

FROM

A. MACKENZIE, Esq., C.S.,
Secretary to the Govt. of India.

TO

THE CHIEF SECRETARY TO THE
GOVERNMENT OF BOMBAY.

Home Department
Judicial.

Calcutta, the 8 February 1886.

I AM directed to acknowledge the receipt of your letter No. 7523, dated the 31st October 1885, submitting a copy of a communication from the High Court at Bombay in which amendments are suggested in forms Nos. 2, 4 and 5 (Criminal) of the revised Judicial Statements which were prescribed for general adoption by the orders marginally noted.

2. The amendments proposed by the Bombay High Court are designed to meet three questions raised by the Judicial Commissioner in Sind, namely:—

- (1) What is the correct mode of filling up column 4 of form No. 2, that is, what "cases" are referred to in the heading of that column:
- (2) (a) Whether a person, who is convicted of two connected offences, such as house-breaking with intent to commit theft, and theft in a dwelling house, and receives a separate sentence for each offence, should be considered for the purposes of Judicial Statements Nos. 2, 4 and 5 as one person committing, and sentenced for, the most heinous of the offences, or as two persons convicted of two distinct offences; and
(b) how a person should be shown in these statements who is convicted of two or more offences in one trial, which offences are distinct but of the same kind, and who is sentenced separately for each offence:
- (3) Whether persons sentenced to be sent to Reformatories should be included in Statement No. 5 as imprisoned, and in the columns as to imprisonment as well as in column 29, or whether they should be shown only in column 29.

3. In reply, I am to convey the following orders on each of the above points which have been considered by the Governor General in Council in communication with the Honourable the Chief Justice and Judges of the High Court at Calcutta.

4. As regards the first point, it is observed that the Judicial Commissioner in Sind appears to have felt a difficulty as to the relation of columns 3 and 4 to column 2 in Judicial Statement No. 2,

செப். 10 வதற்காக உருத்த
கொள்ளப்பட்ட

செப். 10 மாதம் 1991 வருடம்

செப். 10 மாதம் 1991 வருடம்

செப். 10 மாதம் 1991 வருடம்

ஆராய்ச்சி உதவியாளர்
கையொப்பம்

and is disposed to consider the use of the word "cases" in the heading of column 3 unfortunate, being of opinion that the proper term would be "offences," by the use of which term column 3 would be brought into accord with column 2. The Bombay High Court accepts this view.

On this point I am to invite attention to Annual Statement No. 2, from which the figures for Judicial Statement No. 2 are taken.

Number in Annual Statement.	Number in Judicial Statement.	Descriptive heading of each column.
Column 3 . . .	Column 2 . . .	"Number of offences reported."
" 6 . . .	" 5 . . .	"Number of cases returned as true."
" 7 . . .	" 4 . . .	"Number of cases brought to trial during the year."

Columns 3, 6 and 7 of the former Statement correspond with columns 2, 3 and 4 of the latter Statement; and the High Court at Calcutta has always held the reverse of that which is considered by

the Bombay authorities to be the true relation between columns 2 and 3. Instead of bringing column 3 into accord with column 2 by reading the word "cases" as if it were "offences," the instructions issued by the Calcutta High Court have pointed in the opposite direction, the term "offences" in column 2 (Annual Statement column 3)

having been explained to mean *cases*, which term is used parenthetically after the word "offences" in the instructions* relative to the preparation of the column in question.

5. It appears that the suggestion to alter the word "cases" in column 3 of Judicial Statement No. 2 has been made by the Judicial Commissioner in Sind with a view to remedy a diversity of practice said to obtain among district officers in that Province, some of whom are said to exclude "offences committed and reported in a preceding year," and others to include "offences committed at any time." In the opinion of the Government of India the reconciling principle should be to include those offences only which were reported during the year to which the Statement relates, without reference to the time when they were committed, inasmuch as the report alone brings the offence into cognizance in the Judicial Statements.

6. In this connection, it also seems necessary to point out that the word "report" as used in the heading of column 2 ("offences reported") does not refer to information given to the Police, but to offences brought to the knowledge of a Magistrate, for charges rejected by the Police without being brought to the notice of a Criminal Court are expressly excluded* from the Annual Statements; and as regards Police cases, it is only when the Police forward "the accused under custody to a Magistrate" or secure "his appearance before such Magistrate," under section 170, Criminal Procedure Code, that the case can come into the Criminal Statements and find a place in the column for "offences reported."

7. The fact that both columns 2 and 3 are intended to refer to cases proper, and not to mere offences, will be further evident from an inspection of the intervening columns, which, as containing matters of detail, are omitted from Judicial Statement No. 2, although given in Annual Statement No. 2. The intervening columns 4† and 5‡, the descriptive headings of which are given in the margin, show the kinds of cases

* See last sentence of the instructions for filling in column 5 of Annual Statement No. 2 at page 15 of the extract from the Circular Orders of the Calcutta High Court, forwarded with Home Department Resolution of the 9th August 1884.

† Complaints dismissed under section 203, Criminal Procedure Code.

‡ Other cases struck off as false.

which are deducted from "the number of offences reported" and leave a resulting balance for the column headed "number of cases returned as true." The cases deducted, it will be seen, are those "dismissed under section 203" of the Criminal Procedure Code (by a Criminal Court) and "other cases struck off as false" (not by the Police, such being, as shown above, expressly excluded, but) by the Magistrate. It follows, therefore, that the balance returned as true must be *cases*, for the subjects of such a calculation cannot but fall under the same denomination. Moreover, it will be observed that all the columns concerned, as they stand in Annual Statement No. 2, have the general superscription "number of cases" as indicated on the margin.

Number of cases.				
3	4	5	6	7

For the foregoing reasons, the Governor General in Council is of opinion that the term "cases" has been rightly used in the heading of column 3 of Judicial Statement No. 2, and would prefer, unless the Bombay Government or the Bombay High Court see any decided objection to this being done, to adopt the interpretation hitherto placed on the term by the High Court at Calcutta.

8. As regards the second point, the Bombay High Court proposes to revive the following instructions issued by the Court in a Circular dated 11th December 1882, which was cancelled in October 1884, namely:—

"When an accused is tried under more than one head of charge, he should be exhibited under the principal one only, unless he happens to be accused of entirely distinct offences supported by separate evidence, in which case the trials would be separate and the results independent."

The Governor General in Council concurs with the Court in considering that the above instructions should be revived. Similar instructions exist in the Rules and Orders of the Calcutta High Court.

9. As regards the third point, the High Court at Bombay is of opinion that juveniles sent to Reformatories should be entered in column 5* or column 3,* of Statement No. 5, and should also be separately entered in column 29† in order to show how many of the persons enumerated in the two former columns were thus specially dealt with. It is accordingly suggested that the heading of column 29 should be altered thus:—

Descriptive headings of columns 5 and 6—	
PERSONS SENTENCED TO IMPRISONMENT.	
Rigorous.	Simple.
5	6

* Number of boys whose sentences were commuted to detention in a Reformatory School.

On this point I am to say that juveniles sent to Reformatories who were previously sentenced to imprisonment should, as suggested by the Bombay High Court, be entered in column 5, or in column 6 of Judicial Statement No. 5, according as the sentence is one of rigorous or simple imprisonment, as well as separately in column 29. It appears to the Government of India to be doubtful whether any sufficient reason has been shown for altering the heading of the last mentioned column, which seems to be sufficiently clear and comprehensive for the purpose indicated.

8-10-22
4-2-80: 389
2-1-85: 1922
7-4-85: 1093

Judicial CURRENT NO. 9
(4)

It is observed that the Judicial Commissioner in Sind enquired whether persons sentenced to be sent to Reformatories should be included in Statement No. 5 as imprisoned and should be also included in the columns as to imprisonment as well as in column 29. I am, however, to point out that the persons entered in columns 5 and 6 of that Statement are not shown there as imprisoned, but only as sentenced to imprisonment, whether subsequently imprisoned or not. Juvenile offenders, moreover, are sentenced in the same way as other offenders, although the sentence may be subsequently commuted to detention in a Reformatory School. While, therefore, it is obviously the fact that such persons are in the first instance sentenced and subsequently have their sentence commuted to an order for confinement in a Reformatory, it is equally true that this fact is accurately expressed in the headings of the columns in question.

I have the honour to be,

SIR,

Your most obedient Servant,

Sd/- J. C. Dawkes.

for Secretary to the Government of India.

No. 171.

COPY forwarded to the other Local Governments and Administrations for information and guidance, and to the Foreign Department for communication to the Chief Commissioner of Ajmere and Merwara.

Dawkes

Under Secretary to the Govt. of India.

The Government of Madras.

*Recd 12.10.10
17 of 100 Copies*

Government of India Central Printing Office.—No. 649 H. D.—4-1-85.—312.

Encl.—N. C. D.

*Orders in connection with
agreements suggested by Board
for 2nd, 3rd, 4th and 5th
10/11/10*

NOTE FOR THE UNDER SECRETARY.

*It will be for the High
Court to say if there
will adopt the Bombay
rule regarding para 8.
In this two points
can be made. The
Reformatory is not yet
opened.*

23/2/10

See last 50 537/10-13/10

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following

Govt. of India dated 8th
Feb. 1886, No. 170.
Order. 2nd March/86-537
Forwarded to the Hon. the
Judge of the High Court &
the Hq. of Police in
Canton. of P.O. 3rd Sep. 1884,
No. 2254.

W 26/12

23/12

14/1/86

To
The Honble the Judges of
of the High Court with cc
a Insp. Genl of Police (depts)
23/12
The Hon. the Judge of the
the Court with cc
Police

5 5 5
2ND MARCH 1886, No. 67, JUDICIAL.

GOVERNMENT OF INDIA.

JUDICIAL DEPARTMENT.

READ—the following paper:—

From A. MACKENZIE, Esq., C.S., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Bombay, dated Calcutta, the 8th February 1886, No. 170.

I am directed to acknowledge the receipt of your letter, No. 7523, dated the 31st October 1885, submitting a copy of a communication from the High Court at Bombay in which amendments are suggested in forms No. 2, 4 and 5 (Criminal), of the revised Judicial statements which were prescribed for general adoption by the orders marginally noted.

Home Department Resolution, Nos. 18—1074-1085, dated 30th August 1884.

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- (1) What is the correct mode of filling up column 4 of form No. 2, that is, what "cases" are referred to in the heading of that column:
- (2) (a) Whether a person, who is convicted of two connected offences, such as house-breaking with intent to commit theft, and theft in a dwelling-house, and receives a separate sentence for each offence, should be considered, for the purposes of Judicial statements, Nos. 2, 4 and 5, as one person committing, and sentenced for, the most heinous of the offences, or as two persons convicted of two distinct offences; and
(b) how a person should be shown in these statements who is convicted of two or more offences in one trial, which offences are distinct but of the same kind, and who is sentenced separately for each offence:
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C. 25/2
R. 27/2

On this point I am to invite attention to Annual Statement No. 2, from which

Number in Annual Statement.	Number in Judicial Statement.	Descriptive heading of each column.
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the figures for Judicial Statement No. 2 are taken. Columns 3, 6 and 7 of the former statement correspond with columns 2, 3 and 4 of the latter statement; and the High Court at Calcutta has always held the reverse of that which is considered by the Bombay authorities to be the true relation between columns 2 and 3. Instead of bringing column 3 into accord with column 2 by reading the word "cases" as if it were "offences," the instructions issued by the Calcutta High Court have pointed in the opposite direction, the term "offences" in column 2 (Annual statement column 3) having been explained to mean *cases*, which term is used parenthetically after the word "offences" in the instructions relative to the preparation of the column in question.

* See page 15 of the extract from the Circular Orders of the Calcutta High Court forwarded with Home Department Resolution of the 9th August 1881.

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† Complaints dismissed under section 203, Criminal Procedure Code.
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Number of cases.
3
4
5
6
7

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No. 3-51.

Copy forwarded to the other Local Governments and Administrations for information and guidance, and to the Foreign Department for communication to the Chief Commissioner of Ajmere and Merwar.

(Signed) F. C. DAUKES,
Under Secy. to the Govt. of India.

To the Government of Madras.

4

2ND MARCH 1886, No. 537, JUDICIAL.

ORDER—dated 2nd March 1886, No. 53, Judicial.

Communicated to the Honorable the Judges of the High Court and the Inspector-General of Police, in continuation of G.O. 3rd September 1884, No. 2254.

(T Extract.)

Acting Chief Secretary.

To the Honorable the Judges of the High Court, with C.L.
Inspector-General of Police.

Encl. A. Raitt.

Govt. of (1886) Madras.

JUDICIAL.

Issued

Recd.

Encl.

G.O., 2nd March 1886, No. 537.

MARCH.

Criminal Statistics.

Communicating to the High Court and the Inspector-General of Police a letter from the Government of India regarding certain suggested amendments in Forms, Nos. 2, 4 and 5 (Criminal), of the revised Judicial statements prescribed for general adoption.