph 3, are more or less the necessary result of entertaining such agency.

2. As regards paragraph 2 of the Government Order under reply, I have the honour to state that a circular letter has been addressed to the Magistracy of this district, drawing attention to the provisions of Section 31 of the Court Fees' Act quoted.

No. From G. VANSAGNEW, Esq., Magistrate of Nellore, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Nellore, 3rd October 1873, No. 253.

Adverting to G. O., Judicial Department, dated 24th ultimo, No. 1525, I have the honour to state that I cordially concur in the remarks of the Acting Magistrate of South Arcot about process-servers or batta peons, and in his alternative proposal to utilize the proceeds of fees in augmenting the Police Force.

2. The Police Budget has been so curtailed of late as to render efficiency, and even obedience to the provisions of the law, impossible. There are at this moment thirty-two Head Constables wanting in this district. Section 136, Criminal Procedure Code, restricts the exercise of the powers of an officer in charge of a

Police Station to the officer next in rank *above the rank of a Constable*, yet there are twenty-three Police Stations to which no Constables have been allotted, and in which 1st-class Constables drawing the ordinary pay of their rank are exercising the powers of Station Officers in breach of the law.

3. Then, there are nine taluq cusbah stations with only one Head Constable a-piece, and the employment of Head Constables on treasury guards and escorts having by recent orders been made obligatory, it is obvious that each of these stations requires a second Head Constable to be in charge of the Police station.

4. I think that, in consideration of the Police undertaking the serving of all processes, it would be quite justifiable to appropriate the proceeds of the fees towards increasing the efficiency of the Force, either in point of quality or number.

No. From F. PRICE, Esq., Acting District Magistrate of Salem, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Karipattee, 3rd December 1873, No. 394.

I have the honour to reply to the Proceedings of Government, Judicial Department, No. 1525, dated 24th September last.

2. I quite agree with the District Magistrate of South Arcot in considering that the service of all processes should be effected through the agency of the Police.

3. It would be utterly impossible to look after peons, and I think that the people would not consider a summons so binding when delivered by an ordinary peon as when served by a Policeman.

4. The Police as men may not be a whit more honest than their fellow-natives; but, as Mr. Sullivan remarks, they have always some one looking after them, and have not the opportunities for being dishonest which would be afforded to a peon who practically could not be watched by any one.

5. I think that it would be desirable to calculate the number of men required to serve processes for the whole district, to increase the strength of the Police by this number, and to pay the extra Constables from the proceeds of the Court fees levied. It very often happens that half-a-dozen witnesses residing in different parts of one taluq are all summoned in one case, and are required to attend upon the processes within the time allowed, and I think, therefore, that it would be better to pay the Police Department a lump sum down for the year, on the understanding that they serve all the processes issued. I do not like the system of having a specified Constable or Constables attached to each Court as process-servers. They would sometimes be leading a life of utter idleness, and sometimes be worked off their legs.

6. Under the plan which I propose the Police of each district would be increased by the number of process-servers required by the Magistracy and Civil and Revenue Courts; the addition would be at no extra cost to the State; the time of the men would be properly employed, and they would be kept under supervision and discipline.

7. As regards the question of pension, I do not suppose that it was intended that the fees for the issue of processes under the Court Fees' Act should be made a source of revenue. It appears to me, therefore, that the Police who perform the duty of serving summonses might fairly be pensioned from a Fund formed by setting aside the surplus collections under this head, which must, in time, form a very considerable sum.

Trichinopoly No. . From J. B. PENNINGTON, Esq., Acting District Magistrate of Trichinopoly, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Trichinopoly, 2nd October 1873, No. 38.
Mr. Sullivan With reference to G. O., dated 24th September 1873, I have the honour to state that I entirely agree with Mr. Sullivan.

Tinnevely No. . From R. K. PUCKLE, Esq., District Magistrate of Tinnevely, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Naunagaram, 11th October 1873, No. 262.

In reply to Government Proceedings, No. 1525, dated 24th ultimo, I have the honour to inform you that I am quite of Mr. Sullivan's opinion as to the impolicy of raising a band of undisciplined process-servers, whose first aim and object would be to benefit themselves to the utmost at the expense of the people, and over whose proceedings there would be no regular check.

2. The Police now execute processes to the extent of 14,000 per annum, and I have heard no complaints as to their conduct when performing this particular duty. They cannot cause needless delay, as they are carefully looked after, and they cannot extort very much as the channels of complaint are well known, and complaints are promptly attended to.

3. The Police Force, moreover, is so exceedingly weak that every additional man is of consequence, and an accession of forty-six men to the Force in one district will be a material benefit.

4. The number of processes as mentioned above are about 14,000, which, at 300 per man, should employ forty-six men. The fees to be collected, however, even on 10,000 of these processes, at an average of 8 Annas each, would give 5,000 Rupees, and this amount would pay fifty-two men, at 8 Rupees per mensem.

Tanjore No. . From the Hon. D. ARBUTHNOTT, District Magistrate of Tanjore, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Vallam, 12th November 1873, No. 562.

With reference to the Proceedings of Government, dated 24th September 1873, No. 1525, I have the honour to inform you that I am decidedly of opinion that no change should be made in the present practice of getting the processes issued in all criminal cases served by the Police, and that if the strength of the establishment is insufficient, it should be augmented for this purpose.

2. Mr. Sullivan's remarks on the evils arising from the employment of an undisciplined establishment of batta peons, practically under no check or control,

and possessed of the means of oppressing the people with impunity, and not likely to be scrupulous in the use of these means, are exactly applicable to the circumstances of this district also.

3. I have consulted all the divisional officers on this subject, and they all concur with me in this opinion. The report of the Sub-Collector, Mr. Stokes, copy of which is herewith forwarded, is particularly valuable, as coming from an officer who, while acting as a District Judge, had ample opportunities of observing personally the evils of the batta peon's establishment system.

From H. J. STOKES, Esq., Joint Magistrate of Negapatam, to the Hon. D. ARBUTHNOTT, District Magistrate of Tanjore, dated Negapatam, 31st October 1873, No. 290.

With reference to your endorsement, dated 7th instant, No. 287, on Government Proceedings, No. 117, asking for my opinion on Mr. Sullivan's proposal to employ the Police on serving magisterial processes rather than establishment of batta peons, I have the honour to inform you that my own opinion and those of all the Sub-Magistrates in this division, except one, are in favour of Mr. Sullivan's plan.

2. I think it is essential that summonses and warrants should be entrusted to responsible persons and that the Police on account of their organization are more responsible than batta peons could ever be, and I think also that the use of batta peons will involve great delay, which is not incurred under the present system.

3. There is hardly a case in which the defendants would not be willing to pay money to a batta peon to avoid service of warrant or summons. In criminal affairs this is far more the case than in civil, for most natives consider mere appearance in a Criminal Court a disgrace, and this is not the case with respect to Civil Courts. Again, a batta peon of a Civil Court is often accompanied by the person at whose instance the process is issued, who assists in execution of the process, and at the same time having an interest in seeing that the duty is properly performed is a guarantee, to some extent, of the peon's conduct. This will seldom be the case in criminal trials. In these the batta peon will be alone; there will be no one to watch him or to testify against him if he neglects his duty, and great temptations will be thrown in his way. On the one hand, the complainant, as continually happens, may have brought his complaint merely to disgrace the accused person. This object will be best attained if a warrant is issued. He will be interested then in inducing the batta peon not to serve the summons, and to make a return that the accused person is absconding to avoid the service. On the other hand, the defendant will in almost every case be interested in delaying to appear. By doing so he gains time to escape, to prepare his case, or undermine his opponents. He will, therefore, get the peon to return the process unserved, and by this simple means gain the above advantages and in addition put the complainant to the trouble and expense of having fresh processes issued.

4. Again, nothing could be easier than to get up a fictitious charge of resisting the service of processes, and I have no doubt this would be continually done if the important duty was in the hands of badly paid men of low class, who acted under no supervision. Another evil which would certainly arise would be that of batta peons living on the persons whom they were sent to arrest. This is by no means unusual in Civil Courts. We had lately a case in Tritrapundi of a batta peon of the Munsif's Court, who was entrusted with a warrant of arrest in October 1871 and was not heard of till August 1872. During this time he had been living at the expense of the debtor. Indeed, when processes were entrusted to lax by supervised persons this evil existed to such an extent that Section 41 of Regulation IX. of 1866 provided specially for it and afforded a means of criminally punishing peons and others who demanded and received diet money, allowances, and gratuities from complainants and accused persons.

5. I have mentioned these circumstances with a view to show how extremely necessary it is to have responsible men employed in the duty of serving processes. This duty has been as efficiently performed by the Police as their limited numbers would permit and there has seldom

been occasion for complaint, and I cannot but think it would be most unwise to depart from a system which has been found to attain the objects desired for one against which so many preliminary objections can be urged.

6. Before passing on to the next part of the subject, viz., that of delay, I may remark that it will be on the Magistracy that the burden of supervising the batta peons will fall and of inquiring into their misconduct. The supervision can only be nominal, and their time is sufficiently occupied already to make it desirable not to increase the number of their duties.

7. Delay will be caused in various ways. The batta peons will not have the same knowledge of place and person that Constables at the various stations have, and will, therefore, have more difficulty than they in finding the persons wanted, and will more often make mistakes. In many cases processes have to be served on persons living in villages far apart, and these will generally have to be entrusted to one batta peon. Three or four peons will be the usual number at a Sub-Magistrate's station, and it will often happen that they will all be absent at the same time. None of these inconveniences can be experienced under the present system. Suppose a warrant is executed because the person sought for has escaped to a foreign territory or absconded elsewhere, at present the warrant is retained at the station where the person lives and executed at any time he may return. Under the proposed system either the batta peon must stay away an indefinite time (which there will be every inducement to him to do), or he will have to return the warrant at once as unexecutable. In either case there will be greater chance of delay than there is at present. Indeed, it may be remarked generally that a batta peon paid a fixed salary will have no inducement to be diligent in serving processes, but rather the other way, for the slower he goes the easier he earns his pay.

8. Besides the above objections to batta peons it should also be remembered that in many cases where a warrant has to be executed it is necessary to have one or more assistants to prevent the chance of resistance; it often happens, too, that the person of the prisoner has to be searched (Section 387), and this duty a single batta peon would seldom be competent for; sometimes, too, it is necessary to search and break open the doors, &c., of houses (Sections 179 and 180), which could hardly be done by a single batta peon; sometimes several persons have to be arrested simultaneously, and one person could not be expected to keep them in his charge. The duty, too, of taking bail in bailable offences is one that requires to be discharged by an officer on whom some reliance can be placed.

9. I should, therefore, strongly advocate increasing the Police Force and entrusting to them the service of all processes.

Madura

No. From H. W. BLISS, Esq., Acting Magistrate of Madura, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Madura, 4th October 1873, No. 266.

In reply to G.O., dated 24th September 1873, No. 1525, Judicial Department, I have the honour to report that I entirely concur with Mr. Sullivan both as to the undesirableness of the employment of batta peons in the service of process and as to the advisability of an increase of the Police Force.

2. My short experience in a Small Cause Court leads me to believe that Mr. Sullivan has accurately described the way in which batta peons make money. I have also from time to time had reason to believe that the same sort of irregularities are committed by the Police in the case of persons who have money to pay them and whom they may have been sent to arrest, for I have not unfrequently noticed that such persons appear, as it were voluntarily, and state that they have come to the Court as they have heard that warrants have been issued for their arrest. I can only suppose this to have been the result of an agreement with the Constable charged with the execution of the warrant to avoid the indignity of

being brought up in custody, and no doubt it would happen much oftener if warrants were entrusted for service to batta peons.

3. There is no town of the same size in this district so completely unprotected by the Police as Chellumbrum; but there are many smaller ones where a small Town Police Force would be most useful; and I think that there can be no doubt that the Police generally have been reduced in strength to the very verge of safety and that if means can be found to effect it without enhanced cost to the State an increase of the Force throughout the country would be highly desirable.

4. I may add that the Superintendent of Police entirely concurs with me in the above remarks.

No. From A. WEDDERBURN, Esq., Magistrate of Coimbatore, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Coimbatore, 3rd October 1873, No. 52.

In reply to Proceedings and Order of Government, dated 24th September 1873, No. 1525, paragraph 2, I have the honour to state that the Police still continue to serve criminal processes and that it is desirable that they should continue to do so.

2. There is much reason to believe that a criminal process-server would act in the manner described by Mr. Sullivan. Even a taluq revenue peon with an official default is liable to be seized with illness which prevents or delays his attachment of property of an influential party.

3. I have had the Police Force of this district increased for the suppression of crime, and there is no reason for an increase on account of process-serving.

4. Nor would I recommend the employment of supernumeraries on such duty who might prefer present illicit gains to future permanent employment.

No. From H. B. GRIGG, Esq., Acting District Magistrate of the Nilgiris, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Ootacamund, 8th October 1873, No. 123.

Referring to the Orders of Government, dated 24th September 1873, No. 1525, I beg to state that I concur generally in the remarks of the Acting District Magistrate of South Arcot as regards the evil of entrusting processes in criminal cases, whether warrants or summons, to a body of peons, who would be under no strict control. The least of the evils which would probably follow would be the increased delay in the disposal of such cases by the Magistracy.

2. The operation of Rule 2, under which all processes of a District or Division Court are to be served through the Sub-Magistrate in whose jurisdiction the party concerned resides or is supposed to reside, would increase this evil and lead to numerous complications. There will be delay in the office of the Magistrate who issues the process in ascertaining the jurisdiction within which the party resides, and naturally frequent mistakes in this matter alone; then there will be further delay in the Sub-Magistrate's office, whilst the Magistrate who is directly responsible that no unnecessary delay takes place in the course of justice will virtually have no control over the process-servers; and, should any charge of misconduct be made, he cannot directly inquire into the same but must call upon the Sub-Magistrate

under whose direct control the process-server is to make such inquiry, and, as processes will constantly be served in different divisions of the district, the Magistrate moving will have to refer the matter to the Magistrate of the division within whose jurisdiction the Sub-Magistrate concerned is either directly or through the District Magistrate. It is needless to enlarge on the difficulties and disadvantages that suggest themselves if this system—the system laid down in the rules—is to be faithfully followed; that heretofore in force has, on the whole, worked satisfactorily, and, such being the case, it cannot be a wise policy to replace it by another untried and open to so many valid objections. It is, in my humble opinion, a retrograde movement, a going back to the old evils of the peon establishments, and destitute of the pleas that might be urged in their favour. Those establishments had, at least, this advantage, that they either in appearance or in fact strengthened the position of the Collector and Magistrate of the district, whilst this system will remove these officers of the Court further than ever from the control of the head of the district, placing them almost entirely under the native Sub-Magistracy—a resolution which, at present at least, is hardly to be desired. If the change be necessary on economical grounds then this end would perhaps be equally well attained by crediting the proceeds derived from fees in the Police Budget and thus disposing at once of the objections which suggest themselves in regard to a supernumerary Police Force. Should, however, it be decided that process-servers shall be entertained, then I would earnestly urge that the arrangement referred to above for the service of processes issued by District and Division Magistrates should be annulled and each Magistrate have at least the same control over this establishment as that exercised by a District or a Sub-Judge, or a District Munsif over the batta peons of his Court.

Malabar No. From A. MACGREGOR, Esq., Magistrate of Malabar, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Calicut, 2nd October 1873, No. 84.

I have the honour to acknowledge the receipt of G. O., dated 24th September 1873, No. 1525, calling for opinion as to the appointment of process service peons.

2. I entirely agree in the views expressed by Mr. Sullivan, and do not think that there is the slightest exaggeration in the portrait of a batta peon sketched in paragraph 3 of his letter. I would only add to it the point that nothing could prevent these appointments from falling into the hands of poor dependents and hangers-on of the Taluq or Huzur magnates so that to other incentives to corruption would be added the reliance on a certain degree of support from influential quarters in case of complaint.

3. I have always considered that one of the greatest advantages that resulted from the introduction of the regular Police was the immense improvement that was at once noticeable in the speedy and certain service of process. The regularly organized method of process service, following, as it did, on the old system, or rather utter absence of system, was, more than anything else, effectual in bringing about the marked diminution in the average time occupied by the disposal of cases and gave a corresponding blow to malpractices. I must admit that I have contemplated the recent orders on the subject with little short of dismay and have not as

yet been able to see my way to any mode of carrying them out in this district. Nothing can for this purpose be so effectual as a slight augmentation of the Police Force. It is obvious that a body of men, however honest and well trained, acting from a centre, viz, the taluq cusbah, can never compete with an organization possessing within the same area half a dozen or a dozen carefully-selected local centres. No one man can be acquainted with the whole taluq; but, if the small Force that under the new rules would be available were to be sub-divided so as to assign different quarters to different men, the result would be an immense delay.

4. Supposing the men to be *not* incorruptible, the fact of their always having to start from the cusbah, where unprincipled Vakeels and Agents are always at hand, gives an opportunity for tampering, which in the case of the regular Police does not exist. A summons to be served by the Police is forwarded by post or Beat Constable to the appropriate station-house and is then entrusted to the constable who happens to be for beat that day in the direction where the man lives. If he is bought off there will be another Constable next day and so on all round the Force. The service by Police, moreover, admits of far closer supervision and comparison of results which in the long run tell their own tale. As this comparison must be carried out by the Police in regard to all graver cases but little extra trouble will be involved in applying the same machinery to all cases.

5. This mode, too, would doubtless result in considerable economy, as a Police-man who has to go to a particular parish to serve processes in *cognizable* cases can serve them in summary cases as well with absolutely no appreciable increase of expense. The High Court laid down a certain maximum based on the number of processes served, but I find that in many parts of this district, where the parishes are extensive and wild, no such limit could have been worked to.

6. As regards the general advantage of a slight addition to the Police Force throughout the country, there can be scarcely two opinions. The Force has now been pared down to such narrow limits that there is in ordinary times barely the means of protecting the arms left in the station-houses, which thus actually supply an element of danger to the public peace. On the occasion of the recent outbreak at Kolatur, of which information reached the taluq cusbah, seven miles distant, at daylight, a Force of no more than ten Constables could be assembled up to 5 o'clock in the afternoon, when the European troops arrived on the scene.

7. At Malliapuram the result was even more surprising as the detachment moved off with baggage, camp-followers, &c., without the presence of a single Constable, and actually started in the wrong direction though fortunately the error was at once rectified. The solitary Constable not on beat had to remain at the station-house half a mile from barracks.

8. Now, it is clear that while a batta peon could perform only the service of processes, and that very badly, other duty not at all, the extra Constables entertained as proposed by Mr. Sullivan would be ready for any emergency, would serve processes in cognizable cases as well as guard station-houses, escort prisoners, &c.

9. In breach of contract cases in Wynaad we have had experience of the batta-peon class. A gentleman resident there informed me only a short time ago that though for several years he had got warrants out in breach of contract cases in no single case had the warrants ever been executed and he has now left off applying for them.

10. I most strongly advocate the revocation of the late orders regarding process service peons and the application of the funds to the necessary strengthening of the regular Police.

S. Thomas No. From H. S. THOMAS, Esq., Magistrate of South Canara, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Panatadi, 7th October 1873, No. 1703.

Police With reference to the Proceedings of Government of the 24th September 1873, No. 1525, I have the honour to report that I entirely concur with Mr. Sullivan, and that I was about to submit the same views myself with the addition that by strengthening the Police and having the whole Force available delays also are obviated and justice facilitated, for it cannot but be that with a limited number of separate criminal process-servers they must often be quite overmatched with work, whereas a large body like the Police is able to meet exceptional calls and their ordinary routine work. The extra body of trained and supervised Constabulary will be valuable generally, and specially so in riots and other criminal emergencies.

2. The same remarks apply to the revenue process-servers. During the kist periods they will scarcely be equal to the pressure of work under the Rent Recovery Act, for all engagements under it are made to fall due at the time of the kists; during other months they will have absolutely nothing to do. If the fees are used for strengthening the taluq establishment the whole body will be available to meet pressure and the Tahsildars can find other work for them at idle times. The additional men might be supernumeraries not entitled to pension.

52 No. From H. S. THOMAS, Esq., District Magistrate of South Canara to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Haladi, 16th January 1874, No. 81.

Prior to Government Order in the Judicial Department, dated 28th March 1873, No. 508, batta peons were entertained for the service of processes under Act XIII. of 1859 (Breach of Contract), and they were paid by fees from the parties. By that order, and the rules framed by the High Court under Sections 20 and 22 of the Court Fees' Act, process service peons and Court Fee stamps were substituted. The process service peons have since been eliminated,* and there remain stamps and Police. But this class of processes (for breach of contract) are not such as should be executed† by the Police, and batta peons cannot be revived, as formerly, without either a return to cash in lieu of stamp payments or Government sanction for their salary payments.

that before the Government process
† Madras Act III. of 1863.

as formerly, without either a return to cash in lieu of stamp payments or Government sanction for their salary payments.

2. I have the honour to seek orders, therefore, how this class of processes are to be served.

3. For the present I have requested the Superintendent of Police to allow the Police to execute them.

24
From J. H. MASTER, Esq., Magistrate of Bellary, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Bellary, 14th March 1874, No. 43.

Bellary
I have the honour to acknowledge the receipt of your Official Memorandum, Judicial Department, No. 94, dated the 26th ultimo, and to express my regret that the Proceedings of Government, Judicial Department, No. 1525, dated the 24th September 1873, have remained hitherto unanswered. It was entirely owing to an oversight.

2. I beg to express my decided opinion that the service of processes in criminal cases should continue to be made through the Agency of the Police, the Court Fees being of course levied. The Police have always performed this work, and therefore it is no hardship to oblige them to continue it.

3. I quite agree with Mr. Sullivan that it would be most undesirable to have an undisciplined rabble of persons hanging about the different courts. It is certain that they would be a source of oppression to the people.

4. If the Government think fit to apply any portion of the revenue derived from Process Service Fees to the augmentation of the Police Force, so much the better, but the augmentation cannot be said to be required for the service of the processes.

Revenue
Police
on this

Reply on
Sir. J. S. Jackson
to the

add letter from District
Magistrate to the
Magistrate

No. 369
Madan District,
Magistrate's Office
Camp. Rajahmundry
Rajahmundry District
14th December 1874
From W. S. Jackson Esquire
Magistrate

To The Honourable D. J. S. Michael
Chief Secretary to Government
— J. S. Jackson
Sir, In continuation of my re-
port dated the 18th November
1873 No. 319 and with reference to
para 2 of the Government Order
of the 24th September 1873 No. 1525,
I have the honour to bring once
more to the notice of Government
the delay that continually occurs
in the service of processes and
in returning the duplicate sum-
mons. I do not wish to throw
blame on the Police; but I do think
that, as a fee has been introduced
for the service of these processes,
it is but right that the service
should

should be improved, instead
of being left just as it was
before any payment was re-
quired.

2. I should have no objection
to the duty of serving these pro-
cesses and returning the duplicates
being left with the Police. I fancy
that the fees collected would allow
of an Extra Constable being
placed at the Head Quarters of
each Division Inspector, so that
there might always be one available
for this duty, and ready to take
off the summons at once to the
village where it is to be served,
without taking Constables off
their beats.

3. The average amount of collections
for the last 7 months was Rs 353.
This would allow 50 Constables
at 7 Rs a month or about 2 for
every Magistrate. I have the honour to be,
Your most Obedt Servt

W S Foster

Magistrate

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read from printer's file.

Read the following letters.

The Secy to the Govt of the Madras District dated 14th Dec 74 No 369

Order thereon 17 Feb 75 No 217

By their order dated 1st August 1873, No 1210 in the J. & S. Deptt, Govt directed the publication in the Official Gazette of certain Rules which had been drawn by the High Court of Madras and approved by the Governor General in Council, for levying fees for the service of processes pursuant to Section 20 of the Court Fees Act, VII of 1870; two schedules being attached thereto, of which Schedule B prescribed the rates at which summonses and other processes

M
207

1874
The Secy to the Govt of the Madras District

The Secy to the Govt of the Madras District

The Secy to the Govt of the Madras District

1874
No 369
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The Secy to the Govt of the Madras District

The Secy to the Govt of the Madras District

The Secy to the Govt of the Madras District

issuing from Criminal Courts
were to be taxed, in order
to cover the cost of the
Agency employed in such
service. As far as the
service of Criminal processes
was concerned, the Rules
thus promulgated provided
that the pay of each
person so engaged was to be
from 6 to 4 Rs a month;
that a separate establish-
ment for the service of
Criminal processes was
to be entertained in the
Courts of the Magistrates
of the 2nd & 3rd Class only;
that all processes issued
by Magistrates of the
1st Class were to be sent
to Magistrates of the 2nd
or 3rd Class within whose
jurisdiction they were to
be served, and that the
number of persons to be
entertained was to be at
the rate of one person for
every 300 processes that
had

2 3
had been theretofore actual-
ly served or executed by
the Police on the average
of the last three years.

2. These Rules thus
threatened to bring into ex-
istence a rival force along-
side of the Police to do what
is avowedly Police work; and
without that protection against
oppression and extortion, and
those guarantees for discipline,
order, and punctuality which
the regularly organized Con-
stabulary is calculated
to insure. Mr. Sullivan,
then Acting District Magistrate
of South Street, was the
first to call the attention
of Government specially
to the evils of a system
which he described as
a return to the days when
Amidars and Dattas
hung about Magistrates'
Cutehuries, before the
organization of the Police.

between

between 1858 and 1860.

Mr. Sullivan's letter was referred to the Lieut. Governor General of Police, for early report in communication with some of his most experienced officers, and all District Magistrates were also directed to report upon it. Government at the same time desired that the service of criminal processes should be maintained by the agency of the Police, no additional establishment being entertained for the purpose. In their order noted in the margin, Government repeated their intention that the employment of the Police in the service of criminal processes should be maintained as far as possible, and observed that no body

Order of Govt. 1st Sept 73
No. 1525.

Govt. 11 Nov 73 No. 1764 1st Sept.

of criminal process servers should be created if it could be avoided, as the evils inherent in the system were immense. The letters above recorded are the replies of the officers to whom the reference in question was made.

3. Every District Magistrate, with the single exception of Mr. Foster of the Godavery district, has now stated his preference for the continued employment of the Police in process serving, and even Mr. Foster, in the further communication since received from him, apparently withdraws his objection to the agency of the Police, although he still charges this agency with considerable delay in executing the processes entrusted to it. In the same way

Order 174 No. 369

in way all the officers con-
sulted by Colonel Bresson,
then in charge of the office
of Inspector General of Police,
are agreed in advocating the
continued employment of
the Police, with the single
exception of Major Clarke
of the Central Range, who
is apparently in favor
of the Ratta peon system.
With certain shades of
difference, and with the
exceptions noted, there
is a unanimous opinion
in favor of not forming
a separate branch of
the Police for this special
Service; in other words,
the Police employed in
serving process are not
to be supernumeraries,
but an integral part
of the force, under one
system of supervision
and

Vide Sections 153 to 161 Act X of
1872.

and control. All in favor
of the system appear also
to be generally agreed that
there must be some addition
to the existing Police force
to admit of the service being
effectually performed; and
Mr Foster, now recommends
the entertainment of extra
constables, at the rate of
about two to every Magistrate
in the District, whose wages
would be covered by the
fees collected under the Act.
4. The Criminal Procedure
Code does indeed give a
Magistrate a discretion to
serve a summons or execute
a warrant through "any
other person" if he sees fit;
but it is obvious that the
Legislature intended that
the employment of the
Police shall be the rule,
and the pressing into the
service of "any other person"
shall

shall be the exception. Having now carefully considered the subject, with the advantage of the opinions before him, the Governor in Council resolves that the service of all criminal processes shall be effected, with the rare exceptions allowed by the Legislature, through the agency of the regularly organized Police alone.

5. The primary object of levying fees under the Court Fees Act was to raise money for the express purpose of recouping the cost of existing establishments, not of unnecessarily adding to, or extending them, but here it is the opinion, from actual experience, both of the District Magistrates and the officers of Police, that some addition is imperatively called for to

to the present ²⁷ strength ⁶ of the Constabulary, in order to ensure efficient and prompt service and punctual return of the duplicates of the processes to the courts by which they are issued. In para 7 of his letter above recorded, Colonel Drever estimates the average annual cost of a Police Constable at Rs. 107-5-9, which it is presumed includes the cost of his clothing and equipment, and that at this rate about 1704 Constables could be added to the force without any extra charge to the Government, as the fees collected under the Act would fully meet the charge. Colonel Drever considers that about 50 Constables might be wanted for each district and that

that, leaving a large margin
for return of fees levied
in certain cases, that number
might be safely entertained
without extra expense - as
to the number required for
each District, Col. Brown's
estimate exactly tallies
with that now reported
by Mr. Fortin, who thinks
that about 50 Constables
would be required in the
Madras District, in order
to allow to each Magistrate
in the District the services
of two Constables for the
processes issuing from his
Court.

On the numerical in-
adequacy of the Police force
of the Presidency to meet
the ordinary demands of
their duty has recently
been brought prominently
to the notice of Government
in

7
in the Annual Reports of
the District Magistracy
and the Inspector General.
Taking the cost of a single
Constable at 108 Rs. per annum,
the charge for 1000 men (at
the average rate of 50 for
each Police District) would
amount to Rs. 1,08,000. It
appears, however, from the
Budget Estimate for 1875-76,
that the receipts expected
to be derived in Magistrate
Courts from "Court Fees",
and "Process Service Fees", will
not exceed Rs. 77,381. This
sum would provide for about
716 Constables or about 36
to each District, and as
it is shown to be expedient
that the Police, and not
any special Agency, should
undertake the function,
the Governor in Council re-
solves to direct the Inspe-
ctor General to take measures
accordingly

accordingly for the early en-
tertainment of this addition
to the Force. It is of course
to be clearly understood
that these men will be
available for all the ordinary
duties of the Constabulary, *vice versa*
and that the Force shall
not contain within it any
special corps whose duty
is limited to protesting.

The Inspector General of
Police will report at the
end of six months whether
the staff of Constables
now sanctioned is suf-
ficient for the work.

The District Magistrates
will also report what
were the receipts actually
realized by them during
that period from Court
Fees stamps and Process
Service fees.

In

which will be distributed
over the districts as the
I.C. may deem most desirable.

7. In regard to the
question of return fees
to complainants in cer-
tain cases, as provided
by Section 31 of the old
Fees Act, which has been
raised in the course of
this correspondence, it is
to be observed that, irres-
pective of those cases
in which the Courts are
authorized by the Departmen-
tal Rules, drawn by the
High Court and approved
by Government, to permit
fees payable by a Com-
plainant or defendant
on account of the poverty
of the party, or other good
and sufficient cause,
which of course must
be taken into account
in the arrangements
now to be made, Section

31 provides that when the
 accused is convicted, he
 shall be directed to pay
 to the complainant, in
 addition to any penalty
 imposed, the fees paid by
 such complainant, and
 that all fees ordered to
 be repaid under the section
 may be recovered as if
 they were fines imposed
 by the Court, so that, in
 these cases, the fees pay-
 able by complainants
 are nevertheless credited
 to the State.

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Colt. of 18753 31.10.15.

To

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