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MADRAS RECORD OFFICE

Government of Madras.

Judicial *Judicial* DEPARTMENT.

G.O. No. 2556-56A

Press
~~Mis.~~

Dated

23 - 10 - 1980

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

23rd October 1880, No. 2556.

Statistics.

Read the following:—

Report by the Inspector-General of Police, forwarding Criminal Statistics for 1879, dated 17th July 1880.

No. 83. ORDER THEREON, 23rd October 1880, No. 2556.

These statistics will be forwarded to the Government of India as usual.

2. In reviewing the Annual Reports for 1879 of the High Court and of the Inspector-General of Police, many of the points noticed have already come under the consideration of Government. Two of the tabular statements, however, call for remark.

3. I.—*Statement showing the general result of Criminal Trials in the Tribunals of various Classes.*—The number of persons brought before Village Magistrates, who have power in this Presidency to punish petty assaults and petty thefts by confinement in the village choultry for twelve hours, or, in certain cases, by placing the offenders in the stocks for half that time, was 15,730 against—

20,866 for	..	..	..	..	..	..	..	1878
29,931 „	..	..	..	..	..	..	..	1877
24,284 „	..	..	..	..	..	..	..	1876

The per-centage of convictions was 92.5 for theft and 61.7 for assaults. The Inspector-General observes that “famine has probably swept away large numbers of the hungry paupers who are prone to commit thefts in villages.” This may be one explanation, but a ruling of the High Court in 1873 has probably done much to gradually attenuate the criminal jurisdiction of heads of villages.

In regard to thefts, their powers extend to the punishment of all petty crimes of that description “not attended with aggravating circumstances, nor committed

persons of notoriously bad character, and where the value of the property does not exceed one rupee;” and the Code of Criminal Procedure enacts that nothing in the

Code “shall be held to alter or affect the jurisdiction or procedure of the heads of villages in the Presidency of Fort St. George”. In the case referred to, a complaint of theft of cocoanuts valued at one anna and eight pies having been made to the Taluk Magistrate, that officer directed the complainant, by endorsement on his petition, to obtain redress from the Village Magistrate. It was held that the Taluk Magistrate could not so dispose of the complaint, but was bound to examine the petitioner on oath, summon his witnesses, issue a warrant for the accused, and proceed to try the case himself, the fact that the complaint was also cognisable by the head of the village not authorising the Taluk Magistrate to refer the case back to the village. Similarly, the order of a District Magistrate, directing Taluk Magistrates to refer back to the village complaints of petty assaults, was held to be irregular. The Code of Criminal Procedure is now under revision, and a provision will be recommended authorising stipendiary Magistrates to

take the course which the High Court have ruled to be at present unauthorised. Otherwise, by Taluk Magistrates clutching jurisdiction on the one hand, and complainants electing, for reasons of their own, to resort to a distant tribunal, the object of the ancient Regulation, viz., the prompt settlement of petty cases in the village, will frequently be frustrated; while the paucity of stipendiary Magistrates and their large ranges render the alternative a positive mockery of justice to village communities generally.

The district of Bellary may be taken to illustrate this question. It is 11,007 square miles in area, and is divided into fifteen taluks, averaging 733 square miles. Besides the fifteen Tahsildars of taluks, who are also Taluk Magistrates, the Sarishtadars of the fifteen taluks are vested with the third or lowest set of magisterial powers, in view to attending to such cases as may be brought up during the Tahsildar's absence from head-quarters. There are also nine Deputy Tahsildars who are, at the same time, either 3rd or 2nd Class Magistrates. Four Divisional Officers, two "Benches" in Municipalities, and one District Magistrate complete the magisterial roll of a province,—the size of a dozen ordinary English counties put together. In this enormous area, the heads of 2,337 villages disposed altogether of 205 petty cases in the year under report. It is not to be supposed that this number represents all the cases within the jurisdiction of these officials that occurred in 1879. Numerous others went to swell the unmanageable files of the stipendiary Magistrates, whose statistics come next under review.

4. II—Excluding heads of villages, the number of persons dealt with by the Magistracy was 297,858; of these, deducting 2,747 entered as "pending"—

(a) Unpaid Benches dealt with		24,283
(b) Taluk Magistracy dealt with		212,393
(c) Divisional Officers dealt with		17,840
(d) District Magistrates dealt with		429
(e) Madras Town Magistrates dealt with		42,013

No less than 117,534 of the total number dealt with were discharged without trial, while upwards of one-third were convicted or committed out of those actually brought to trial. The number discharged (two-fifths of the whole) seems excessive; and in future returns a foot-note should be added, classifying the items under which parties "dealt with" are written off as "discharged without trial". The average length of time during which cases lasted before each description of tribunal was: before Presidency Town Magistrates one day; Village Magistrate two; Bench three; District Magistrate four; Divisional Magistrate twelve; Taluk Magistrate ten; against, in the last two cases, 5.6 and 5.8 in 1878. The witnesses who attended number 321,203.

One remedial measure for these delays has already been suggested; another would be to invest all Magistrates who have exercised 3rd-class powers satisfactorily for a certain probational term with 2nd-class powers. The list of offences over which 3rd-Class Magistrates have no jurisdiction is a long one, and comprises such every-day offences as "theft by a servant," "criminal breach of trust," "receiving stolen goods," "cheating," and so forth. Persons complaining in such cases must, therefore, pass out of their own taluk, where it is presided over by a 3rd-Class Magistrate, and proceed to the Divisional Officer, who must either take up the complaint himself or refer it to a taluk officer of the 2nd-class. The inconvenience to all concerned is palpable, and must be frequently fatal to the ends of justice. The Government are of opinion that, considering the rules in force prohibiting the employment as Magistrates of persons who have not passed sundry very sufficient tests, educational and special, and the scrutiny which every such appointment undergoes, *quâ* the nominee's service and character, before it is sanctioned by Government on the recommendation of local officers, and, in the majority of cases, the Board of Revenue, it may be laid down that six months' experience as a Magistrate of the 3rd-class shall, *prima facie*, be considered as qualifying for the exercise of powers of the 2nd class. District Magistrates will bear this in mind in the case of future appointments, and will at once submit a list of all 3rd-Class Magistrates of the above standing, showing

their age, character, and qualifications, and stating why in any case such officers should not be invested with 2nd-class powers.

5. III—Punishments.—

	1878.	1879.
Death	90	86
Transportation	431	448*

but all sentenced to transportation are not all transported, the matter being regulated from time to time by the orders of the Government of India with reference to the accommodation at the Andamans.

The punishment of "Whipping" shows a marked decrease: in 1878 the sentence was inflicted in 16,321 cases; in 1879, 5,615 persons were whipped in lieu of other punishments for theft and other cognate offences in which whipping is awardable in lieu of imprisonment; and 993 persons were whipped in addition to imprisonment, *i.e.*, on a second conviction of certain offences. In regard to "imprisonment" the statistics show the number sentenced to fifteen days, six months, two years, seven years, and over seven years. Including 13,871 confined for a few hours in the village choultry by heads of villages, the returns show as follows:—

Not exceeding fifteen days		26,061
" six months		20,643
" two years		2,200
" seven years		964
Over seven years		60

99,810 persons were fined, the fine averaging 10½ rupees; but 30.5 per cent. only was realised. The Government are aware that in every case under the Penal Code in which an offender is sentenced to a fine, it is competent to the Court to direct by the sentence that in default of payment of the fine, the offender shall suffer imprisonment for a certain term; but it is also provided that such imprisonment shall not be taken in satisfaction of the fine. The offender's property (even should he die in the interval) will, for a considerable period, continue to be answerable for the fine,—a contingency which should not be lost sight of in cases where the convicted party appears to have incurred the full rigour of the law.

(True Extract.)

R. DAVIDSON,
Chief Secretary.

To the Inspector-General of Police.
" all District Magistrates."

Report by I. S. Police, forwarding
Criminal Statistics for 1879.

Order 23rd Oct 1880 No. 2556 -
dated 17th July 1880.

These statistics will be forwarded to the
G. of India as usual.

In receiving the Annual Reports for 1879,
of the I. S. & of the I. S. of Police, many of
the points noticed have already come under
the consideration of Govt. - Two of the tabular state-
ments however call for remarks -

I. State showing the general result of Criminal
trials in the tribunals of various Classes.

The number of persons brought before Village
Magistrates, who have power in this District to
punish petty assaults & petty thefts by
confinement in the village choultry for 12 hours
or, in certain cases, by flogging the offenders
in the stocks for half that time - was
15,730 against

20,266	for 78
29,931	" 77
24,284	" 76

*M. S. Secy
24/10*

The percentage of convictions was 92.5
for Theft & 61.7 for Assaults. The I. S.
observes that 'famine has probably swept
away large numbers of the hungry paupers
who are prone to commit thefts in villages.'
This may be one explanation, but a
Ruling of the H. C. in 1873 has probably

Page 166 Warr's
Law of Offences &c.

Govt. of 11801
JUDICIAL.

To
THE INSPECTOR-GENERAL
OF POLICE,
&c., &c., &c.

Dated October, 1880.

For
G.O. 224 October 1880, No. 2556.

OCTOBER
No. 83.

Statute - The Report by the Inspector-Gen-
eral of Police forwarding Criminal Statistics for
1879, reviewed.

done much to attenuate the criminal jurisdiction of Heads of Villages. The reports to the High Court, their powers extend to the punishment of all petty crimes of that description "not attended with aggravating circumstances, nor committed by persons of notoriously bad character, & where the value of the property does not exceed one rupee"; and the Code of Criminal Procedure enacts that nothing in the Code shall be held to alter or affect the jurisdiction or procedure of the Heads of Villages in the District of F. S. Joseph. In the case referred to, a complaint of theft of coconuts valued at Rs. 100/- having been made to the Talukdar Magistrate, that officer directed the complainant to go on his petition to obtain redress from the Village Magistrate. It was held that the Talukdar Magistrate could not dispose of the complaint, but was bound to examine the petitioner on oath, summon his witnesses, issue a warrant for the accused, & proceed to try the case himself; the fact that the complaint was also cognizable by the Head of the Village not authorizing the Talukdar Magistrate to refer the case back to the Village Magistrate. Similarly the Order of a District Magistrate, directing Talukdar Magistrates to refer back to the Village Magistrates complaints of

W. H. C. C.

petty assaults was held to be irregular.
 The Code of Crim. Pro. is now under revision,
 and a provision will be recommended,
 authorising stipendiary Magps to take
 the course w^{ch} the H. Ct. have ruled to be at
 present unauthorized. Otherwise, by Taluk
 Magps clutching jurisdiction, on the one
 hand, and complainants electing, for
 reasons of their own, to resort to a distant
 tribunal - the object of the ancient Reglⁿ,
 viz, the prompt settlement of petty cases
 in the village, will frequently be frus-
 trated; while the paucity of stipendiary
 Magps & their large ranges render the
 alternative a positive ^{smothering} decrease of justice.
 The S^t of Bellary may be taken
 to illustrate this question. It is 11,000
 sq. miles in area, & is divided into
 15 talukas, averaging 733 sq. m. Besides
 the 15 Tahsildars of Talukas, who are also
 Taluk Magps, the Saris & Barams of the 15
 talukas are vested with the 3^d or
 lowest set of Magp's trial powers, in
 view to attending to such cases as may
 bring to life, during the Tahsildar's
 absence from headquarters. There are
 also 9 Deputy Tahsildars, who are
 at the same time either 3^d or 2^d
 class Magps. Four Seasonal Officers,
 the 'Benches' in one S^t Magp complete the Magp bench
 of the Province, the king of a dozen

ordinary English counties put together. In this enormous area, the Head of 2337 Villages, disposed altogether of 205 petty cases in the year under report. It is not to be supposed that this number represents all the cases within the jurisdiction of these officials that occurred in 1879. Numerous others went to swell the unmanageable files of the stipendiary Magistrates, whose statistics come next under review.

II: Including Heads of Villages, the number of persons dealt with by the Magistrates was 297,858; of these, deducting 2,747, entered as 'pending',

(a) Unpaid Batches - dealt with	24,283
(b) Taluk Magistrates	212,393
(c) District Officers	17,840
(d) S.D. Magistrate	429

(e) Native Town Magistrate 42,913.

No less than 117,534 of the total number dealt with were discharged without trial, while upwards of one third were convicted on conviction out of those actually brought to trial. The average length of time during which cases last at before each description of the trial was: Before Native Town Magistrate 1 day; Village Magistrate 2; Bench 3; S.D. Magistrate 4; District Magistrate 12; Taluk Bench 10; against, in the last two cases, 5-6 and 5-8. The outlay for the attendance of the number 321,208.

One remedial measure for these delays has already been suggested; another will be to invest all the Magistrates who have exercised 3rd class powers with authority for a certain period of time into 2nd class powers. The list of offences over which 3rd class Magistrates have no jurisdiction is a long one, & compressed

such every day offences as 'Theft by a servant', 'Criminal Breach of Trust', 'Receiving stolen goods', 'Cheating' & so forth.

Persons complaining in such cases must therefore pass out of their own Taluk, where it is presided over by a 3rd class Magistrate, & proceed to the District Officer, who must either take it up himself or refer it to a Taluk Officer of the 2nd class. The inconvenience to all concerned is palpable, & must be frequently fatal to the ends of justice. The Govt are of opinion that, considering the rules in force prohibiting the employment of Magistrates of persons who have not passed by sundry very sufficient tests, educational & special, and the despatch with every such applicant undergoes, before it is sanctioned by Govt on the recommendation of local officers & in the majority of cases, the 13th Prov - it may be laid down that every month's experience as a Magistrate of the 3rd class shall, prima facie, be considered as qualifying for the exercise of powers of the 2nd class. S.D. Magistrates will have this in mind in the case of future applicants, & will also submit a list of all 3rd class Magistrates - showing their age, character & qualifications; & stating why in any case such officers should not be invested with 2nd class powers.

III. Persons Committed

	18	79
Death	98	86
Transported	431	448

x 129
for terms 319

I think to mention this point to all the judges - I should say 'yes'.

The number discharged (2/5 of the whole) seems excessive; and in future returns a footnote should be added, classifying the cases under the parties 'detained' or 'released' as discharged without trial.

I think to mention this point to all the judges - I should say 'yes'.

in 1878.

Sept 4/11
16.2 59"
16.2 60"

1877-78

Govt. of (1880) Madras.

File

30/6/10 ✓
28-11-10 ✓
5-11-11 ✓
10-5-13 ✓
18-2-10 ✓
15-8-11 ✓
31-5-11 ✓
27-3-10 ✓

29-5-12 *File*
12-4-29 ✓

G.O., 25th Oct 1880, No. 2554
Nos. 83

*Statistical Report
by the S.D. of Police
for Criminal Statistics
for 1879*

