

## CHAPTER LXXI.

### **Administrative changes and improvements during Cubbon's time—(continued)—Retirement of Cubbon.**

#### **Judicial Administration.**

When a single Commissioner and four European Superintendents were nominated for the administration of the country, some changes in the judiciary became necessary. In October 1834 a set of rules was issued and these rules formed the basis of the system as it existed in Cubbon's time with the modifications issued from time to time in the interval. The courts which generally combined both civil and criminal jurisdictions were—i. the taluk or Amildars' courts numbering 85; ii. the Mysore and Bangalore Town Munsiffs' courts 2; iii. the principal Sudder Munsiffs' courts 8; iv. the Huzur Adalat, a court attached to the Commissioner's office with three Indian judges; v. the court of the Commissioner. A written decision was ordered to be given in all cases whether a record of the proceedings had been kept or not.

Of the courts of original jurisdiction and appeal there were two classes—i. the principal Sudder Munsiffs' courts and ii. the courts of the European Superintendents. All appeals from the decisions of the Sudder Munsiffs of whom there were two in each Division lay to the Superintendents of Divisions or to the Huzur Adalat at the option of the suitor. The Superintendents exercised authority over the Munsiffs and other judicial authorities in their respective divisions. The Huzur Adalat and the court of the Commissioner were purely courts of appeal. The Huzur Adalat was vested with power to take cognisance of and to pass a decision upon all appeals from the subordinate native courts. This court was not assisted by a Panchayet unless specially ordered by the Commissioner to convene one. But the judges could be assembled by the Commissioner and employed by him as his assessors whenever he deemed such a course advisable. This court had no original jurisdiction except when suits were specially referred to it for investigation by the Commissioner. The Commissioner received appeals from the decisions of the Superintendents and of the Adalat either in appeal

direct or by simple petition through the Feryad or Complaint Department of his office. No original suits were filed in the Commissioner's court. But it was open to him to take notice in any way he deemed fit of any representations made to him. Where Government or *Mirasi* lands were concerned, the subordinate revenue officers, the Superintendents of Divisions and the Commissioner were alone competent to take cognisance of all disputes or representations relating to them. If the investigation happened to be intricate or connected with landed property, it was optional to the authorities concerned to convene a Panchayet. If the losing party in a suit chose to file an appeal in the next higher court, he was required within 30 days from the date on which the decree of the lower court was handed to him to forward to the judge of that court an appeal petition for transmission to the higher court and the judge was to endorse on it that all costs, fees and fines had been duly paid and that substantial and reliable security for the amount decreed had also been given, special instructions from the Commissioner alone warranting any deviation from this rule. Except in cases of corruption or gross partiality, an appeal decision in cases of personal property was deemed final. In cases of landed property notwithstanding any concurrent opinion on the part of two courts, a special or extra special appeal the former to the Superintendent or the Adalat and the latter to the Commissioner was allowed.

When the plaintiff or the defendant was an outsider, he was permitted to place a list of his own country people before the court, out of which the judge chose by lot two additional persons to take part in the enquiry. Professional pleaders were not recognised by the courts and were otherwise discouraged. In cases of necessity however, the plaintiff or the defendant was at liberty to appoint some other person to conduct his suit, preferably a relative or a friend. The employment of persons who gained a livelihood solely by instituting and carrying on suits for others in the courts was discouraged, their services being deemed both prejudicial and superfluous under a system of simple procedure. The declaration on oath introduced by Briggs was abolished in March 1840 and a circular order was issued by the Commissioner substituting in lieu

of it the solemn affirmation authorised by the Government of India Act V of 1840.

Until 1834 the institution fee was enforced on all suits and as a natural result they were not very numerous. For only those who were well able to pay or who by the strength of their case were able to raise the money applied to the courts. The levy of fees however was looked upon by the authorities as a tax on justice and the same was abolished in 1834. This abolition led to a considerable multiplication of suits, some of them being false or vexatious and as it was found that the existing number of courts could not keep pace with the growing number of suits, the fees were revived in 1839 in all cases which were deemed false or vexatious. In March 1841 a fee on all suits on a graduated scale was ordered to be levied at their termination equal in amount to what it was before its abolition in 1834. Where however the parties applied to the court more with the view of ascertaining their respective rights than from a desire to litigate, it was open to the judge to remit the fee. The only articles of property exempt from distraint were the tools or implements of the individual's trade or calling, his wearing apparel, his drinking vessels and if a cultivator grain for his subsistence until the next harvest. Bonds, bills of sale, agreements, transfers and other documents were required to be executed on stamped papers of fixed values.

#### **Criminal Justice.**

The courts for the administration of criminal justice were identical with those of civil justice. The Amildar was the head of the police in his taluk and to assist him in his revenue and magisterial duties he had under him Shekdars, Killedar, Hoblidar, Duffedars and Kandachar peons. Of these, Killedars and Hoblidars were exclusively police officers. In cases of personal wrong or for petty offences the Amildar had power to confine an individual in stocks for not more than 12 hours or to confine a person for more than 14 days. The Shekdars and Hoblidars had authority to confine for not more than 24 hours any persons suspected of heinous crimes. The principal Sudder Munsiffs had power to award imprisonment extending up to two years when cases were referred to them

by the Superintendents. The Superintendent had power to sentence to seven years imprisonment with or without hard labour in irons. He reviewed all cases enquired into by the Amildars or decided by Munsiffs and commuted or confirmed the decisions of the latter. In cases of murder, gang or torch robberies, or other offences involving capital punishment or a term of imprisonment in excess of his powers, the Superintendent referred the matter for the decision of the Commissioner. The Commissioner had power to pass sentence of death, transportation for life, or imprisonment with or without hard labour on parties convicted of murder or gang or torch robberies when the latter crimes were attended with torture or other aggravating circumstances, or when the frequent occurrence of such crimes rendered an example advisable. Villagers were authorised and encouraged to use arms of every description in defending themselves or their property whenever their village was attacked by either gang or torch robbers and valuable bangles were bestowed by the Government on those who distinguished themselves on such occasions. All sentences of death were required to be submitted to the Supreme Government for confirmation. In criminal matters the Adalat Court had no jurisdiction, unless when cases were referred to it for investigation by the Commissioner.

In cases of murder or when a body was found under suspicious circumstances the Peshkar or Killedar if they happened to be in the neighbourhood, or if they were not, the Shekdar at once assembled a Panchayet. On a careful examination being made of the body, if the Panchayet gave it as their opinion that it was only a case of accidental or sudden death unattended with suspicious circumstances, a report was accordingly made to the Amildar and the body was buried in the presence of the Peshkar or Killedar, if both or either of them happened to be present. But no subordinate police officer could order such interment. Should suspicion attach to the case, the Panchayet examined the body and held a detailed and careful investigation which, it is said, hardly ever failed in eliciting the true facts of the case. All suspected parties were, if the circumstances warranted it, sent in custody to the Amildar's cutcherry together with the necessary witnesses. The Amildar with the assistance of an other Panchayet made a second

full but concise investigation and then forwarded the whole of the proceedings and the prisoners, together with the opinions of the Panchayet and of himself to the Superintendent for orders. On the receipt of a serious case from the Amildar, the Superintendent either commenced the investigation of it himself or referred it to the Munsiff. In either case a Panchayet was assembled, when the original proceedings together with the opinions of the Amildar and the two taluk Panchayets were brought under review. Any further evidence considered requisite was called for and then the Panchayet drew up their mahazar. Upon a review of the whole, the Superintendent passed his sentence in the matter or referred the matter to the Commissioner for his decision. In case of decisions by the Munsiff, if the Superintendent wished to alter or commute the sentence, he was required to re-investigate the case *de novo*; or if he preferred it, he could refer the matter back to the Munsiff for reconsideration. The Commissioner on a criminal case being referred for his decision, after a perusal of the proceedings either passed sentence himself or in minor cases directed the Superintendent to do so. Panchayets for criminal investigations were summoned in the same manner as in civil investigations and the prisoner had the same liberty to challenge as a plaintiff or a defendant, with one difference however that no criminal investigation was permitted to be carried on without a Panchayet, while in civil cases it was optional with the judge of the court to convene one or not.

During Cubbon's time the plan of employing Panchayets was carried out on a larger scale than before and justified all that was anticipated from it. The European Superintendents felt that the Panchayet system was very helpful to them and with the finding of the Panchayet on their side it was said that they were freed from doubt and difficulty and passed the sentence with a full confidence in its justice.

The surrender of fugitive criminals was reciprocal. But they were not delivered up without a warrant either on the Mysore or on the British side of the frontier unless upon a hue and cry and even then the sanction of the taluk authorities in the jurisdiction in which the man was taken was quite requisite to justify his detention

and the issue of a warrant for the apprehension of an individual beyond the frontier was invariably reported to the magistrate within the limits of whose jurisdiction the man was supposed to be.

### **Military.**

The Silledar horses which had been neglected became a little improved in Cubbon's time and a stud-farm was established for improving the breed of horses at Kunigal. The Silledars mustered 2784 men of all ranks with 2744 horses and were formed into seven regiments. The Barr or the infantry numbered 2269. No attempt was made to teach either of these bodies anything beyond the most elementary principles of drill. They were however of immense aid to the police and relieved them from the duties of guarding jails and treasuries.

In 1837 when Canara was in rebellion, the Government of Madras depended almost wholly on the resources of Mysore for its campaign against the rebels. In 1857 the Government of India directed that a body of 2000 Silledars should at once proceed to Hindusthan. This order was subsequently countermanded but a similar number were employed in the districts to the northward of Mysore as far as Shorepur and took part in the minor affairs which arose during 1857-58 in that part of India. Medals for service in the mutiny were awarded to 378 men of the Silledar force.

Cubbon was 49 years old when he was appointed sole Commissioner of Mysore and he held the reins of Government for 27 years. He was attacked in 1861 with serious illness which compelled him to resign his appointment. Cubbon made known the resignation of his office to the Maharaja a few days before his departure from India and the news was received by His Highness with sincere regret. "Although I was in some measure prepared," wrote His Highness, "to receive this communication, yet when it came the sensation it produced in me was inexpressibly distressing and painful—the more so as it conveyed the intimation that your departure from the country was to be without a personal interview with me and without the last interchange of a friendly farewell." His Highness further added:—"The zeal and ability you have dis-

played in your administration, the great improvements you have introduced without changing the native system of administration, the continued prosperity of the country and the happiness of the people have been the theme of admiration and praise in everybody's mouth. In fact, your administration of it has been so perfectly consistent with the wishes of the sovereign and his people that I have specially noticed it in my letter to Lord Canning, dated 23rd ultimo, and I shall only add that you have earned for yourself a world-wide fame and have enrolled your name with those of the Duke of Wellington and other great statesmen who by their generous rule and wise policy have established for themselves a name and reputation in this country which can never be obliterated." Cubbon died at Suez on his way to England in April 1861 at the advanced age of 76, having never been out of India from the time he landed in 1801. Cubbon's remains were carried to the Isle of Man by Dr. Campbell, surgeon to the Maharaja, who had accompanied him on the voyage and the body was laid to rest in the family vault at Maughold in a public funeral in which the whole island took part.

Before we close the period of Cubbon, we may anticipate a few years and refer to an event which took place in the year 1866. At a public meeting held at Bangalore on the 16th August 1862, it was resolved that an equestrian statue by one of the best sculptors of the age in front of the new offices of Government should be erected. This statue was executed by Seigneur Marochetti. The statue was placed facing the west in deference to the wishes of the sculptor in order that the light of the setting sun might fall upon it and show it to the best advantage. The statue which was cast in the sculptor's studio during the summer of 1864 was shipped from England in October of the same year but owing to repairs being necessary to the ship which was carrying it, it arrived in Madras more than a year after it was shipped. In March 1866 the statue was unveiled by Lewin Bowring the successor of Cubbon and at the time Bowring said:—"The statue of Sir Mark Cubbon will remain in Bangalore as long this station shall last as an emblem of the respect and esteem in which he was held by all classes. But should a more enduring memorial be needed, it will be found in the

grateful recollection of the descendants of the province whose interests he successfully guarded during more than a quarter of a century." Krishnaraja Wodeyar contributed Rs. 10,000 towards the expenses of this statue.