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MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1094 Press ~~Mis.~~

68-69.

Dated 10—8—1968

Not to be folded or roughly handled

1094

Fort St. George, Judicial Consultation, 10th August 1858.

No. 68. Read the following letter from G. A. BALLARD, Esq., Special Commissioner, North Canara; to T. PYCROFT, Esq., Chief Secretary to Government, dated Camp Jugglebett, 13th July 1858, No. 42.

SIR,

I have the honor to inform you that towards the end of May last, the 8 prisoners named marginally,* and in the proceedings enclosed were taken by the Portuguese as connected with the Sawanth's Bund, and made over to Captain Schneider. That gentleman, almost immediately after, left for Dharwar. The prisoners remained in Captain Way's charge, and confessed more or less intimate connection with the Bund; but it seems no further regular evidence appeared against them. On my meeting Captain Way at Tullawarree in June, I requested him to send the prisoners to me, as some of their names had been mentioned in statements, connected with the Bund disturbances, taken before my Court. Other work at Tinay and elsewhere, and delay in getting the witnesses together, has prevented my settling the case sooner, but I completed the examination yesterday.

* 1 Ladoba.
2 Lingo.
3 Muloo.
4 Vittoo.
5 Rama.
6 Bhikko.
7 Bapu.
8 Puno.

2. The cases of the 3rd, 4th, 5th and 7th prisoners call for no particular remark. They have been sentenced as their crimes deserved, and their sentences will be carried out in due course. I now request the instructions of Government regarding the disposal of the 1st, 2nd, 6th and 8th prisoners.

3. It will be seen by the remarks in the proceedings, and Extracts from the depositions taken in this case, and herewith forwarded, that the 1st prisoner was a Government Colcar or peon in Beedi talook, Belgaum; that he appears to have been an active member of the Sawanth's Bund both on British and Portuguese ground from the 6th February to the 8th May; that he was one of a rebellious gang who looted a house in this talook, and took one of its inmates prisoner, the said individual being detained with the Bund for about 2 months, and that he was one of the gang who came to this vicinity; and who in their flight fired on the troops that attacked and dispersed them on the 8th May last. Myapatty Row leader of that party, killed in the dour, and Yesu, taken in it, and afterwards hanged, were Beedi peons. Several peons from the Coeshy Chowky in this district, amongst them, the notorious Bustian, also joined the Bund. I have passed sentence of death on this prisoner, but I believe it is the wish of Government that capital sentences shall not be executed without their sanction, unless necessity exist, and I have the honor to request the instructions of Government on the subject.

4. I consider that the 2nd and 8th prisoners most fully deserve sentences of transportation for life, and imprisonment for eight (8) years with hard labor, respectively. I am only doubtful whether I am qualified, under my Commission, to pass sentence on the prisoners as they are not British subjects. They were made over by the Portuguese authorities however to be dealt with by British authorities; their crimes against the British Government are clearly established, and the circumstances of the times urgently demand that examples should be made in their, and similar cases. I beg therefore to be informed whether I am empowered to pass sentence in such cases, and if not, how I am to deal with them.

5. The 6th prisoner is by his own confession a thief and a vagabond. He comes from the Belgaum district, but Captain Way informed me that no evidence was procurable there against him. He is proved to have been with the Bund in the Portuguese territories, and by the statements of his fellow prisoners was with the gang that came to Combely in this talook on the 8th May, but there is no further evidence of his having been with the rebels in Canara.

6. I refer the last case principally because there are a number of men on the other side of the border, but close to our frontier, against whom I have clear evidence of having assisted the Bund with supplies of men, provisions, gun-powder, &c., and of having conveyed intelligence of the movements of Troops or Government Officers, and thus enabled the rebels to escape justice. These are as mischievous enemies as any with whom we have to deal, but my evidence generally relates to assistance given on Portuguese ground, though directly affecting crime against the British Government.

7. I sent a list of some of these to the Governor General of Goa, asking if I might seize the individuals named if I could. I enclose a copy of reply. It would be now a more difficult

ader of that party, killed
in

matter to seize them than it was then, as the rebels are almost paramount in the villages they inhabit; but the seizure of some by British authority, of which they have a wholesome dread, would be beneficial in its effect. I should be glad to learn therefore if I can punish parties, seized with the sanction of the Portuguese Government, against whom there is clear evidence of having assisted the rebels when the operations of the latter were directed against the British Government; although the said parties may be Portuguese subjects, and be only proved to have given such assistance on Portuguese ground.

8. On the receipt of instructions on this point, I shall deal with the 6th prisoner mentioned in para. 5 of this letter, and other cases that may come before me of a similar nature, as they may direct.

From D. J. **DeMELLO**, Esq., Aid-de-Camp to the Governor General; to G. A. BALLARD, Esq., Special Commissioner, North Canara, dated New Goa, 3rd July 1858.

My Dear Sir,

1. His Excellency the Governor General charges me to acknowledge the receipt of your letter of the 28th June, forwarding a list of individuals who give protection to the rebels.

2. The men that you mention in the said list, the greatest part of them have joined the Sawunt Waree rebels, and all our forces in the frontier have strict orders to seize them, and unhappily till the present, our efforts have been attended with very little success, but it is to be hoped that as soon as the rains cease, something will be done in the way of destroying the rebels.

3. His Excellency gives you full powers to seize and even hang any of the individuals mentioned in your list in the Portuguese territory, and if you can do it, it will really be a first-rate service to both Governments.

4. The letters that you note in the margin, I think, have all been answered, but I will enquire about this matter and in case they have not been, a prompt reply will be forwarded to you.

5. As to the most convenient measures to be adopted to destroy the rebels, Colonel Alves who Commands the forces at Sattary, can give you his opinion as he is in the spot of the disturbances, and if you would correspond with him on the subject, it would be of a very great advantage for the public service.

(True Copy.)

(Signed) G. A. BALLARD,
Special Commissioner.

No. 69. ORDER THEREON, No. 1094; dated 10th Augt. 1858.

With this letter *Mr. Ballard* submits the notes of a case wherein eight prisoners have been tried by him on a charge of taking an active part in the late insurrection in *Canara*, and in the various lawless and heinous offences which accompanied that out-break.

2. The 1st prisoner has been sentenced to death; prisoners Nos. 3, 4 and 7 to transportation for life, and No. 5 to imprisonment with hard labor in irons for 8 years.

The Government see no reason to interfere with these several sentences, which it is observed, include forfeiture of all property in each case. They desire that the Commissioner, shall forward to *Madras*, to the custody of the Commissioner of Police, the three prisoners sentenced to transportation for life, who will be ultimately shipped to the *Andamans*.

3. In regard to the 2nd and 8th prisoners, the Commissioner is satisfied of their complicity in the disturbances, but before passing upon them the sentences* he deems suitable to their offences respectively, he wishes to be informed whether he is empowered to do so, the men being residents in the *Portuguese* territory. The Government have no doubt on this point in the matter, the prisoners having been made over to the Commissioner by the *Portuguese* Governor, with the express view to their being dealt with as their crimes might merit. The Commissioner's sentences in their cases will therefore be carried out.

* No. 2, transportation for life.
No. 8, 8 years' imprisonment with hard labor.

4. In respect to the 6th prisoner, sentence has also been reserved. His case is different from that of Nos. 2 and 8. The only evidence against him of having been with the rebels in British territory, is that volunteered by his fellow prisoners. At the same time, "he is proved to have been with the Bund in the *Portuguese* territories." If this is punishable by him, *Mr. Ballard* considers that it would be highly desirable to seize and punish a number of other men, who, residing all the while within the *Goa* frontier, have been found aiding and abetting the designs of the rebels in their movements against the Company's authority, by supplying them with adherents, arms, provisions, and intelligence.

5. The Government on this point see no reason for doubt, any more than in the one above referred to. The Commissioner will accordingly pass on the 6th prisoner such sentence as he may deem adequate. The wishes and feeling of the Governor of the *Goa* territory are strictly in unison with the proposal of the Commissioner. From His Excellency's letter of the 3rd July last, copy of which is enclosed by *Mr. Ballard*, it appears that the *Portuguese* force is in the track of these men, and so far from there being any objection raised to their being seized by the Commissioner and subjected to condign punishment, His Excellency presses for its being done on the ground that "it will really be a first rate service to both Governments."

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

[illegible] of that party, killed
in

the depositions taken in this case, & herewith forwarded; that the 1st Prisoner was a Government Colcar or peon in Bidi Talook, Belgaum; that he appears to have been an active member of the Sawunth's band both on British and Portuguese ground from the 6th February to the 8th May; that he was one of a rebellious gang who looted a house in this Talook, & took one of its inmates prisoner, - the said individual being detained with the Band for about 2 months, and that he was one of the gang who came to this vicinity, and who in their flight fired on the troops that attacked and dispersed them on the 8th May last - Myapattyrow leader of that party, killed in in the door, and Yesu, taken in it and afterwards hanged, were Beedi peons. Several peons from the Coexby Chowky in this district, amongst them, the notorious Bustam, also joined the Band. I have passed sentence of death on this Prisoner, but I believe it is the wish of Government that capital sentences shall not be executed without their sanction, unless necessity exist, & I have the honor to request the instructions of Government on the subject.

orders carry it out
M

4. I consider that the 7th & 8th Prisoners most fully deserve sentences of transportation for life, and imprisonment for eight (8) years with hard labor, respectively.

I am only doubtful whether I am qualified, under my Commission, to pass sentence on the Prisoners as they are not British subjects. They were made over by the Portuguese authorities however to be dealt with by British authorities, their Crimes against the British Govt. are clearly established, and the circumstances of the times urgently demand that examples should be made in their, & similar, cases. I beg therefore to be informed whether I am empowered to pass sentence in such cases, and if not, how I am to deal with them.

If they have committed crimes on British ground I con-clude that they are punishable by the Court
undoubtedly
M

certainly he is under the Act
[illegible] M

5. The 6th Prisoner is by his own confession a

thief

thief and a vagabond. He comes from the Belgaum district: but Capt. May informed me that no evidence was procurable there against him - He is proved to have been with the Band in the Portuguese territories, and by the statements of his fellow prisoners was with the gang that came to Combely in this Talook on the 8th May, but there is no further evidence of his having been with the rebels in Canara.

6. I refer the last case principally because there are a number of men on the other side of the border, but close to our frontier, against

whom

whom I have clear evidence of having assisted the Band with supplies of men, provisions, gun powder, &c; and of having conveyed intelligence of the movements of troops or Government Officers, and thus enabled the rebels to escape justice - These are as mischievous enemies as any with whom we have to deal, but my evidence generally relates to assistance given on Portuguese ground, though directly affecting crime against the British Government -

Then they are accessories to the offence of rebellion on Brit. territory & I conceive amenable

7 I sent a list of some of these to the Governor General of Goa, asking if I might seize the individuals named if I could - I enclose a

copy

copy of reply. It would be now a more difficult matter to seize them than it was then, as the rebels are almost paramount in the villages they inhabit; but the seizure of some by British authority, of which they have a wholesome dread, would be beneficial in its effect. I should be glad to learn therefore if I can punish parties, seized with the sanction of the Portuguese Government, against whom there is clear evidence of having assisted the rebels when the operations of the latter were directed against the British Govern^t; although the said parties may be Portuguese subjects, and be only proved to have given such assistance on Portuguese ground.

8 On the receipt of instructions on this point I shall deal with the 6 Prisoners mentioned in para: 5 of this letter, - and other Cases that may come before me of a similar nature, - as they may direct.

If they have seen a copy of any specific rebellions [illegible] I concur [illegible] are liable as accessories whether they agree with [illegible] I don't know but I [illegible] in consonance with [illegible] not [illegible]

I have the honour to be
Sir
Your most Obed^t Serv^t

G. A. Ballard
Sp^l Commissioner

The Records are not to be printed -

B. No 1094

with 2 enclosures.

No 1322.

MEMO.

OF CIRCULAR ORDERS ISSUED IN REGARD TO ACT XIV OF 1857.

27th July 1857, No. 882.

1. On the 27th July 1857, the Government determined to exercise the powers vested in them by the Legislature by Act XIV, 1857, or an Act for the trial and punishment of certain offences relating to the Army and of offences against the State, and to appoint all Session Judges, and other Officers exercising the powers of a Session Judge to be Commissioners under that Act for the trial of offenders within the jurisdiction of their respective Courts. The Commissioners thus appointed it was observed, would have power to try and punish the following offences.

1st. Rebellion and waging war against the Government. Harbouring or concealing Rebels.	As defined in Sections 1 and 2, Act XI of 1857.
2nd. Exciting mutiny or sedition in the Army. Harbouring or concealing persons guilty of this offence.	Sections 1 and 2, Act XIV of 1857.
3rd. Other offences against the State. 4th. All heinous crimes against person and property, such as murder, arson, robbery, &c.	Section 7, Act XIV of 1857.

2. Under the 3rd class of the above offences, it was remarked, attempts to fire public buildings, to injure Arsenals, to interrupt telegraphic or other communications, and other acts of a similar description became punishable.

3. For a detailed description of what constituted the "heinous offences," which formed the 4th class of crimes, the Commissioners were told that Section 2, Act XVI of 1857, might with propriety be consulted when any doubt arose.

4. The Commissioners were to observe, that they were empowered to hold their Courts in any place within the limts of their jurisdiction; that the attendance or Futwah of a Law Officer might be dispensed with, that the Judgments passed by them were "final and conclusive" and that their Courts were not subordinate to the Sudder or Foujdaree Court. They were however to send the records of trials held before

them to Government for information, and when a capital sentence was passed, it was not to be executed without the sanction of the Governor in Council, unless circumstances called for an immediate example; on which point the Commissioners were vested with discretionary authority.

5. It was not intended that the Commissioners should interfere with or supersede the Magistracy and Police in the exercise of their ordinary functions. Their duty was limited to trying offenders committed before them by the Magistrate or other Officers having power to commit for trial within the jurisdiction of their Courts. They were carefully to observe that their powers did not extend to the trial and punishment of the following classes of persons:—

1st. Any of Her Majesty's natural born subjects, born in Europe, or of the children of such subjects.

2nd. Any persons who were liable to be tried by the articles of war for the particular offence with which they are charged.

As respects the first class, the ordinary course of Law was to be followed when an offence was charged against them; and individuals belonging to the 2nd were to be made over to the Commanding Officer of the station or district in order that they might be dealt with under the orders issued by Government in the Military Department.

6. The circumstances which had led the Government to bring Act XIV, 1857, into practical operation were recorded in a subsequent Extract Minutes Consultation, 3rd September 1857, No. 1081.

1st August 1857, No. 937.

7. In continuation of the orders of 27th July, the Government notified, on the 1st of August following, that the Commissioners might adopt either of the two following courses in recording the evidence given in trials before them.

1st. The substance of the evidence given by a witness might be recorded in English: but this was always to be in the handwriting of the Commissioner and he was carefully to affix his signature to all statements taken in this manner.

2nd. The evidence of a witness might be taken down in his own lagnuage, the form of a narrative being used instead of that of question and answer, to save unnecessary labor. In this case the witness was to be called upon to sign his deposition before it was countersigned by the Commissioner.

But the defence made by the accused party was always to be taken down in his own language and words, and was to be offered to him for signature.

8. The Government observed that retrospective effect could not be given to Act XIV of 1857, and that the powers of the Commissioners applied therefore only to the trial and punishment of offences committed in part at least after the publication of the order of Government announcing their Commissions. Magistrates, they stated, had discretionary power to commit persons charged with heinous offences against person and property, for trial before the Commissioner or before the Criminal Courts in the ordinary course of law.

25th August 1857, No. 1081.

9. In consequence of a reference made to them, Government resolved, on the 25th August last, to circulate the following explanatory instructions regarding their orders as given above. The primary object of these orders, they stated, was to provide for the prompt punishment of offences against the State by bringing Act XIV of 1857, into practical operation, and that it was intended that all offences of that nature were to be tried by the Commissioners: but that these Officers had also authority under the Act to try and punish perpetrators of heinous offences against life or property; and that the Magistracy possessed discretionary power to commit offenders of this description for trial either before the Commissioners or the ordinary Criminal Courts.

10. Government therefore wished it to be understood that as long as the political state of a district continued undisturbed, the ordinary course of law was to be followed in dealing with persons charged with offences against the person or property of private individuals, except in the instance of dacoity or gang robbery by open violence. In consequence of the dangerous nature of this offence, its tendency to increase in times of public agitation and the violent manner

in which it disturbs the peace and sets the Law and Government at defiance, Magistrates were informed that a discretion was vested in them of sending cases of this description at all times to the Commissioners for trial.

11. It having been observed that cases had been sent for trial to the Commissioner in Salem, which ought to have been left to the ordinary Criminal Courts, Government resolved, on 17th November 1857, to call the attention of the Magistrates to their Circular Order of 25th August last, and to direct them to be careful that no cases were forwarded to the Commissioner, except offences against the State and actual dacoities or robberies by open violence. As also only such as had been committed after personal inquiry by the Magistrate himself or one of his European Assistants under Section X, Act XIV of 1857.

17th November 1857, No. 1492

12. In reviewing case No. 18 of 1857, on the Commissioner of Salem's file, Government pointed out certain irregularities and resolved to forward copy of their remarks to all the Commissioners and Magistrates. The former were to understand that they were prohibited from taking up, as Commissioners, any case that had not been committed by the Magistrate or one of his Assistants after full personal investigation and examination of parties; while the latter were reminded that they were strictly debarred from committing to the Commissioners any case the examination of which they had not conducted entirely in person. If notwithstanding these orders, any irregular committals took place, the Commissioner was to transfer such cases to the file of the Sessions Court to be disposed of in the ordinary course.

14th January 1858, No. 68.

13. The Government further resolved, 11th March 1858, in modification of the orders conveyed in Extract Minutes of Consultation, 25th August last, to restrict the jurisdiction of all Commissioners under Act XIV of 1857, solely to the trial of offences against the State, and to direct that henceforward dacoity, gang robbery and all other crimes except State crimes, be dealt with under the ordinary law. The Commissions already issued were recalled and fresh Commissions to the above effect issued.

11th March 1858, No. 332.

15th March 1858, No. 351.

14. On the 15th March 1858, a Commission under Act XIV of 1857, was issued to Mr. J. D. Robinson, Joint Magistrate of Canara, for the trial of all persons, charged with having committed, in that District, any offence punishable by Sections 1 and 2, Act XI of 1857, or by Act XIV of 1857, or any other crime against the State, or murder, arson, robbery, or other heinous crime against person or property. In this respect, the Commission issued to Mr. Robinson differed from the revised Commissions recently issued to the other Commissioners. These had been restricted to the trial of offences against the State,* whereas the Commission to the Joint Magistrate of Canara was purposely made of larger scope to empower him to try other heinous offences.

*See preceding para.

1st December 1858, No. 1858.

From the Government of India, No. 521, 8th November 1858.

15. On the 1st December 1858, Government circulated to the Foujdaree Udalut, to the Commissioners under Acts XIV of 1857, and XXII of 1858, and to the Magistrates in the Provinces, copy of a communication from the Government of India, conveying instructions, with reference to the Royal act of amnesty, pardon, and oblivion, for the guidance of Officers, entrusted with Judicial powers, in dealing with persons charged with political offences.

16. Pardon, the Government of India observed, was announced from the Throne, in the following terms:—

"Our clemency will be extended to all offenders, save and except those who have been, or shall be, convicted of having directly taken part in the murder of British subjects. With regard to such, the demands of justice forbid the exercise of mercy."

"To those who have willingly given asylum to murderers, knowing them to be such; or who may have acted as leaders, or instigators in revolt, their lives alone can be guaranteed; but in appportioning the penalty due to such persons, full consideration will be given to the circumstances under which they have been induced to throw off their allegiance; and large indulgence will be shewn to those, whose crimes may appear to have originated in a too credulous acceptance of the false reports circulated by designing men."

"To all others in arms against the Government, we hereby promise unconditional pardon, amnesty, and oblivion of all offence against OURSELVES, OUR CROWN, AND DIGNITY, on their return to their homes, and peaceful pursuits."

"It is our Royal Pleasure that these terms of grace and amnesty should be extended to all those, who comply with their conditions before the first day of January next."

17. In view to giving effect to the foregoing paragraphs of the amnesty, the following measures were prescribed for adoption.

I. All indictments, except those wherein the crime charged involved the murder of a British subject, were immediately to be cancelled, and the prisoners remanded to the committing Magistrate.

II. Magistrates, and Executive Officers in disturbed Districts, were to desist from the prosecution, or apprehension, of supposed rebels and traitors, provided their crimes did not fall under any one of the three heads specified in the amnesty, but on the condition that such persons returned to their homes and peaceful pursuits—and with the same proviso, all charges for rebellion and other political offences were to be removed from the Calendar.

I. Having directly taken a part in the murder of British subjects.
II. Having willingly given an asylum to murderers, knowing them to be such.
III. Having acted as leaders or instigators in revolt.

III. All sentences passed before the 1st November, whether sentences on regular trial in the presence of the defendants, or sentences of confiscation on *ex-parte* proceedings held under Act XXV of 1857 in their absence, were to hold good as having taken effect before the promulgation of Her Majesty's act of amnesty.

IV. But in case of confiscation under Act XXV of 1857, wherever the defendants presented themselves within the period fixed by the proclamation, the sentences were to be favorably reconsidered; provided that such defendants were not participators in murder, or leading rebels, or instigators of revolt, or that generally any material grounds of extenuation could be adduced.

V. No fresh decisions were to be passed for political offences against persons, who did not come within the classes excluded from pardon, viz., murderers, leaders, or instigators of revolt, and those who continue in arms against the Government. This interdict was extended to fines and confiscations under Acts X of 1858, and XXV of 1857.

VI. The amnesty, it was observed, did not cover acts of private wrong and injury. But prosecutions on this account were to be discouraged, and, excepting where some heinous crime had been committed, or some heavy wrong sustained, and where the defendant might be charged with direct participation in wilful and deliberate murder, a compromise between the parties was to be freely admitted, and even recommended and encouraged.

VII. In admitting mutineers and deserters to the benefit of the Royal act of grace, Magistrates were cautioned to warn them that these against whom Government might obtain evidence of their having been directly concerned in the murder of British subjects, would not be protected by a pardon from which they were expressly excluded; but would be sought out and brought to punishment. To this end, it was declared to be necessary to preserve Descriptive Rolls of all mutineers and deserters admitted to pardon, a register of which was required to be submitted by the Magistrates, and also that each mutineer or deserter so admitted, should be furnished with a certificate.

18. At the same time the Supreme Government issued the following instructions in regard to determining the punishment of offenders, to whom the amnesty did not extend.

I. Those who had directly taken part in the murder of British subjects were alone excluded from mercy.

II. Their lives only were to be guaranteed to such as had knowingly granted asylum to murderers, or had acted as leaders or instigators in revolt, and had surrendered on the terms of the proclamation, but in these cases, agreeably to the Royal proclamation, consideration was to be given to the circumstances under which the offenders had been induced to throw off their allegiance, and especially where they had been deceived by the false reports of designing men. The most guilty of this class of offenders were declared to be those who, not content with resisting the Government, had joined in the attacks of murderers and plunderers in other parts of the country and those who had compelled and intimidated others to join them in rebellion. The most deserving of indulgence were those who had a share in saving the lives of English subjects.

5th January 1859, *No.* 11.

19. On the 5th January 1859, Government distributed to the Judicial Authorities copies of a certificate in Hindoostanee, to be delivered by Magistrates and other Civil Officers to Native Officers and Sepoys of the late Bengal Army, who might make their submission under the terms of grace and amnesty, granted by the Queen's proclamation. The Magistrate, or Executive Officer in a District, was required to supply these forms to Officers in command of columns or detachments in the Field.

5th January 1859, *No.* 16.

20. On the same date, Government received "for information," copy of a letter addressed by the Governor General to the Lieutenant Governor of Bengal under date 3rd December 1858, No. 573, requesting that the Lieutenant Governor would cause every sentence of death passed by any of his subordinates, under the Penal Acts of 1857, to be immediately reported, with a full statement of the case, for his consideration, and that he would direct that no such sentence be carried out without his approval and confirmation. This order was 'recorded' only. It will be observed from para. 4, that the powers conferred at Madras under this Act did not authorize the infliction of capital punishment without the consent of the Governor in Council.

7th January 1859, *No.* 19.

From the Government of India, to the Chief Commissioner, Punjaub, dated 13*th December* 1858, *No.* 5,208.

21. On the 7th Idem, Government directed the circulation of the copy of correspondence received from the Supreme Government, passing orders on certain questions that had been raised respecting the interpretation to be placed, and the course of action to be taken, upon some of the points of the amnesty declared in the Royal proclamation.

22. The first question related to the meaning of the term "British subjects," as used in the proclamation, whether it was to be understood in its restricted sense, as limited to European British subjects, or in its wider sense, as extending to all subjects of the British Crown. To this query, the Government of India observed, that, there was no doubt, that literally and legally, the murder of British subjects includes the murder of those who are Natives of India, as well as of those who are English, but that in justice and policy, some distinction was to be drawn between the cases. The general rule was therefore, laid down, that, where an act of murder had been committed without provocation, in a cold-blooded, deliberate manner, or with circumstances of peculiar aggravation, it should be dealt with as at any other time, but close investigation was not to be made in cases where Natives had lost their lives by acts, which were undoubtedly acts of murder, but which originated in old quarrels, or party feuds, or were brought about without premeditation, and committed at a time when the restraints of law and Government had been removed. In such cases, the suspected rebel was to be allowed the benefit of the amnesty. A more restricted sense could not be given to the term in question, because one effect of such an interpretation would be to reduce the number of punishable persons; another effect would be to make the spirit of the proclamation more exclusive, and to exhibit the Crown as less considerate of the lives of its Indian subjects than the literal, and legal meaning of the words used by the Crown warrants, and this, not only as regards its Indian subjects of pure Native birth, but also as regards those of mixed blood but of the same faith, who had suffered certainly in no less a

Prisoners

degree, than their fellow subjects of pure English birth.

23. The second question was as to the precise meaning of the words "*directly* taken part in the murder, &c." The utmost importance was attached to the word "directly" in the above passage of the proclamation. In the case of a Regiment whose Officers had been shot down by the men, something more should be proved against a Sepoy than the fact of his having been present in the ranks at the time of the murder, in order to bring him within the scope of the words "directly." It should be shown that the Sepoy took an active part in aiding and abetting the murder. It certainly would not be in the spirit of the amnesty to spread the guilt over those who were neither perpetrators nor instigators of it. The same rule was to govern the application of the words "directly taken part" in cases of murder other than those of the murder of Officers by mutineers. The spirit of the term "directly" being in all cases kept in view in order that mercy might not be stinted.

24. The third question was as to the admission of suits, Criminal and Civil, on account of wrongs done to individuals during the rebellion. It was answered that wherever such acts of wrong had been done in prosecution, or support of the rebellion, they were to be pardoned and ignored. Thus acts of plunder committed in a District where at the time rebellion was uncontrolled, were to be pardoned—but the rule was not applicable in a case where similar acts were committed in a quiet part of the country, but where the Civil power had become indirectly weakened by the rebellion. In such a case the suit could not be rejected, but the Magistrates were to do all in their power to bring about an accommodation without process of law.

25. The fourth question regards the property of those, who, coming within the amnesty, may submit before the first January, in cases in which the first steps towards confiscation have already been taken. There could be no doubt that the person thus submitting himself, and being out of the excepted classes, would save his property. Where confiscation had taken place, the sentence should be reconsidered, but the proclamation does not entitle the owner to restitution after adjudication. Nevertheless the sentence might be reconsidered. In cases where the property has not only been confiscated, but awarded to others, or disposed of, reconsideration cannot take place.

26. The fifth question related to the fining of village communities for offences committed during the rebellion. Did the amnesty condone those offences? It was declared that no fines should be imposed where the inhabitants had returned to their homes and peaceful pursuits, fines were not to be imposed, even where the murder of British subjects had been committed in the village, but the individual perpetrators were unknown. It would be contrary to the spirit of the amnesty that the innocent should suffer for the guilty. But at the same time, it would be quite just and reasonable that a village, or town, should be required to restore public buildings which had been destroyed by the inhabitants, and a fine levied from them for this purpose. This would be, not so much a penal fine, as a bare restitution, and it would be more fair that those buildings should be restored by the particular community which bore the chief part in destroying them, and which now needs them again, than that the expense should fall on the country at large.

27. The sixth question relates to mutineers or rebels in custody, or whose trials are pending. Is the amnesty to apply to them? The benefit of the amnesty was extended to those who, not being of the excepted classes, are now in our hands, although this may not be due to any submission, or surrender on their part. The only condition prescribed was, that such persons shall consent to return, and shall in fact return, to their homes and peaceful pursuits. In regard to rebels already convicted and undergoing sentence, there is no doubt that the amnesty did not extend to them. But in justice and policy, a revision of many of the sentences under which men have been transported and imprisoned would be necessary.

12th January 1859, No. 36.

From the Government of India, dated 28th December 1858, No. 626.

28. On the 12th Idem, a further Circular of instructions received from the Supreme Government was communicated to the authorities concerned. These instructions prescribed the

The 1st 2d 3d 4th 5th 7th & 8
Prisoners

course of action which would be most politic, namely, the continued extension of the Royal mercy to those who are least unworthy of it, and a careful reservation to the Government of a power of exacting or modifying, according to circumstances, the full penalties of the law in the case of those who come within the classes who from the beginning were excepted from free pardon. It was set forth, in regard to the treatment of mutineers and rebels, who may surrender themselves *subsequently to the 1st January* 1859 that, although they have lost all rightful title to benefit by its provisions, yet that the spirit of the amnesty should be adhered to in all ordinary cases. Mutineers and rebels, not included in any of the three excepted classes, would continue to be treated in accordance with the rules laid down. The excepted classes were to be tried under the Penal Commissions, but every case of conviction was to be reported separately in detail to Government, and their orders awaited before carrying into execution the sentence passed, whether it affected the life, liberty, or property of the criminal.

19th January 1859, *No.* 74.

29. On the 19th Idem, a Circular, received from the Government of India, was issued calling on all Magistrates and Commissioners to submit returns indicating the extent to which the amnesty had been taken advantage of by Mutineers, Deserters, and Rebels, distinguishing Mutineers and Deserters from Rebels, and among the latter any persons of special rank and influence.

Exd. F. Cartledge.

No. 29 of 1858.

Prosecutor
Government Versus

Prisoners.
1. Yodoba
2 Lingo
3 Mulloo
4 Vittoo
5 Rama
6. Bhikka
7 Bapoo
8 Puno

Not to be furnished

Witnesses
1. Vencoo Cumty
2 Bujang row
3 Yesswantappa
4 Bapu Velup
5 Raya
6 Vyeragaby
7 Bipo Merappy
8 Sedashiva Cumpty-

Aiding & abetting rebellion &c

The Prisoners are charged with having for a period between and about the 2d & 20th March 1858, in the vicinity of Padsheyt, Myra, & other Villages in the Talook of Soopah, and district of Canara, been guilty of aiding & abetting rebellion by going about armed with and forming part of, the rebellious Gang that, united or in parties, under Hanoomantha Sawanth, Baba Sawanth, & others, infested the above said places in March last.

The 1st. 2d 3d 4th 5th 7th & 8th

Prisoners

at Padsheyt, in the Soopah Talook; to their having acted as guards, and going out on excursions. The 3d Wt., who was a Prisoner with the same rebels for two days, deposes similarly to having seen the 1st 2d & 4th Prisoners. The 5th 6th & 7th Wts. were made over as Coolies to the rebels about the 2d of March. at first they were principally with Hanamantha Sawanthes Camp which was at Myra, in the Soopah Talook, for some time, whilst Baba Sawanth was at Padsheyt. On the approach of Govt. troops Baba Sawanth joined his brother and the rebels together left the Canara Country, and set out for the [illegible]tree

Mahal

2

Mahal in Goa. The 5th 6th & 7th Wts. were taken with them. They depose to having seen all the Prisoners going about with the rebels though they affirm they cannot distinctly state whether they actually saw them with the Band before the rebels left the Canara Country. Their evidence, however as far as it goes tends to strengthen that of the 1st 2d & 3d Wts. and the 1st Charge is thus clearly established against all the Prisoners save the 6th. all save the 1st Prisoner deny having been with the rebels in Canara at this time.

The 6th Prisoner appears to have joined the Band when in the Goa territory.

As regards the 2d Charge.

The 4th Wt. deposes to having seen the 2d & 4th Prisoners amongst

Prisoners are further charged with having on the 8th May 1858 been again guilty of the same offence by forming part of an armed gang that had entered the Talook of Soopah to collect intelligence for, and otherwise aid, the rebels aforesaid; which gang when attacked and dispersed by the Government troops in the jungles of Kumbely, fired upon the said troops.

The 1st Prisoner is further charged with having on the 12th March 1858 in the Village of Davally, in the Talook of Soopah, and District of Canara, been guilty of aiding and abetting rebellion and robbery, by being armed, and forming one of a gang under Nana Sawanth, in open rebellion against Government, on which occasion the house of the 8th Witness was

looted, and cash and other property to the amount of about Rs 45 taken away, and the 1st Witness seized & taken Prisoner by the rebels.

Remarks.

All the Prisoners confess having had, willingly or unwillingly, more or less connection with Deeparana or the Sawanthes bands. They deny the particulars of the charge or charges brought against them. As to the 1st charge.

The 1st & 2d Witnesses who were Prisoners for some time with the rebels under Baba Sawanth depose clearly to having seen the 1, 2, 3, 4, 5, 7, & 8 Prisoners going about armed with the part of the rebel band under Baba Sawanth at seen the 2 & 4 Prisoners amongst at Padshept, in the Soopah Talook; to their having acted as guards, and going out on excursions. The 3d. Wt., who was a Prisoner with the same rebels for two days, deposes similarly to having seen the 1st. 2d. & 4th Prisoners. The 5th. 6th. & 7th Wts. were made over as Coolies to the rebels about the 2d of March. at first they were principally with Hanamantha Sawanth's Camp which was at Myra, in the Soopah Talook, for some time, whilst Baba Sawanth was at Padshept. On the approach of Govt. troops Baba Sawanth joined his brother and the rebels together left the Canara Country, and set out for the Sunklee

Mahal

Mahal in Goa. The 5th 6th & 7th Wts. were taken with them. They depose to having seen all the Prisoners going about with the rebels though they affirm they cannot distinctly state whether they actually saw them with the Bund before the rebels left the Canara Country. Their evidence, however as far as it goes tends to strengthen that of the 1st. 2d & 3d Wts. and the 1st. Charge is thus clearly established against all the Prisoners save the 6th. – all save the 1st. Prisoner deny having been with the rebels in Canara at this time.

The 6th Prisoner appears to have joined the Bund when in the Goa territory.

As regards the 2d Charge.

The 4th Wt. deposes to having seen the 2d. & 4th Prisoners amongst the armed gang of rebels who came to the vicinity of Conbely in the Taloopah Tuboatt on the 8th May last to collect intelligence for Hunmantha Sawanth and his gang — and who fired on the Government troops when attacked & dispersed by them. The names of the 1, 2, 3, 4, 6 & 7 Prisoners were mentioned in the statement given by a Prisoner taken on that occasion, who was himself sentenced to death & hanged, long before these men were apprehended (vide Case No. 2 7 1858 of the 2nd Tpl (Court file). The 1st, 2nd & 4th Prisoners confess having been with this party; and state that the 3rd, 6th & 7th Prisoners were also there. The 3rd, 6th & 7th Prisoners entirely deny this.

Thus

Thus by his own confession as regards the 1st Prisoner, & by their own confessions and the statement of the 4th Wt., as regards the 2nd & 4th Prisoners, it is proved that they were of the rebel party mentioned in the 2nd Charge, and altho', as the statement of the executed Prisoner above said was made in the absence of the parties alluded to, and without personal identification before a Criminal Tribunal; and as the statements of fellow Criminals cannot be considered conclusive; the 2nd Charge is not legally proved against the 3rd, 6th & 7th Prisoners, yet the strongest suspicion is raised of guilt.

As regards the 3d Charge.

The 1st & 8th Wtses declare that the 1st Prisoner was in the gang that looted their house on the 12th March last and seized the persons of 1st Wt. who was kept Prisoner by the rebels for about 3 months in the hopes of being forced to pay Rs 1200 as ransom.

The 1st Witness had mentioned this Prisoner by name, as concerned in the aforesaid robbery, and as an active rebel, in an original statement given by him soon after his escape, and before Prisoner was made over to this Courts jurisdiction; and immediately on being shewn the Prisoner before

this

this Court identified him as the person he had previously named. No other evidence on this head was procurable. The 8th Wt., 1st Wt's brother had before deposed particularly before Mr. Robinson's Court regarding the robbery of his house and seizure of his brother. He did not mention Prisoner then as he did not know his name but solemnly affirms that he recognises him as one of the gang, and that Prisoner was armed. The Prisoner denies the Charge, but I consider it established against him.

The 1st Prisoner, who was a Government Colear in Reedi Taloak, Belgaum District in defence states that he was seized by the rebels when they attacked Tullawana in the said Talook & District on the 6th February last, & kept with them against his will - His excuse however, by his own account, is evidently untrue; as he allows he was with the rebels when they were at Myra (in Soopa le Talook) about the beginning of March, and on their second incursion into Canara on the 8th May, when the +Sirdar of that party was killed at Combely - & when 2 Peons belts and other Government accoutrements were taken by the troops on the flight of the rebels, and he must have had many an opportunity by

+Myhapu also a B peow-

of escape had he wished to leave his companions. The Prisoner Yessa before mentioned as then captured and afterwards executed was also a Beedi peon - several Canara peons have joined the rebels, and I consider such cases call for exemplary punishment.

The 2d Prisoner states that he was a sepoy of Deepu-rana, an individual whose turbulent Character and connection with the Sawan the Bund is notorious, and who is now in open rebellion in the Portuguese territory. Prisoner states Deeparana made him over to the Sawanthes - all which is equivalent to allowing that he is a robber by profession. He acknowledges having been of the Combely gang.

The 3rd 5th & 7th Prisoners state they had fled from Belgaum where they had committed a theft, that they were made over by Deeparanna to the Sawunths.

The 4th Prisoner says much the same - that he left the Warree Country on account of family quarrels, became the servant of Deeparunna, and was made over by him to the Sawunths. He acknowledges having come to Combely with the rebels, but says he was merely servant to the Sirdar of that party.

The 8th Prisoner denies having been with the Bund, but states that some guns were kept in his house by Rama's men

19

and that he was apprehended on this account and made over to the Warree authorities.

The 6th denies all complicity with the Bund. He states, however, he fled from Belgaum on account of being concerned in a theft and that he lived by stealing.

From the above remarks I consider that it is imperatively necessary to pass severe sentences on those against whom the charges are made out. By their own statements they are lawless characters, and an example must be made which will

shew

shew their comrades on both sides of the border that they cannot disturb the peace and prosperity of these provinces with impunity-

Sentence

Under the powers of the Commission issued to me under Sec VII. Act XIV of 1857. and the provisions of Sec I. Act XI of 1857, the Prisoners in this case are hereby sentenced as follows.

The 1st Prisoner to be hanged by the neck untill he be dead-

The 3d 4th & 7th Prisoners to transportation for life-

The 5th Prisoner to imprisonment with hard labor for the space of

of (8) Eight years and all the above to forfeiture of property and Effects of every description

Note-

1 The sentence on the 1st Prisoner will be submitted to Government before being carried into Execution

2. Sentence on the 6th Prisoner is reserved-

3. The 2d & 8th Prisoners appear to be Goa subjects. Had they been British subjects the 2d Prisoner would have been sentenced to transportation for life, and the 8th to Eight (8) years imprisonment with hard labor-

Case referred to Governmt
signed/ G. A. Ballard
Spl Commissioner

Spl Commissioner's Court
Jugglebett
July 12th 1858-

(True copy)

G. A. Ballard
Spl Commissioner

Extract from the Statement of Vencoo Coonly, of Davooly Village, made before G. A. Ballard Esqre, Spl Commr North Canara, on the 19th day of June 1858, at Annmode - Soopah Taluk North Canara District

Witness put upon solemn affirmation under Act V of 1840-

I looked at these 8 Prisrs before the Court- I solemnly declare that I recollect well having seen these 8 men with the rebel Hunmunth Sawuth- I will explain what they did. I know this (1st) Prisoner's name is Lodoba- On the 12th of Palgoona Bhola last (12th March 1858) this Prisoner had come to my house at Davuly, in Calsaye, with Julgao ear Nana, and about 30 other rebels- He, with other rebels, looted my house, and brought me Prisoner with the said Nana- He had entered the house while it was looted, and he had a sword with him at that time- But I donot know what things he took- After I was taken prisoner, he (Lodoba) being with the Band, was keeping guard over me, armed with a gun, and was performing the duties ordered by Baba Sawuth &c; and was accompanying them with arms while they were going out to loot-

× × × × × × × × ×

All these 7 men /the 1st-2d-3d-4th-5th-7th & 8th Prisoners/ I saw were keeping guard over myself, Chowkidar Borjeng Row, &c; and also around the rebel camp day & night; & a few of these were sometimes going with others to loot &c and also on excursions-

× × × × × × × × × ×

Subsequently, keeping the family at Saurday jungle, Hunmunth Saweeth, Baba Saweeth, and Tulgavcar Nana, taking with them these men, and several others, went out saying that they must go and loot in Wadee frontiers, and after 12 days Baba Saventh, Hunmunth Sawunth, Nana, and several others, returned; but Mahiputy Row, & these 8 Prisoners, and some others did not come- About 15 days after this, one Yeshe Gavcar of Shersoday in Sa thee Mahal, Came and informed Hunmunth Saweeth that Mahiputy Row and others were attacked in the Soopah Talook by the Company's men- I did not see these men (Prisoners) after they had set out for Wadee frontiers, but I had seen them

many a time before that for about 40 days- I recognise them well

× × × × × × × × × ×

Signed / Vencoo Curuty.

/True Extract & translation/

G. A. Ballard
Spl Commissioner

2nd witness.

Extract from a statement made by Boojung Row Chaukidar of Coondul, before G A Ballard Esquire, Special Commissioner, North Canara, on the 19th June 1858, at Anmode, in Soopah Talook, Canara District.

Witness was put upon solemn affirmation under Act V of 1840

Note. 8 Prisoners received from Tullawady were shown to Witness –

I lookedatall the 8 Prisoners before the Court. Of these I did not see this Prisoner (6th) (who says his name is Bikko) with the Bund; but the other 7 I saw, when I was taken to Baba Savunth, at Padseith. Of the 7, I recollect the name of this one Prisoner is Ladobat (1st) I dont know the names of the other Six. – These 7 Prisoners armed with match locks and swords, acted as a guard over me and others when I was taken, and delivered over to, and detained with, Baba Savunth, for 5 or 6 days at Padseith. Having twice a day seen these Prisoners when rice was being distributed, and cooked, at the place of Cooking; and near the water place; and when moving thereabouts, – and remembering their faces, whiskers, beards, and other features, – and the black short (2d) Prisoner having lost fingers of his left hand, I make out these to be the identical persons I had seen among the rebels. Except Ladobah (1st) I dont know the names of the other Prisoners.

× × × × × ×

Ladobah (1st) watched over me alone there were others not present now. Ladobah (1st) had a sword in his hand. I dont now remember the particulars regarding the rest of the Prisoners.

I heard the above read to me and it is correct.

(Signed) Boojung Row

Solemnly affirmed before me this 19th day of June 1858

(Signed) G. A. Ballard
Spl. Commissioner

(True extract & translation)
G. A. Ballard
Sp: Comm.

3rd witness

Statement of Yeshwuntoppa, Gomasta of Camdul Chowky, taken before G A Ballard Esquire, Special Commissioner, North Canara, on the 19th June 1858, at Annmode, in Sirpah Talook, Canara District.

Witness was put on solemn affirmation under Act V of 1840

Note. 8 Prisoners sent up from Tullewady were shown to witness.

I looked at the Prisoners present, and on examining these 8 Prisoners I find this Prisoner, whose name is Ladoba (1st Prisoner), kept guard over me when the rebels seized, and took me to Baba Sawunth, at Padseith this tall stout fair man who calls himself Vitto (4th Pris.), and short dark man who has no fingers on his left hand, and who says his name is Lingoo (2nd Pris.), all these 3 individuals I recollect having seen when they used to come to once; and when they moved about that place these persons were then in arms, but I dont now remember whether they had firelocks or swords. When Ladobah (1st Pris.) kept guard over me and Boojung Row &c. he was armed with a sword.

Besides these 3 individuals I dont know whether the other 5 Prisoners were there or not. I was only there for 2 days. I do not know what else these 3 Prisoners have committed. I only know that they moved about in arms, and (1st Pris.) Ladobah kept guard over us. I know nothing else. This is all I have to say. I heard the above read to me and it is correct.

(Signed) Yeshwuntuppa

Solemnly affirmed before me this 19th day of June 1858.

(Signed) G A Ballard
Spl Commissioner

(True Translation)

G A Ballard
Spl Commissioner

5th witness

tatement made by Rajoo Valeef, son of Bhishey Valeef Countiby caste, an inhabitant of Kudney in Soopah Talook, before G A Ballard Esquire, Special Commissioner on the 5th July 1858, at Jugglepett, n Soopah Talook, Canara District.

Witness was put on solemn affirmation nder Act V of 1840

Note 8 Prisoners, sent up from Tullewady were hown to witness.

I looked at them. Of these I know the ame of this (1st) Prisoner Ladoba only, but not of the ther 7. I recognize having seen all these 8 men ith the Bundwalas. They used to go out with uns and swords in company with Baba Sawunth and others for about one or 2 days; and come back with the gang. But I am unable to say distinctly at what particular place I had seen each of the Prisoners, and what particular arms each of them had. All of them were taking arms ome were taking guns & swords also. I recognize them as I had seen them often for about 15 days etween Myra, & Kerjoley in Goa territory.

I do not recollect at what particular place I had seen each of them. I had been kept where the family was. I do not know where they went, and what they had looted. But as they were going in a large gang armed I thought that they were going to loot. I fled from Kerjoley. I do not know any thing about what happened after that.

Prisoners put no question.

I heard what was read it is correct.

Mark of Rajoo Vateef.

Solemnly affirmed before me this 5th day of July 1858

(Signed) G A Ballard
Spl Commissioner

True Translation)

G.A. Ballard
Spl Commissioner.

6th witness

Statement made by Boyloo Ghady, son of Jeeva, Coonuby caste, an inhabitant of Kadney in Soopah Talook, before G A Ballard Esquire Special Commissioner North Canara on the 5th July 1858 at Jagglepett in Soopah Talook Canara District.

Witness was put on solemn affirmation under Act V of 1840.

Note. 8 Prisoners sent up from Tullewady were shown to witness.

I looked at these 8 Prisoners. Of these I know the name of Ladoba (1st Pris.) but not of the others. I recollect having seen all these 8 men with the rebels. Of these I saw Ladobah (1st Pris.) at Myra when I had been seized and made over to the rebels; and the others I recollect well having seen at Kerjoley in Goa territory for 2 or 4 days. I do not recollect whether I saw them at other places or not. But I recognize them well, as having seen at Kerjoley. All these had arms, some had guns, and some had swords. But I do not recollect what particular arms each had. They were going out armed with Baba Sawunth, and coming back with the gang. I do not know where they went, and what they did, as I was kept under guard with the family

I and others escaped from the rebels from Hensaley

Prisoners put no question.

I heard what was read it is correct.

Mark of Goyero Ghady

Solemnly affirmed before me this 5th day of July 1858

(Signed) G A Ballard
Spl Commissioner

(True Translation)

G. A. Ballard
Spl. Commissioner

2nd witness

(2)

Statement made by Bhiske Meerashy

[illegible] of Narsina Meerashy Comunty Caste, inhabitant

[illegible] Alyze, in Supah Talook, before G A Ballard Esquire

Spl Commissioner North Canara on the 5th July 1858

[illegible] in Supah Talook Canara District.

Witness was put on solemn affirmation

under Act V of 184

Note 8 Prisoners received from Jullawady were shown to witness

I looked at the 8 Prisoners before the Court. I know the name of the 1st Prisoner Ladoba, but not of the other Prisoners. I recollect having seen all these 8 men with arms among the rebels. But I had seen (1st Prisr) Ladoba at Alyze, when Vitba Desai seized me, and made me over to the rebel Hunumunth Sawunth, but the others I recollect well as having seen only at Hensaley in Goa territory for about 2 or 4 days. I do not know whether they were in other places or not. I was kept with Hunumunth Sawunth, who was sick, and his family, to carry their loads. I dont know whether they (Prisoners) were with Baba Sawunth [illegible]. These men had guns & swords. But I am unable to say what particular arms each had. I do not know where they (Prisoners) looted or what they did. I saw them going about armed, and coming with Baba Sawunth at Kerjoley I dont know where they went and what they did.

Prisoners put no question

I heard what was read it is correct.

Mark of Bheshe Meerady

Solemnly affirmed before me this 5th day of July 1858

(Signed) G. A. Ballard
Spl. Commissioner

(True Translation)

G. A. Ballard
Spl. Commissioner

8th witness

Extract from the deposition of Sudarshana Conty of Davooly Village Soopah Talook, given before G. A. Ballard Esquire Spl Commissioner on the 10th day of July 1858 at Jugghbetto Soopah Talook Canara District

Witness put upon oath under Act V of 1840.

I saw the 8 Prisoners present - 7 of these I dont know, not having seen them before anywhere. I do recollect seeing this one person x but dont know his name - on the 12th March 1858, Nana Sawunth from the side of Hunmunth Sawunth, I saw coming with 30 or 40 armed followers I and my brother Vencoo-Conty fled into the jungle at 9 a.m. thinking that they went away, we both returned home. Immediately after this the Bund-walas came from 4 directions and seized myself and

x pointing out
[illegible]
[illegible]

and Vencoo Canty - then this Prisoner (1st) Ladoba was inside the house - all the property was plundered - I dont know what this Prisoner (1st) took possession of - He was armed with a sword. Nana Sadeuth took Vencoo along with him - this Prisoner (1st) then guarded over Vencoo taking him in their circle - I recollect well seeing the Prisoner (1st) at that time - as to the particulars of the property plundered from my house I have already deposed in full - This Prisoner (1st) calls himself Ladoba - this is the very identical person of whom I have stated above.

Nana Sadeuth demanded (2) Rs 1200 from Vencoo Canty and said he will not be set at liberty unless he paid this amount - This is all I know of this Prisoner (1st) -

2 Was it before or after your arrival that Ladoba entered into the house -	Before my arrival (1st Prisr) Ladoba and 7 or 8 others were sitting inside of the house and they came out after I reached there

* * * * * *

Signed J. Sudashiva Canty

True Extract & Translation

E. O. Ballard
Spl Commissioner

(1st Prisoner)

Statement made by Sadoba late Colcar of Tullamane Cutta, son of Sayet Gowda, aged about 40 years, Caste Muraty- inhabitant of Coombadur in Nadee District, before G. A. Ballard Esquire Spl Commissioner North Canara on the 10th day of July 1858 at Juggebett- Soopah Talook Canara District-

(Here enter Charges)

Memo- The charges were read to the Prisr to which he states as follows-

I heard the Charges now read over to me- I had come to Soopah Talook with the rebels- They had seized and brought me by force- I did not go to loot Suda Shiva Cumtys house- I came to Coombaly as Makeputty Rao brought me by force-

+ Mark of Sadoba

The Prisoner was again questioned on the same date-

Memo- The Charges & depositions of Witnesses were again read over to the Prisoner & he is asked-

1. You have heard the Charges and depositions of Witnesses read over to you- what have you to say further?	I understood the Charges and depositions of Witnesses read over to me- I was with the rebels when they had

come to Myra and other places in the Soopah Talook, but I was not then armed- The rebels had seized & brought me by force from Tullawurre- I did not go to Sudashiva Cuntys house- Mahiputy Row had brought me by force to Coombaly- When an attack was made by the Circar people I fled to Goa territory by jungle roads, and remained there- Eighteen men had come with Mahiputy-Row, among whom were myself, Maloo (3rd Prisr), Bhikkoo (6th Prisr), Bapu (7th Prisr), Lingo (2nd Prisr) & Vittoo (4th Prisr)- It is true that I did not go to loot Sudashevo Cumtys house- I had no arms, and I did not come willingly with the Bund. but I have no evidence to prove these facts- The 5 persons now present are the identical persons mentioned above as having come to Coombaly-

Puno (8th Prisr) and Rama (5th Prisr) did no come to Coombaly- Anoth man named Gupcar Pun had come there: this is all I have to state

(31)

+ Mark of Ludoba

(True translation)

G. A. Ballard
Spl Commissioner

Judicial Department.

No. 1322

From the Special Commr. North Canara.
Dated 13 July 1858.

For Orders.

Wd allow the Sentence on the 1st Prisr to take its course

I consider the Commr is competent to try & sentence the 2d 6th & 8th Prisrs

I consider that persons aiding & abetting the rebels altho' in a foreign territory are liable to be tried & pund as accessories of treason or given up with the concurrence of the Govt under wh they live.

Judicial Dept

No. 1094

EMC. D/ 10th August 1858.

(33)

Read the following letter from G. A. Ballard Esqr Commissr under Act XIV of 1857 in North Canara } there enter No. 42 D/ 13th July /58.

Mc

WM

With this letter Mr Ballard submits the notes of a case wherein eight Prisoners have been tried by him on a charge of taking an active part in the late insurrection in Canara, & in the various lawless & heinous offences wh. accompanied that outbreak.

. The 1st Prisr has been sentenced to death; prisoners No. 3, 4 and 7 to transportation for life, and No 5 to impt with hard labor in irons for 8 years.

The Govt see no reason to interfere with these several sentences, wh, as observed, include forfeiture of all property in each case. They desire that the Commissr shall forward to Madras, to the custody of the Commisr of Police, the three prisoners sentenced to transportation for life, who will be ultimately shipped to the Andamans.

. In regard to the 2d and 8th Prisrs the Commissr is satisfied of their

× No 2.
transportation
for life

No 8.
8 years imprt.
with hard labor

complicity in the circumstances, but before passing upon them the ×sentences he deems suitable to their offences respectively, he wishes to be informed whether he is empowered to do so, the men being residents in the Portuguese territory. - The Govt. ~~are of opinion that there is no room for any hesitation or doubt~~ have no doubt on this point in the matter, the prisoners having been made over to the Commissr. by the Portuguese Governor, with the express view to their being dealt with as their crimes might merit. - The Commissioner's sentences in these cases will therefore be carried out -

4. In respect to the 6th Prisoner, sentence has also been reserved - His case is different from that of Nos 2 and 8 - The only evidence (~~[illegible]~~) agst. him of having been with the rebels in British territory, is that volunteered by his fellow prisoners. At the same time, "he is proved "to have been with the Band in the "Portuguese territories" - If this is punishable by him, Mr Ballard considers that it wd. be highly desirable to seize & punish a number of these men, who, residing all the while within the Goa frontier, have been found aiding & abetting the designs of the rebels in their movements agst. the Company's authority supplying them with adherents, provisions, & intelligence -

(3)

Commissioner will accordingly pass on the 6th Prisoner such sentence as he may deem adequate —

5. The Govt. on this point see no reason for doubt, any more than in the one above referred to - The wishes & feeling of the Govt. of the Goa territory are strictly in unison with the proposal of the Commissioner. From His Excellency's letter of the 3d July last, copy of wh. is enclosed by Mr Ballard, it appears that the Portuguese force is in the track of these men, & so far from there being any objection raised to their being seized by the Commissr. & subjected to the ~~utmost rigour of~~ condign punishment, His Excellency presses for its being done, on the ground that it "will really be a first rate service "to both Govts."

D.E.C.
29-1-58.

To G. A. Ballard Esqr. - Special Commr. North Canara
" Commr. of Police - Madras
Despd. 13th
Feb - 16

N.B. - Print only the Commr.'s letter & the Goa Governor's letter; not the record.

Judicial 1858 Departt

No. 1094

Extract Mins: of Council

D/ 10th August 1858.

Passing orders in Case No. 29 of 1858 tried by Mr. G. A. Ballard, as Commissioner under Act XIV of 1857 in North Canara.

Feb. 1732.