

(1) Number of Pages 26
(2) Date of repair 8. 4. 68
(3) Initials of the Referencer ~~P. U. 68~~
27

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

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

1709

Press
Mis.

Dated 29. 11. 1875 196 .

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
29th November 1875.*

No. 325. Read the following Proceedings of the Board of Revenue, dated 6th October 1875, No. 2,792:—

Read again G.O., dated 28th May 1875, No. 838.

Read also the following papers:—

From H. S. THOMAS, Esq., Collector of Tanjore, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Vallam, 9th September 1875, No. 4,260.

I HAVE the honor to seek sanction for the degradation to a post of Revenue Inspector or Clerk, a post in which he can be comparatively harmless and cannot affect the administration of justice, of Narayanasami Aiyar, 2nd-class Sub-Magistrate of Tanjore Town.

2. His case is set forth in paragraphs 10 and 11 of my letter, No. 116, dated 13th March 1875, in Board's Proceedings, No. 970, dated 20th April 1875, from which, for the sake of placing the matter consecutively before the Board, I quote as follows:—

"10. In connection with the subject of inordinate delay in the conduct of magisterial inquiries, I will quote one more of my own proceedings on appeal, and will add, with reference thereto, that it is by such improper delays that corrupt Magistrates create for themselves the opportunity for working on the fears of the parties in suspense, and thereby wringing out of them the maximum attainable with safety to themselves. Whenever a Magistrate can give no proper explanation for inordinate delays, they become suspicious. In the case that I am about to

my predecessor. I have only fined the man because I feared to do more lest I should not be supported. But now that I am laying the whole matter before the Board, and I am consequently in hopes that they will feel themselves in a position to take a wider view of the necessities of the case with reference to the crime of the district, I will plainly state my own opinion and leave it at their disposal. Even if we put upon his delays the most charitable construction that can possibly be put,—that of dilatoriness, not wickedness nor venality,—even then we are still driven to the conclusion that a Magistrate who can be thus unconcerned and dilatory while the district is in a blaze with crime and the suffering and injury therefrom accruing is not a fit man to help me to battle with that crime. At the very least I consider that he is not equal to the exigencies of his post and times. Are the European Magistracy alone to work themselves to death, and the Native Magistracy to idle with impunity? He is a Sub-Magistrate on Rupees 100. I would ask that he be relegated to non-magisterial duties.

"11. It need hardly be stated that I use the words 'a blaze with crime' metaphorically, but it is as well it should be stated that we have had the narrowest escape of my having to use it literally; for a gang of old dacoits, who had just returned from transportation to their former avocations, when re-apprehended, told the Superintendent of Police that he had been only just in time, for they had meant, out of revenge, intimidation, and bravado, to set the whole district on fire simultaneously, and that they were only waiting for the return of one leader to concert arrangements when he had anticipated them. He had noted

their being time-expired, known they would return to their former means of living, and had recaptured them in their very first offence. The proceedings that concern the Sub-Magistrate referred to are then as follows:—

“Read reply” of Narayanasami Aiyar, Sub-Magistrate of Tanjore Town, dated 17th November 1874, to the District Magistrate’s Proceedings in Appeal No. 52 of 1874.

* Translation enclosed.

“The explanation is rambling and altogether unsatisfactory. The Sub-Magistrate, instead of adjudicating on the case before him on its merits, made himself subservient to the wishes of the complainant to try the counter-complaints first. He made inordinate delay of 100 days for which there is no excuse, and which the records of his office show to be common, there being 1,178 days’ delay in 11 cases.

“His delays in magisterial cases have been more than once strongly remarked on by the late District Magistrate, by whom he has been warned in vain. It only remains to punish. Nos. 27, 78, 79, 82, 86, 88, 119, 139, 140, 141 of 1874 and 361 of 1873.

Finally, he has decided a case of a riot amongst wealthy mirassidars’ tenants directly against the evidence and the law, for it was a case which he had no power to decide at all. If there were other posts to which it would be convenient to degrade him at this juncture, he would be degraded; as it is, he is fined Rupees 5.”

3. It will be seen therefrom that my opinion is that there is scarcely room for any other conclusion but that he is corrupt, using his magisterial power, not for justice, but for his enrichment by making inordinate delays for the purpose of wringing money out of the parties coming within his power; that in any case he is utterly indifferent to the orders of his superiors and past all hope of improvement thereby; and, lastly, that the most charitable view possible is that a man who can be thus indifferent and dilatory and unrousable in the midst of so much glaring crime is not a fit man to be longer entrusted with the active suppression of such crime.

4. Furthermore there are many more appeals from his decisions than from those of any other Magistrate, and of these appeals a large majority have to be reversed.

5. I would further solicit that Annachi Aiyangar, Deputy Tahsildar and 3rd-class Magistrate of Tranquebar on Rupees 70 a-month, may be degraded to a clerkship.

6. The primary reasons for his degradation will be found in my letter above quoted.

“Paragraph 4.—* * * ‘In this case also there probably has been a grave miscarriage of justice. A poor feeble

old woman was suspected of theft and barbarously tortured in the house of some wealthy Brahmins at Tranquebar. She complained at once to the station-house against two persons whom she named, and the Sub-Magistrate was informed

of the occurrence and arrest of the accused persons; but, instead of going forthwith to the scene of the crime, which was about a mile from his office, and systematically inquiring into the case, he contented himself with illegally remanding the accused persons to custody for five days, and for several days did nothing.

“The Session Judge desires to be informed under what legal enactment and for what reasons this remand order was made. Had the Sub-Magistrate gone at once to the Brahmins’ house and honestly bestirred himself in the matter, there can be but little doubt that several influential persons would have been found to be implicated in the crime. Even now it possibly may not be too late to discover the worst offenders, and the Session Judge would suggest to the District Magistrate the expediency of inquiring further into this atrocious case through a European Magistrate.”

* Translation enclosed with arzi in original (to be returned).

“On the same Sub-Magistrate after receiving his explanation.”

“Here again there is no explanation of the omission on the part of the Sub-Magistrate to go to the spot, which is close to his court-house, and inquire into the circumstances of an atrocious crime. North Tanjore Session Court Proceedings, dated 14th December 1874, No. 895.

Instead of so doing, he illegally omitted for many days to take any steps against the prisoners actually produced before him, and contented himself with ordering the Police to inquire for him. In the opinion of the Court the Sub-Magistrate has shown himself to be, if honest, quite unfit for the efficient discharge of the

5. The Head Assistant Magistrate, the Assistant Superintendent of Police, and I have been very carefully into this case, and in this concluding remark of the judge I quite concur. There is, in my opinion, not a word to be said for the Sub-Magistrate: either he was wilfully shielding the wicked or, in the face of the most pitiful appeal, he was callously indifferent to duty. In either case he is not fit to sustain the office of a Magistrate, and I could wish might be relieved of all magisterial authority and relegated to the position of a clerk. Still my experience of the general leniency to offending officials is such that, unassured of support, I have not dared to take this step. I think it will be seen, before this letter is ended, that, if crime is to be put down, leniency to the Sub-Magistracy will for the present be misplaced in Tanjore. I ask, therefore, to be permitted to degrade this man, now on Rupees 70, to a position in which he can do less harm.”

7. Further inquiry by the Head Assistant Magistrate showed that the Judge’s fears were only too well founded, for on committal four persons were sentenced for grievous torture, and the Head Assistant, in his committal register, remarks of this Magistrate:—

No. 3 of 1875.

“20. The 14th witness deposed that he told the Sub-Magistrate that his mother was keeping back evidence against some of the guilty parties, but he paid no attention to him. If this is so, and I see no reason to doubt it for the man can have no object in making a false statement, it places the conduct of the Sub-

Magistrate in a worse light than ever. I have long considered Annachi Aiyangar unfit for his post, and this case strengthens my opinion, and I hope that he will be removed from the bench or, at any rate, from my division."

8. I would also seek orders about Kristna Row, Tahsildar of Pattukottai, on Rupees 175 a-month. My desire is that he may be no longer entrusted with magisterial authority, and I would, therefore, degrade him at least to a Taluq Sheristadarship.

9. His case has already been touched on as follows:—

"9. REVIEWS OF CRIMINAL CALENDARS.—Lastly, I will mention my own proceedings, and I will quote one of them *in extenso*, merely adding here that this case also is being prepared for submission to the Board of Revenue, and I will ask that this Sub-Magistrate too may be deprived of magisterial authority and placed in a position, which I shall indicate, in which he can less affect the crime of the country.

Proceedings of District Magistrate in Appeal
No. 48 of 1874.

"Judgment in Appeal No. 48 of 1874 against the conviction and sentence by the 3rd-class Magistrate of Pattucottai in Calendar Case No. 153 of 1874.

"Date of offence, 23rd September 1873.

Do. complaint, 24th do.

Do. decision, 26th August 1874.

Do. appeal, 29th September 1874.

Grounds of appeal.

"This is a case reflecting great disgrace on all the Government officials concerned, to wit the Taluq Magistrate, the Police, and the Village Accountant, but most especially on the Taluq Magistrate.

"More than eleven months, or in round terms nearly a-year, has been occupied in the trial of a case of theft involving only one rupee worth of property and ending in one day's simple imprisonment and Rupees 2 fine. Such grievous delay cannot but bring the law into contempt.

"There has been a delay of five months by the Police, for which they will be called on by the Taluq Magistrate to give an exact account to be forwarded to the District Magistrate. But, whatever may be their delay, the Taluq Magistrate is mainly to blame for it for on him lay the responsibility of seeing that the Police are in his hands an efficient instrument of justice as expressed in the Preamble Act XXIV. of 1859. With this explanation the Taluq Magistrate will submit his own explanation in detail for all the delay made and permitted by him from the day on which he first received the Police Occurrence Report.

"He will explain why that Occurrence Report is not among the records forwarded to this Court.

"He will also call upon the Curnam for an explanation of his three months' delay and submit his own explanation for suffering it.

"The Taluq Magistrate will also render his explanation of what appear to be illegalities in this case. The District Magistrate wishes to know why when four men were charged with the same offence two were brought before him on

warrants and two on summons; why in a nonbailable offence all the prisoners were admitted to bail at a time when witnesses had given the very evidence on which the appellants have been convicted.

"As regards the appellants the District Magistrate can place no reliance on a trial held in such a highly irregular manner, and remarks that, even if they were guilty, the long time during which they have been held under trial is a grievous burden, tenfold worse than the fitting punishment of the petty offence with which they have been charged, to wit the cutting of a tree from a neglected avenue. The District Magistrate, therefore, orders their release or the refund of the fine imposed.

"The Taluq Magistrate's calendar does not show whether or not the fine was paid."

* Translation.

10. The explanation* given by the Tahsildar is enclosed. It hardly improves his position.

11. With reference to delay, his defence is that such delays are the rule with him as it is the custom not to notice delay on the part of the Police till complained of by the parties. Such reliance on custom leaves room for the improper inference that the custom was one sanctioned by my predecessor, whereas in Appeal No. 40 of 1874 from this very Magistrate my predecessor called his "serious attention" to a delay of three months for which his explanation was declared "unsatisfactory." In the face of such an order the plea of authorized custom can hardly be advanced. On the contrary it is a mischievous custom of evil Magistrates.

12. The referred charge sheets of the Police are obviously papers on which

Translation of an arzi enclosed.

the Magistrate's orders should be passed with as little delay as possible, for, if the

parties therein charged are to be prosecuted, they should be prosecuted at once, if discharged they should be so at once, and not have the fears of a criminal prosecution indefinitely suspended over them even though on bail. This Magistrate's practice, he says, is to dispose of such papers at the close of the year. On such a confessed magisterial practice comment is superfluous.

13. Then, as regards the case itself and the Magistrates' illegalities. The case was one (theft—Section 379, Indian Penal Code,) in which a warrant would ordinarily issue and which is not bailable (Section 389, Criminal Procedure Code). But he issued warrants for two and summons for two others of the four accused. Here it is noteworthy that the men for whom the warrants were issued were—one a mirassidar nearly related to a zemindar, and one a merchant—men wealthy enough to pay for the maintenance of their respectability, and accordingly we find that it was maintained in the teeth of the law. Such men brought up under a warrant must pay at once anything demanded of them or be immediately lodged in the Police lock-up under remand warrant. They were never so locked up. The two others for whom summons were issued were farm-laborers, poor men who would not pay for respectability. There was no use in holding a warrant over their heads. Hence the wise discrimination. The poor men, however, were the men eventually convicted.

14. The case having been taken up as an unbailable one (theft) and warrants having been issued on a presumption of guilt, it was not competent to the Sub-

*Proceedings of the Madras Government, Revenue Department,
29th November 1875.*

Magistrate to admit to bail (Section 389, Criminal Procedure Code,) unless there was no presumption of guilt or a weakening of that presumption. But in this case one of the two wealthier men, the one first brought up, was admitted to bail before any inquiry at all had been made after the stage at which a warrant had been made out for him, so that nothing could possibly have transpired, except his wealth, to weaken the presumption of guilt on which a warrant was originally made out, and the Sub-Magistrate adds, in his explanation, that he originally sent a warrant for these two because he thought them the principal offenders, the evidence against the two whom he at that time thought the least concerned being the very same which eventually sufficed for their conviction by him. It was further illegal that they also should have been admitted to bail on the very evidence on which they were convicted.

15. Thus a petty case of cutting a tree in a deserted avenue was treated as a grave-enough matter to justify a warrant against two men of position; they were brought up under it and one suddenly admitted to bail in the very face of law, and this petty matter, being made to drag its weary length over nearly a-year, ended in a farcical punishment of one day's simple imprisonment and Rupees 2 fine to the poorer men.

16. It is, in my view, a very glaring instance of abuse of magisterial powers, and a good illustration of how those powers are used for the enrichment of the Magistrate, not for the benefit of the public in the maintenance of justice.

17. This man has been a Magistrate for twelve years, and therefore could not be improved by the law.

18. To show it is not the first time he has been found fault with, I forward two proceedings passed by my predecessor remarking on previous irregularities. Nos. 139 and 168 of 1874.

19. Again, I find I have written of this same man in the Grave Crime Report for 1874: "Another commences a case of robbery by declining to grant a remand warrant at all on the ground that the case is a maliciously concocted one; without, however, ascertaining if it really be so, leaves the matter in the hands of the Police, by whom it was first brought up; and, giving repeated remands, stays inquiry with a view to get the Superintendent of Police himself on the spot, alleging that, if he comes to any conclusion of his own, he is likely to be blamed. Such is the helplessness of one set in authority for the dispensation of justice. What protection can the injured expect at such hands?"

20. In this connection I take occasion to enclose a copy of the whole Grave Crime Report to satisfy the Board that it is not before it is necessary that I seek a weeding out of a few of the worst of the Magistrates and a few examples which will serve as a warning to others.

ENCLOSURE No. 1.—Translation of Arzi of 2nd-class Magistrate of Tanjore Town.

ENCLOSURE No. 2.—Translation, with original, of Arzi of 3rd-class Magistrate of Tranquebar.

ENCLOSURES Nos. 3 and 4.—Translations of Arzis of 3rd-class Magistrate of Pattukottai.

*Proceedings of the Madras Government, Revenue Department,
29th November 1875.*

ENCLOSURE No. 5.—Grave Crime Report for 1874.

ENCLOSURES Nos. 6 and 7.—Copies of Proceedings of District Magistrate's Court.

Telegram from KRISTNA ROW, Tahsildar of Pattukottai, Tanjore, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated 18th September 1875.

ABSTRACT.—Reporting that the Collector has recommended his reduction, and requesting that the decision of the Board may be deferred till his explanation is received.

Petition No. 2,224 of 1875 from the Tahsildar.

In his letter recorded in the Government Order above quoted the Collector of Tanjore, in explaining the measures which he had deemed it necessary to take for the suppression of crime in the district, attributed its prevalence, in a great measure, to the inefficiency and venality of the Native Sub-Magistracy, and instanced certain cases in support of his view. He now proceeds to lay before the Board the cases of the Sub-Magistrates of Tanjore, Tranquebar, and Pattukottai, with a view to their being deprived of magisterial powers and employed for the future in some ministerial capacity.

2. The charge against Narayanasami Aiyar, 2nd-class Sub-Magistrate of Tanjore, is inordinate delay in the disposal of magisterial cases, indicating a want of powers, or at least utter apathy and indifference to the orders of his superiors and the state of crime. The particular instance brought to notice is that disposed of in Appeal No. 52 on the file of the District Magistrate, from which it appears that certain complaints of assault and a counter-complaint were pending in the Sub-Magistrate's Court for a hundred days, the parties being the tenants of a wealthy mirassidar. The Sub-Magistrate's explanation, which forms an enclosure to Mr. Thomas's present letter, is that the delay was chiefly caused by the parties themselves, and that there were at the same time other calendar cases and heavy sessions cases under investigation. Mr. Thomas also states that the delays on the part of the Sub-Magistrate in question in disposing of magisterial cases were frequently commented upon by his predecessor; that the Sub-Magistrate's records show a delay of 1,178 days in eleven cases; and that, not only are appeals from his decisions more frequent than from those of any other Magistrate, but in a large majority of cases his decisions are reversed.

3. It is clear that Narayanasami Aiyar has been exceedingly apathetic and dilatory, but there is no evidence of venality; and, as the Board are informed by their Acting Second Member that he has hitherto borne a character for honesty and painstaking, though undoubtedly slow, they are of opinion that there are not sufficient grounds to warrant his being deprived of magisterial powers, but that it is advisable to remove him to some lighter division, and the Collector will report how this can best be effected.

4. The second case brought to the notice of the Board is that of Annachi Aiyangar, Deputy Tahsildar and 3rd-class Magistrate of Tranquebar, whose conduct in connection with the investigation of, or rather failure to investigate, a complaint

of torture was severely animadverted on by the Sessions Judge, who, after receiving the Sub-Magistrate's explanation, recorded his opinion that "the Sub-Magistrate has shown himself to be, if honest, quite unfit for the efficient discharge of the duties of a Magistrate."

5. The facts of the case appear, from the extracts from the Proceedings of the Sessions Court quoted, to have been that a complaint of torture in the house of some wealthy Brahmins was preferred to the Police and two persons arrested and placed before the Sub-Magistrate, who, instead of proceeding at once to the scene of the crime, which was in the immediate neighbourhood of his court-house, omitted to take any steps against the prisoners, and contented himself with ordering the Police to inquire for him. On a further inquiry being held by the Head Assistant Magistrate, four persons were convicted of torture on committal, and one of the witnesses deposed that the Sub-Magistrate paid no attention to his representation that evidence against some of the guilty parties was being suppressed.

6. The Sub-Magistrate's explanation, which accompanies Mr. Thomas's letter, is that the offence appeared to be one of hurt, and that, as the case did not seem to be a grave one and the accused persons had been arrested and evidence was being collected, he did not see the necessity for an immediate inquiry on the spot, but that he subsequently proceeded to the place, and that there was no unnecessary delay in the disposal of the case.

7. In this case also there is no direct evidence of any corrupt motive in connection with the Sub-Magistrate's conduct, but the remarks of the Sessions Judge show that he was led to entertain doubts of his honesty, and both the Sessions Judge and divisional officer consider him unfit for his post. They are informed by their Acting Second Member that Annachi Iyengar has never been an efficient Magistrate, being both ignorant and careless, and they accordingly support the Collector's recommendation that he should be deprived of his magisterial powers and degraded to the post of clerk.

8. The third case is that of Kristna Row, Tahsildar of Pattukottai, the facts of which appear from the District Magistrate's Proceedings in Appeal No. 48 of 1874. A simple case of theft of a tree from a neglected avenue was pending before this Sub-Magistrate for more than eleven months, and, besides the delay, there were certain irregularities in the Sub-Magistrate's proceedings calling for explanation. Four men being charged with the same offence, two were brought before the Sub-Magistrate on warrants and two on summons, and all were admitted to bail, though charged with a nonbailable offence, after the very evidence had been given on which the conviction was subsequently based.

9. The Sub-Magistrate's explanation of the delay is that he was awaiting further report from the Police, and that it is not the practice to notice delay in the submission of Referred Charge Sheets; on the contrary, it has been admittedly the Sub-Magistrate's practice to defer passing orders on such important documents till the close of the year. As remarked by Mr. Thomas, "comment is superfluous," and the existence of such a practice shows that Kristna Row is quite unfit for the post he holds.

10. As regards the irregularities of procedure commented upon by the District Magistrate, no satisfactory explanation is afforded. The facts that warrants were issued in the case of the two wealthy men because the Sub-Magistrate thought

they were the principal offenders; that they were at once admitted to bail, though in the case of one no inquiry had been held, and there was nothing therefore to alter the impression on which the Magistrate originally acted; and that the poor men were eventually convicted on the very evidence which induced the Magistrate to issue a summons merely in the first instance, are very significant, and raise a strong presumption that the Magistrate in question was actuated by corrupt motives. There is nothing in the rambling explanation of the Sub-Magistrate to remove this impression, and the District Magistrate shows that in other cases the conduct of Kristna Row has been the subject of adverse comment. The Board see no necessity to give Kristna Row the opportunity of furnishing any further explanation as requested in his petition. On the evidence before them they support Mr. Thomas's recommendation that Kristna Row's magisterial powers should be withdrawn and that he should be degraded to the post of Taluq Sheristadar.

11. In bringing these cases to the notice of Government, the Board must remark, in support of their recommendations, that, although no direct evidence of corruption has been adduced, there is proof of such irregularities as raise a presumption that the officers concerned must have been actuated by improper motives, and, to place the most favorable construction on their conduct, they are proved to be unfit for the posts they now hold. Looking at the state of crime in the district, the Board consider that decided measures are called for, and that, unless Mr. Thomas is mistaken in his estimate of his subordinates and the state of affairs, which the Board have no reason to suppose to be the case, his hands must be strengthened to enable him to administer the district efficiently.

(Signed) C. A. GALTON,
Acting Sub-Secretary.

No. 326. ORDER THEREON, 29th November 1875, No. 1,709.

Miscellaneous.

THE Government concur in the view taken by the Board in these cases, and accept their recommendations.

2. Orders will be issued in the Judicial Department for the removal of the names of Annachi Aiyengar and Kristna Row from the list of Magistrates.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

To the Board of Revenue.
„ the Accountant-General.
„ the Judicial Department.
„ the Petition Department.

Exd. J. W. Fischer.

No. 4049

Rec. Board of Revenue
Dated 6 Oct

187.57

FOR ORDERS.

I would accept
the W.D. recommendation
and reduce Annals;
Amuzas & Kistka
Low; depriving them
of magistracy
L.H.

FOR ORDERS.

No. 2,792.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 6th October 1875.

Read again G.O., dated 28th May 1875, No. 838.

Read also the following papers:—

From H. S. THOMAS, Esq., Collector of Tanjore, to H. E. STOKES, Esq.,
Acting Secretary to the Board of Revenue, dated Vallam, 9th September
1875, No. 4,260.

I HAVE the honor to seek sanction for the degradation to a post of Revenue Inspector or Clerk, a post in which he can be comparatively harmless and cannot affect the administration of justice, of Narayanasami Aiyar, 2nd-class Sub-Magistrate of Tanjore Town.

2. His case is set forth in paragraphs 10 and 11 of my letter, No. 116, dated 13th March 1875, in Board's Proceedings, No. 970, dated 20th April 1875, from which, for the sake of placing the matter consecutively before the Board, I quote as follows:—

"10. In connection with the subject of inordinate delay in the conduct of magisterial inquiries, I will quote one more of my own proceedings on appeal, and will add, with reference thereto, that it is by such improper delays that corrupt Magistrates create for themselves the opportunity for working on the fears of the parties in suspense, and thereby wringing out of them the maximum attainable with safety to themselves. Whenever a Magistrate can give no proper explanation for inordinate delays, they become suspicious. In the case that I am about to quote they are habitual, and continued all the same in the face of the warnings of my predecessor. I have only fined the man because I feared to do more lest I should not be supported. But now that I am laying the whole matter before the Board, and I am consequently in hopes that they will feel themselves in a position to take a wider view of the necessities of the case with reference to the crime of the district, I will plainly state my own opinion and leave it at their disposal. Even if we put upon his delays the most charitable construction that can possibly be put,—that of dilatoriness, not wickedness nor venality,—even then we are still driven to the conclusion that a Magistrate who can be thus unconcerned and dilatory while the district is in a blaze with crime and the suffering and injury therefrom accruing is not a fit man to help me to battle with that crime. At the very least I consider that he is not equal to the exigencies of his post and times. Are the European Magistracy alone to work themselves to death, and the Native Magistracy to idle with impunity? He is a Sub-Magistrate on Rupees 100. I would ask that he be relegated to non-magisterial duties.

"11. It need hardly be stated that I use the words 'a blaze with crime' metaphorically, but it is as well it should be stated that we have had the narrowest escape of my having to use it literally; for a gang of old dacoits, who had just returned from transportation to their former avocations, when re-apprehended, told the Superintendent of Police that he had been only just in time, for they had meant, out of revenge, intimidation, and bravado, to set the whole district on fire simultaneously, and that they were only waiting for the return of one leader to concert arrangements when he had anticipated them. He had noted

their being time-expired, known they would return to their former means of living, and had recaptured them in their very first offence. The proceedings that concern the Sub-Magistrate referred to are then as follows:—

“Read reply” of Narayanasami Aiyar, Sub-Magistrate of Tanjore Town, dated 17th November 1874, to the District Magistrate’s Proceedings in Appeal

* Translation enclosed.
Proceedings, dated 15th January 1875, No. 4. No. 52 of 1874.

“The explanation is rambling and altogether unsatisfactory. The Sub-Magistrate, instead of adjudicating on the case before him on its merits, made himself subservient to the wishes of the complainant to try the counter-complaints first. He made inordinate delay of 100 days for which there is no excuse and which the records of his office show to be common, there being 1,178 days’ delay in 11 cases.

“His delays in magisterial cases have been more than once strongly remarked on by the late District Magistrate, by whom he has been warned in vain. It only remains to punish. Nos. 27, 78, 79, 82, 86, 88, 119, 139, 140, 141 of 1874 and 361 of 1873.

Finally, he has decided a case of a riot amongst wealthy mirassidars’ tenants directly against the evidence and the law, for it was a case which he had no power to decide at all. If there were other posts to which it would be convenient to degrade him at this juncture, he would be degraded; as it is, he is fined Rupees 5.”

3. It will be seen therefrom that my opinion is that there is scarcely room for any other conclusion but that he is corrupt, using his magisterial power, not for justice, but for his enrichment by making inordinate delays for the purpose of wringing money out of the parties coming within his power; that in any case he is utterly indifferent to the orders of his superiors and past all hope of improvement thereby; and, lastly, that the most charitable view possible is that a man who can be thus indifferent and dilatory and unrousable in the midst of so much glaring crime is not a fit man to be longer entrusted with the active suppression of such crime.

4. Furthermore there are many more appeals from his decisions than from those of any other Magistrate, and of these appeals a large majority have to be reversed.

5. I would further solicit that Annachi Aiyangar, Deputy Tahsildar and 3rd-class Magistrate of Tranquebar on Rupees 70 a-month, may be degraded to a clerkship.

6. The primary reasons for his degradation will be found in my letter above quoted.

“Paragraph 4.—* * * ‘In this case also there probably has been a grave miscarriage of justice. A poor feeble

Proceedings of the Session Court of North Tanjore, dated 21st September 1874, No. 610—(continued).

Regular Case No. 9 of 1874 on the file of the Sub-Magistrate of Tranquebar.

old woman was suspected of theft and barbarously tortured in the house of some wealthy Brahmins at Tranquebar.

She complained at once to the station-

house against two persons whom she named, and the Sub-Magistrate was informed

of the occurrence and arrest of the accused persons; but, instead of going forthwith to the scene of the crime, which was about a mile from his office, and systematically inquiring into the case, he contented himself with illegally remanding the accused persons to custody for five days, and for several days did nothing.

“The Session Judge desires to be informed under what legal enactment and for what reasons this remand order was made. Had the Sub-Magistrate gone at once to the Brahmins’ house and honestly bestirred himself in the matter, there can be but little doubt that several influential persons would have been found to be implicated in the crime. Even now it possibly may not be too late to discover the worst offenders, and the Session Judge would suggest to the District Magistrate the expediency of inquiring further into this atrocious case through a European Magistrate.”

* Translation enclosed with arzi in original (to be returned).

“On the same Sub-Magistrate after receiving his explanation.*

“Here again there is no explanation of the omission on the part of the Sub-Magistrate to go to the spot, which is close to his court-house, and inquire into the circumstances of an atrocious crime. North Tanjore Session Court Proceedings, dated 14th December 1874, No. 895.

Instead of so doing, he illegally omitted for many days to take any steps against the prisoners actually produced before him, and contented himself with ordering the Police to inquire for him. In the opinion of the Court the Sub-Magistrate has shown himself to be, if honest, quite unfit for the efficient discharge of the duties of a Magistrate.”

“5. The Head Assistant Magistrate, the Assistant Superintendent of Police, and I have been very carefully into this case, and in this concluding remark of the judge I quite concur. There is, in my opinion, not a word to be said for the Sub-Magistrate: either he was wilfully shielding the wicked or, in the face of the most pitiful appeal, he was callously indifferent to duty. In either case he is not fit to sustain the office of a Magistrate, and I could wish might be relieved of all magisterial authority and relegated to the position of a clerk. Still my experience of the general leniency to offending officials is such that, unassured of support, I have not dared to take this step. I think it will be seen, before this letter is ended, that, if crime is to be put down, leniency to the Sub-Magistracy will for the present be misplaced in Tanjore. I ask, therefore, to be permitted to degrade this man, now on Rupees 70, to a position in which he can do less harm.”

7. Further inquiry by the Head Assistant Magistrate showed that the Judge’s fears were only too well founded, for on committal four persons were sentenced for grievous torture, and the Head Assistant, in his committal register, remarks of this Magistrate:—

No. 3 of 1875.

“20. The 14th witness deposed that he told the Sub-Magistrate that his mother was keeping back evidence against some of the guilty parties, but he paid no attention to him. If this is so, and I see no reason to doubt it for the man can have no object in making a false statement, it places the conduct of the Sub-

Magistrate in a worse light than ever. I have long considered Annachi Aiyangar unfit for his post, and this case strengthens my opinion, and I hope that he will be removed from the bench or, at any rate, from my division."

8. I would also seek orders about Kristna Row, Tahsildar of Pattukottai on Rupees 175 a-month. My desire is that he may be no longer entrusted with magisterial authority, and I would, therefore, degrade him at least to a Taluq Sheristadarship.

9. His case has already been touched on as follows:—

"9. REVIEWS OF CRIMINAL CALENDARS.—Lastly, I will mention my own proceedings, and I will quote one of them *in extenso*, merely adding here that this case also is being prepared for submission to the Board of Revenue, and I will ask that this Sub-Magistrate too may be deprived of magisterial authority and placed in a position, which I shall indicate, in which he can less affect the crime of the country.

Proceedings of District Magistrate in Appeal
No. 48 of 1874.

"Judgment in Appeal No. 48 of 1874 against the conviction and sentence by the 3rd-class Magistrate of Pattucottai in Calendar Case No. 153 of 1874.

"Date of offence, 23rd September 1873.

Do. complaint, 24th do.

Do. decision, 26th August 1874.

Do. appeal, 29th September 1874.

Grounds of appeal.

"This is a case reflecting great disgrace on all the Government officials concerned, to wit the Taluq Magistrate, the Police, and the Village Accountant, but most especially on the Taluq Magistrate.

"More than eleven months, or in round terms nearly a-year, has been occupied in the trial of a case of theft involving only one rupee worth of property and ending in one day's simple imprisonment and Rupees 2 fine. Such grievous delay cannot but bring the law into contempt.

"There has been a delay of five months by the Police, for which they will be called on by the Taluq Magistrate to give an exact account to be forwarded to the District Magistrate. But, whatever may be their delay, the Taluq Magistrate is mainly to blame for it for on him lay the responsibility of seeing that the Police are in his hands an efficient instrument of justice as expressed in the Preamble Act XXIV. of 1859. With this explanation the Taluq Magistrate will submit his own explanation in detail for all the delay made and permitted by him from the day on which he first received the Police Occurrence Report.

"He will explain why that Occurrence Report is not among the records forwarded to this Court.

"He will also call upon the Curnam for an explanation of his three months' delay and submit his own explanation for suffering it.

"The Taluq Magistrate will also render his explanation of what appear to be illegalities in this case. The District Magistrate wishes to know why when four men were charged with the same offence two were brought before him on

warrants and two on summons; why in a nonbailable offence all the prisoners were admitted to bail at a time when witnesses had given the very evidence on which the appellants have been convicted.

"As regards the appellants the District Magistrate can place no reliance on a trial held in such a highly irregular manner, and remarks that, even if they were guilty, the long time during which they have been held under trial is a grievous burden, tenfold worse than the fitting punishment of the petty offence with which they have been charged, to wit the cutting of a tree from a neglected avenue. The District Magistrate, therefore, orders their release or the refund of the fine imposed. "The Taluq Magistrate's calendar does not show whether or not the fine was paid."

*Translation.

10. The explanation* given by the Tahsildar is enclosed. It hardly improves his position.

11. With reference to delay, his defence is that such delays are the rule with him as it is the custom not to notice delay on the part of the Police till complained of by the parties. Such reliance on custom leaves room for the improper inference that the custom was one sanctioned by my predecessor, whereas in Appeal No. 40 of 1874 from this very Magistrate my predecessor called his "serious attention" to a delay of three months for which is explanation was declared "unsatisfactory." In the face of such an order the plea of authorized custom can hardly be advanced. On the contrary it is a mischievous custom of evil Magistrates.

12. The referred charge sheets of the Police are obviously papers on which the Magistrate's orders should be passed with as little delay as possible, for, if the

Translation of an arzi enclosed.

parties therein charged are to be prosecuted, they should be prosecuted at once, if discharged they should be so at once, and not have the fears of a criminal prosecution indefinitely suspended over them even though on bail. This Magistrate's practice, he says, is to dispose of such papers at the close of the year. On such a confessed magisterial practice comment is superfluous.

13. Then, as regards the case itself and the Magistrates' illegalities. The case was one (theft—Section 379, Indian Penal Code,) in which a warrant would ordinarily issue and which is not bailable (Section 389, Criminal Procedure Code). But he issued warrants for two and summons for two others of the four accused. Here it is noteworthy that the men for whom the warrants were issued were—one a mirassidar nearly related to a zemindar, and one a merchant—men wealthy enough to pay for the maintenance of their respectability, and accordingly we find that it was maintained in the teeth of the law. Such men brought up under a warrant must pay at once anything demanded of them or be immediately lodged in the Police lock-up under remand warrant. They were never so locked up. The two others for whom summons were issued were farm-laborers, poor men who would not pay for respectability. There was no use in holding a warrant over their heads. Hence the wise discrimination. The poor men, however, were the men eventually convicted.

14. The case having been taken up as an unbailable one (theft) and warrants having been issued on a presumption of guilt, it was not competent to the Sub-

Magistrate to admit to bail (Section 389, Criminal Procedure Code,) unless there was no presumption of guilt or a weakening of that presumption. But in this case one of the two wealthier men, the one first brought up, was admitted to bail before any inquiry at all had been made after the stage at which a warrant had been made out for him, so that nothing could possibly have transpired, except his wealth, to weaken the presumption of guilt on which a warrant was originally made out, and the Sub-Magistrate adds, in his explanation, that he originally sent a warrant for these two because he thought them the principal offenders, the evidence against the two whom he at that time thought the least concerned being the very same which eventually sufficed for their conviction by him. It was further illegal that they also should have been admitted to bail on the very evidence on which they were convicted.

15. Thus a petty case of cutting a tree in a deserted avenue was treated as a grave-enough matter to justify a warrant against two men of position; they were brought up under it and one suddenly admitted to bail in the very face of law, and this petty matter, being made to drag its weary length over nearly a-year, ended in a farcical punishment of one day's simple imprisonment and Rupees 2 fine to the poorer men.

16. It is, in my view, a very glaring instance of abuse of magisterial powers, and a good illustration of how those powers are used for the enrichment of the Magistrate, not for the benefit of the public in the maintenance of justice.

17. This man has been a Magistrate for twelve years, and therefore could not be ignorant that he was acting in direct contrariety to one of the most daily-used provisions of the law.

18. To show it is not the first time he has been found fault with, I forward
Nos. 139 and 163 of 1874. two proceedings passed by my predecessor remarking on previous irregularities.

19. Again, I find I have written of this same man in the Grave Crime Report for 1874: "Another commences a case of robbery by declining to grant a remand warrant at all on the ground that the case is a maliciously concocted one; without, however, ascertaining if it really be so, leaves the matter in the hands of the Police, by whom it was first brought up; and, giving repeated remands, stays inquiry with a view to get the Superintendent of Police himself on the spot, alleging that, if he comes to any conclusion of his own, he is likely to be blamed. Such is the helplessness of one set in authority for the dispensation of justice. What protection can the injured expect at such hands?"

20. In this connection I take occasion to enclose a copy of the whole Grave Crime Report to satisfy the Board that it is not before it is necessary that I seek a weeding out of a few of the worst of the Magistrates and a few examples which will serve as a warning to others.

ENCLOSURE No. 1.—Translation of Arzi of 2nd-class Magistrate of Tanjore Town.

ENCLOSURE No. 2.—Translation, with original, of Arzi of 3rd-class Magistrate of Tranquebar.

ENCLOSURES Nos. 3 and 4.—Translations of Arzis of 3rd-class Magistrate of Pattukottai.

ENCLOSURE No. 5.—Grave Crime Report for 1874.

ENCLOSURES Nos. 6 and 7.—Copies of Proceedings of District Magistrate's Court.

Telegram from KRISTNA ROW, Tahsildar of Pattukottai, Tanjore, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated 18th September 1875.

ABSTRACT.—Reporting that the Collector has recommended his reduction, and requesting that the decision of the Board may be deferred till his explanation is received.

Petition No. 2,224 of 1875 from the Tahsildar.

In his letter recorded in the Government Order above quoted the Collector of Tanjore, in explaining the measures which he had deemed it necessary to take for the suppression of crime in the district, attributed its prevalence, in a great measure, to the inefficiency and venality of the Native Sub-Magistracy, and instanced certain cases in support of his view. He now proceeds to lay before the Board the cases of the Sub-Magistrates of Tanjore, Tranquebar, and Pattukottai with a view to their being deprived of magisterial powers and employed for the future in some ministerial capacity.

2. The charge against Narayanasami Aiyar, 2nd-class Sub-Magistrate of Tanjore Town, is inordinate delay in the disposal of magisterial cases, indicating a corrupt use of magisterial powers, or at least utter apathy and indifference to the orders of his superiors and the state of crime. The particular instance brought to notice is that disposed of in Appeal No. 52 on the file of the District Magistrate, from which it appears that certain complaints of assault and a counter-complaint were pending in the Sub-Magistrate's Court for a hundred days, the parties being the tenants of a wealthy mirassidar. The Sub-Magistrate's explanation, which forms an enclosure to Mr. Thomas' present letter, is that the delay was chiefly caused by the parties themselves, and that there were at the same time other calendar cases and heavy sessions cases under investigation. Mr. Thomas also states that the delays on the part of the Sub-Magistrate in question in disposing of magisterial cases were frequently commented upon by his predecessor; that the Sub-Magistrate's records show a delay of 1,178 days in eleven cases; and that, not only are appeals from his decisions more frequent than from those of any other Magistrate, but in a large majority of cases his decisions are reversed.

3. It is clear that Narayanasami Aiyar has been exceedingly apathetic and dilatory, but there is no evidence of venality; and, as the Board are informed by their Acting Second Member that he has hitherto borne a character for honesty and painstaking, though undoubtedly slow, they are of opinion that there are not sufficient grounds to warrant his being deprived of magisterial powers, but that it is advisable to remove him to some lighter division, and the Collector will report how this can best be effected.

4. The second case brought to the notice of the Board is that of Annachi Aiyangar, Deputy Tahsildar and 3rd-class Magistrate of Tranquebar, whose conduct in connection with the investigation of, or rather failure to investigate, a complaint of torture was severely animadverted on by the Sessions Judge, who, after receiv-

ing the Sub-Magistrate's explanation, recorded his opinion that "the Sub-Magistrate has shown himself to be, if honest, quite unfit for the efficient discharge of the duties of a Magistrate."

5. The facts of the case appear, from the extracts from the Proceedings of the Sessions Court quoted, to have been that a complaint of torture in the house of some wealthy Brahmins was preferred to the Police and two persons arrested and placed before the Sub-Magistrate, who, instead of proceeding at once to the scene of the crime, which was in the immediate neighbourhood of his court-house, omitted to take any steps against the prisoners, and contented himself with ordering the Police to inquire for him. On a further inquiry being held by the Head Assistant Magistrate, four persons were convicted of torture on committal, and one of the witnesses deposed that the Sub-Magistrate paid no attention to his representation that evidence against some of the guilty parties was being suppressed.

6. The Sub-Magistrate's explanation, which accompanies Mr. Thomas' letter, is that the offence appeared to be one of hurt, and that, as the case did not seem to be a grave one and the accused persons had been arrested and evidence was being collected, he did not see the necessity for an immediate inquiry on the spot, but that he subsequently proceeded to the place, and that there was no unnecessary delay in the disposal of the case.

7. In this case also there is no direct evidence of any corrupt motive in connection with the Sub-Magistrate's conduct, but the remarks of the Sessions Judge show that he was led to entertain doubts of his honesty, and both the Sessions Judge and divisional officer consider him unfit for his post. The Board are informed by their Acting Second Member that Annachi Iyengar has never been an efficient Magistrate, being both ignorant and careless, and they accordingly support the Collector's recommendation that he should be deprived of his magisterial powers and degraded to the post of clerk.

8. The third case is that of Kristna Row, Tahsildar of Pattukottai, the facts of which appear from the District Magistrate's Proceedings in Appeal No. 48 of 1874. A simple case of theft of a tree from a neglected avenue was pending before this Sub-Magistrate for more than eleven months, and, besides the delay, there were certain irregularities in the Sub-Magistrate's proceedings calling for explanation. Four men being charged with the same offence, two were brought before the Sub-Magistrate on warrants and two on summons, and all were admitted to bail, though charged with a non-bailable offence, after the very evidence had been given on which the conviction was subsequently based.

9. The Sub-Magistrate's explanation of the delay is that he was awaiting further report from the Police, and that it is not the practice to notice delay in the submission of Referred Charge Sheets; on the contrary it has been admittedly the Sub-Magistrate's practice to defer passing orders on such important documents till the close of the year. As remarked by Mr. Thomas, "comment is superfluous," and the existence of such a practice shows that Kristna Row is quite unfit for the post he holds.

10. As regards the irregularities of procedure commented upon by the District Magistrate, no satisfactory explanation is afforded. The facts that warrants were issued in the case of the two wealthy men because the Sub-Magistrate thought

they were the principal offenders; that they were at once admitted to bail, though in the case of one no inquiry had been held, and there was nothing therefore to alter the impression on which the Magistrate originally acted; and that the poor men were eventually convicted on the very evidence which induced the Magistrate to issue a summons merely in the first instance, are very significant, and raise a strong presumption that the Magistrate in question was actuated by corrupt motives. There is nothing in the rambling explanation of the Sub-Magistrate to remove this impression, and the District Magistrate shows that in other cases the conduct of Kristna Row has been the subject of adverse comment. The Board see no necessity to give Kristna Row the opportunity of furnishing any further explanation as requested in his petition. On the evidence before them they support Mr. Thomas' recommendation that Kristna Row's magisterial powers should be withdrawn and that he should be degraded to the post of Taluq Sheristadar.

11. In bringing these cases to the notice of Government, the Board must remark, in support of their recommendations, that, although no direct evidence of corruption has been adduced, there is proof of such irregularities as raise a presumption that the officers concerned must have been actuated by improper motives, and, to place the most favorable construction on their conduct, they are proved to be unfit for the posts they now hold. Looking at the state of crime in the district, the Board consider that decided measures are called for, and that, unless Mr. Thomas is mistaken in his estimate of his subordinates and the state of affairs, which the Board have no reason to suppose to be the case, his hands must be strengthened so as to enable him to administer the district efficiently.

(True Copies and Extract.)

W. C. M.
Acting Sub-Secretary.

To the Acting Secretary to Government, Revenue Department,
with seven enclosure and a petition to be returned.
the Collector of Tanjore.

Exd. J. W. Fischer.

10 20 May 1875 No 336 - 37

No 4049

Revenue 1875. Report

Board of Revenue,
MADRAS.

PROCEEDINGS, 6TH OCTOBER 1875, No. 2,792.

24/10 Oct 1875

Encl. 8
O/S

Proclamation

Received

19 Oct 1875

OCTOBER.
No. 2,792.

Sub-Magistrate—of Tanjore and Pudukottai in Tanjore District.—Supporting Collector's recommendation that these officers be deprived of magisterial powers and degraded to certain inferior posts, and considering it advisable to remove the Sub-Magistrate of Tanjore Town to a higher division.

Orders

On 19.10.1875

215 May 1875
215 May 1875
215 May 1875

14 To the Board of Revenue
5 To the Secretary General
5 To the Judicial Dept
1 To the Police Dept

No 1709

The following are the names of the officers who are to be removed from the office of Sub-Magistrate and degraded to the rank of Assistant Magistrate.

2. Also Mr. C. S. S. S. S.

for the removal of the names of the officers who are to be removed from the office of Sub-Magistrate and degraded to the rank of Assistant Magistrate.

29.10.1875

29.10.1875

27-10-11A

MADRAS RECORD OFFICE.
Government Records.

Revenue Department.

G. O. (Printed).

Dated 29-11-1875.

No. 1709