M.R.O. 1—39,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1637 Press ~~Mis.~~

12-13

Dated 18-11- ~~1918~~

Not to be folded or roughly handled

1637

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Read again the following Extract from the Proceedings of the Foujdaree Udalut, dated 21st September 1858.

Read also the following letters.

No. 12. From C. F. CHAMIER, Esq., Acting Register to the Court of Foujdaree Udalut; to T. PYCROFT, Esq., Chief Secretary to Government, dated 9th October 1858, No. 94.

SIR,

With reference to Extract from the Minutes of Consultation, under date the 6th Instant, I am directed by the Judges to forward for the perusal of the Government, all the correspondence which has passed between them and the authorities in Ganjam on the subject in question; and to request that the papers may be returned to the Court when no longer required.

1	Letter from the Acting Agent,	30th June	1858.
2	Extract Proceedings, Foujdary Udalut,	12th July	,,
3	Letter from Assistant Agent,	29th ,,	,,
4	Extract Proceedings, Foujdary Udalut,	16th August	,,
5	Return of Acting Agent,	31st July	,,
6	,, Assistant,	28th August	,,
7	Letter from Agent,	31st ,,	,,
8	,, ,,	23rd Septr	,,

No. 13. From G. S. FORBES, Esq., Collector of Ganjam; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Berhampore, 14th September 1858.

SIR,

Para. 1. I have the honor to submit for the information of the Right Honorable the Governor in Council, an original letter addressed to me, by the Assistant Agent, Captain Smith.

2. Before placing on record the Extract Minutes Consultation of the 25th August 1858, with which the Government forwarded for my report, petitions 1928 to 2208, charging Captain Smith with the use of torture and illegal imprisonment, I think it best to state the circumstances under which these complaints originated, forwarding at the same time Captain Smith's own reply to the charges made against him.

3. A detail of the circumstances connected with the Boodeky case, will be found in Mr. Thornhill's letter to Government, dated 8th May last, to which I would here request their attention.

4. In consequence of a falsification of the public records, effected by some of the Government servants of this Cutcherry, at the instigation of the Rajah of Chinna Kimedy, several members of the establishment were placed under suspension, pending an enquiry undertaken at Mr. Lushington's orders by Captain Smith. This enquiry was going on at Russelcondah, when Mr. T. J. Knox took temporary charge of the district, and facts had already been elicited which seemed to involve the gravest consequences to the parties under suspension, by fixing upon them the guilt of this audacious forgery. Mr. Knox was, on his arrival, met by various charges against Captain Smith, some of which have formed the subject of previous reference on his part to the Court of Foujdary Audalut and Government, and of the character of which they are aware. Early in July last, the bulk of the petitions now under consideration, were also presented to him, they seem to have been produced almost simultaneously and are as it appears to me, many of them the composition of the same individual.

5. I am bound to call the attention of the Government to the significant circumstance that these charges only appeared after Captain Smith's enquiries, had menaced the safety and reputation of several influential public servants.

6. The forgery as will be seen from Mr. Thornhill's description, was the work of clever and unscrupulous persons who would of course leave no means untried to avert the consequences of conviction, that such a forgery was perpetrated, no one attempts to deny, for the interpolated orders still exist, and I have met with nothing to warrant a belief that public rumour and the disclosures made by the Rajah of Chinna Kimedy, impute the crime to the innocent, to the immunity of the really guilty parties. My belief is that, the charges preferred to Mr. T. J. Knox (and among them, those now under report) were intended to destroy that gentleman's confidence in

Captain Smith's proceedings and to neutralize the weight of such evidence as they elicited. I think also that these petitions are the indirect work of the persons implicated in those proceedings. However this may be, it is certain that Mr. T. J. Knox did call up the proceedings in the Boodeky case from Captain Smith's office, that no further enquiry took place, and that he did evince his distrust of the evidence delivered on oath before Captain Smith, so far as to restore to their offices two* out of the 4 persons named in para. 8 of Mr. Thornhill's letter, accepting the resignation of the first, I have felt it my duty to represent to the Board of Revenue, my dissatisfaction at this result.

* I find that one of these persons remained in office all along.

7. As I have already observed, a most audacious forgery has been committed under the influence of bribes and for this no one has been brought to justice, on the contrary, the tables are completely turned by a torrent of accusations of "torture" directed against the officer who was mainly instrumental in eliciting the facts of the case so far as they go. The Government will observe that the majority of these complaints are highly coloured descriptions of the hardships incident on the petitioners being placed under the surveillance of peons and that the word torture is used evidently for the sake of its prestige and without any details to justify it.

8. I am not prepared to affirm that Captain Smith was never harsh or arbitrary in his proceedings, but I cannot regard these petitions as evidence to this effect and I think it right to lay before the Government his defence of his conduct, before affording the triumph of an enquiry to a party whom I regard as the most unprincipled rascals to be met with in any district.

No. 14. From G. S. FORBES, Esq., Agent to the Governor in Ganjam; to the Chief Secretary to Government, Fort Saint George, dated Chutterpore, 2nd October 1858.

Sir,

At the request of my Assistant, Captain Smith, I have the honor to submit for the consideration of His Lordship in Council, an original letter (not yet placed on record in my office) in reference to the censure passed on Captain Smith by the Court of Foujdaree Udalut, in their Proceedings of the 21st September. Unless I am called upon by Government to pass an opinion on this occasion, I shall offer no comment. I have not thought it necessary to forward Captain Smith's appeal through the Court of Foujdary Udalut, because he has already addressed the Court through my predecessor, in justification of his public acts and the present appeal seems to have reference to the course which the Government may determine to pursue towards him in consequence of the Court's recommendation to remove him from the appointment he now holds.

From Captain C. SMITH, Assistant Agent; to G. S. FORBES, Esq., Agent and Collector, Chetterpore, dated 2nd October 1858.

Sir,

Having been furnished by you with proceedings of the Foujdaree Udalut Court, dated September 1858, in which my conduct as a public Magistrate is severely commented upon, and the withdrawal of my powers as Assistant Agent is recommended to Government. I have to request that you will submit for the consideration of the Right Honorable the Governor in Council, the following statement of my case, explanatory of my conduct, which will I hope, induce His Lordship to enquire further into the circumstances of the case, before proceeding to act upon the recommendation of the Court.

First, as regards "*Bungurs*," whose case appears to be viewed in the greatest light by the Foujdaree Udalut Court, I beg to state they are a peculiar people having absconded from their own villages, living in "*Puttoos*" in the most remote part of the jungles, who watch their opportunity to loot and set fire to villages in the plains, commit murder, &c., &c., that they have resorted to this kind of life from the commencement of the Goomsoor disturbances, and that they have been proscribed and sought for ever since. Some of these people are included in the list furnished by my predecessors, out of all these, only three were apprehended by my orders, although the part taken by these people in acts of violence and plunder was matter of notoriety, it is not easy,

after a lapse of several years, to procure occular testimony to the fact; but not feeling warranted under the circumstances explained above in setting them at liberty, I referred them to my immediate superior, stating the fact and requesting that evidence might he sought in the records of trials which took place at the time of the rebellion. I submit, I should not have been warranted in acting in this matter without orders. The Court of Foujdaree Udalut speak of these "*Bungurs*" *as unfortunate* men, subjected to great *injustice* by their detention *under my orders*, adding that women and children are among the prisoners. As regards the commisseration expressed for them by the Court, His Lordship will judge how far under the description given of their habits and pursuits, they are entitled to sympathy, the women and children were the voluntary companions of their relatives and declined leaving them, and the men ("*Bungurs*") all admitted before me, they resided in Puttoos, and were the followers of Chokro Bissoye. With regard to the detention of the other parties brought to notice, I beg to submit that during my absence from Russelcondah, the head of Police of Goomsoor reported that there were no less than 15 Criminal cases ready for committal and wanted instructions. As my time was fully occupied with the current work at Chetterpore, as well as the Boodiky case (Mr. Lushington being too ill to attend to matters of this nature) I directed the Goomsoor Tahsildar to allow all parties in the sundry cases to proceed to their homes (with the exception of the prisoners) until my arrival at Russelcondah, when I would call up the cases as I required them. The whole of these cases were disposed of soon after my arrival, without any loss of time. I must here remark that during the investigation of these cases, the Principal Assistant in charge (Mr. Thornhill) sent a gang robbery case, consisting of 23 persons before me, for enquiry, which I was unable to commence in consequence of the Pedda Kemidy Zemindar not having forwarded his Vakeel to appear for him, although directed to do so both by the Acting Agent and myself, this case was referred by Mr. T. J. Knox, to the Senior Assistant Agent for disposal, as stated in my letter to your address, in reply to certain charges preferred against me, regarding which the Government thought proper to call upon me for explanation. One was a case of abortion, the detention of this case I admit, might have been avoided, but I submit, the blame cannot be attached to me, as repeated applications were made to the Acting Agent for certain necessary documents, as explained in my letter to the Register to the Foujdaree Udalut Court.

I must here with all due respect, point out that the duties of my office have been considerably increased, I have since the departure of Mr. Davidson, until the arrival of Mr. Morris, done the duties of my office as well as that of the Senior Assistant, and my conduct only a few months ago, for the manner I discharged these duties, was brought to the favorable notice of Government, by the Acting Agent, Mr. William Knox, and I must here observe that I have the command of 400 Sibundies, whose drill and interior economy I have to superintend.

In conclusion, I will leave it to His Lordship to decide whether I deserve the severe remarks the Foujdaree Udalut Court have thought proper to record in their proceedings and whether I merit the disgrace and injury to my prospects which I respectfully submit, I shall be subject to, by being removed as recommended by the Foujdaree Udalut Court.

From Captain C. SMITH, Assistant Agent; to G. S. FORBES, Esq., Agent to the Governor of Fort Saint George, in Ganjam, dated Russelcondah, 10th November 1858.

Sir,

1. In acknowledging the receipt of Extract from the Minutes of Consultation, under dated the 25th August 1858, No. 1171, I have now the honor to offer the following reply and explanation.

2. With reference to petition No. 1928, the first on the list, I beg to state that witnesses having deposed on solemn affirmation, that the petitioner was endeavouring to get up false evidence in favor of the Zemindar and his uncle, with a view of securing them from punishment, induced me to place him under the simple surveillance of a peon until the enquiry had been

completed, but before this took place, Mr. T. J. Knox, assumed charge of the district, and directed the petitioner with two others, who were similarly situated, to be forwarded to him, which was accordingly done. I emphatically deny that the petitioner ever suffered "hardships" or "indignities" of any kind whatever. The petitioner, I believe has connections in the Hoozoor Cutcherry and I would here remark that the petitioner during Mr. William Knox's tenure of office, presented numerous petitions, with a view of inducing the then Acting Agent to remove the trial from my Court, and I would also observe that, the evidence on the prosecution so implicated the Zemindar and his uncle, that I considered necessary with a view of avoiding the possibility of an appeal, that the Zemindar and his uncle should be present in Court to reply to certain interrogatories, I therefore forwarded all the depositions I took on the prosecution to Mr. William Knox, who directed their attendance before my Court ; Mr. T. J. Knox, however, considered proper to dismiss the case and I considered it to be my duty to appeal to the F. U. Court, in this case; I am led to believe from rumours circulated in the district that a considerable sum of money has been expended on the Cutcherry servants connected with the case.

3. With reference to petition No. 1974, I beg to state, the petitioner was placed under the surveillance of a peon by *the orders of Mr. William Knox*, owing to his intriguing with the Cutcherry servants to suppress the truth connected with the Boodiky case. The petitioner of his own free will sent word, when the true circumstances of the Boodiky case was coming to light, that, he was anxious to see me, which request was complied with, when of his free accord gave a deposition on solemn affirmation, implicating several of the Cutcherry servants ; I feel fully convinced the petitioner has been induced by some of the Cutcherry servants to act as he has now done, with a view of removing suspicions and future disgrace from themselves. In this case also I emphatically deny the petitioner suffered any ill-treatment at my hands.

4. With reference to petition No. 2024, I beg to observe the petitioner was a party concerned in a case of gang robbery and murder, which occurred in the Pedda Kimedy Zemindary, and was merely placed under the surveillance of a peon and not allowed to have commun[illegible] with any one. The Zemindar being a defendant in the case, was directed to attend either in person or by Vakeel, intimation to this effect was sent to him both by the [illegible]ting Agent Mr. T. J. Knox and myself; before these parties made their appearance, the Acting Agent directed all the parties in this case under detention at Russelcondah, to be forwarded before the Assistant Agent, Mr. Morris, as the talook in which this outrage took place, had been made over to that officer. I beg to state that this case was forwarded to me for full enquiry, by the Principal Assistant in charge, as he had reason for supposing that suspicion attached to the Tahsildar in the preliminary enquiry which that official had made in this, as in the previous cases. I deny in toto having ever subjected the petitioner to any harsh treatment or restraint, further than that above mentioned.

Nos. 2025, 2026, 2031, 2032, 2033.

5. With reference to petitions as per margin, I have to state that the petitioners in these cases are parties implicated in the case of gang robbery and murder alluded to in the preceding paragraph. They also were placed under simple surveillance of peons, but were not in any way ill-treated or subjected to any hardship, before the charge could be enquired into, the case was transferred to Mr. Morris, according to instructions received from the Acting Agent, Mr. T. J. Knox.

6. The petitioner in No. 2028, was a person whose name appeared in the list, furnished by petitioner in No. 2207, in Boodiky case, he was merely placed like all others, under simple surveillance, but was not subjected to any ill-treatment whatever.

7. The petitioner in No. 2080, was the Vakeel of "Narottamadoss," he is said to have intimidated the Chinna Kimedy Zemindar, who, in consequence of this intimidation, lodged one thousand (1000) Rupees with a merchant at Burhampore, of this sum one hundred (100) Rupees was said to have been presented to petitioner, with a view of inducing him to use his influence with certain Cutcherry servants, on behalf of the Zemindar, to exempt him (Zemindar) from all blame in the Boodiky case, and that in the event of petitioner succeeding, the balance of (900 Rs.) nine hundred Rupees would be made over by the merchant to the said petitioner. Having ob-

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Fort St. George, Judicial Consultation, 23rd November 1858.

tained the above information from enquiry made, I recovered the above sum of nine hundred Rupees (900,) (subsequently deposited in the Hoozoor Cutcherry,) a deposition was taken from the merchant, who admitted the fact as above stated. I have every reason to believe the petitioner was receiving bribes from both defendant and plaintiff ; he was placed under the surveillance of a peon, and subject to no ill-treatment whatever. I would here remark that the petitioner complained at Russelcondah that he was suffering from sickness, and I directed both the Doctor of the station and Dresser attached to the Ganjam Sibundies, to attend upon him. They reported that the petitioner was suffering from effects of " venereal," and had at the same time declined their treatment. I firmly believe, he merely wished to leave Russelcondah for the purpose of instigating further intrigue. The petitioner has, I believe, been dismissed from public employ, and his character throughout the district, is known to be notoriously bad.

8. With reference to petition No. 2207, I beg to state that the petitioner is a Vakeel of the Zemindar of Chinna Kimedy. I firmly believe, he has been induced to forward this petition by certain Cutcherry servants implicated in the Boodiky case. After receiving the permission of the Zemindar in my presence, the petitioner of his own free will, gave his statement and presented a list of parties to whom money had been paid, no copy of his deposition was granted by me, as stated by petitioner, he was never placed under surveillance by my orders, but by the orders of the late Acting Agent, Mr. William Knox ; after the petitioner had given his statement, at his own request, I allowed a peon to accompany him, as he was afraid that the Cutcherry servants would intimidate him in consequence of his having divulged the truth. I submit whether it be proper that a person after having deposed to certain facts on solemn affirmation, and this deposition attested by two witnesses, should be allowed to detract his former statement by the mere presentation of a petition ; for such a proceeding, in my humble opinion, appears to me as likely to bring the European Magistracy into bad repute which, I respectfully contend, should never be allowed. For such a course must necessarily greatly embolden the natives and lead them to imagine they can carry on their surreptitious practices with impunity. I may here remark that Government directed Mr. T. J. Knox to complete the enquiry in the Boodiky case, but as far as I can ascertain, this course was not adopted, but merely the resignation of a few of the parties whose names appeared in the list as implicated in the matter. I regret to perceive that all the depositions taken both by myself and the Principal Assistant in charge, have apparently been overlooked and my conduct brought to the notice of Government in a disparaging light. I submit the Acting Agent, Mr. T. J. Knox, might in common courtesy, have called upon me for any explanation I might have to offer, as Government have now seemed pleased to do, to the charges brought against me by the petitioners before endorsing their petitions and recommending them to appeal to Government, or to the Civil Court for redress. I now leave it for you and Government to decide whether I have received that support which I conceive I was justly entitled to from my immediate superior. Taking into consideration that the whole of these petitions were written apparently at Chetterpore, and all within a few days' interval, whether this proceeding does not bear the appearance of a conspiracy, with a view of damaging my official character.

If I might be allowed to offer a few remarks on the subject matter of petition, I would here beg most respectfully to observe, that all the depositions taken by me with reference to the Boodiky case, were taken in open Court, that the statements were free and unconstrained and that two witnesses attached their signatures to each deposition.

Secondly.—In a petition No. 2080, presented by " Abbo Sooriah" he distinctly states that the sum of one thousand (1,000) Rupees placed by the Zemindar of Chinna Kimedy, in the hands of a certain merchant at Burhampore, was in liquidation of a debt due by the said Zemindar to the said merchant, and that the supposition is false which induced the Assistant Agent to believe that the above sum was given for corrupt purposes, with reference to the Boodiky case, such being the purport of " Abboo Sooriah's" petition, it appears to me strange and unaccountable why, or on what grounds the late Acting Agent, Mr. T. J. Knox, should have, (as I am led to believe he has done) returned to the Zemindar the said sum of nine hundred (900) Rupees which was represented to Government as having been paid in liquidation of a debt due by the Zemindar.

No. 15. ORDER THEREON, No. 1637; dated 18th November 1858.

1. The *Foujdaree Udalut* having in their proceedings of the 21st September, recommended the removal of *Captain Smith* from his post, the Government called for all the papers in the case. These were furnished on the 9th October. There are 24 enclosures to the Register's letter. They will be returned in original.

2. It appears that *Mr. T. J. Knox*, the Acting Agent in *Ganjam*, addressed the *Foujdaree* on the 30th June last, relative to "the extraordinary state of things in *Captain Smith*, the Assistant Agent's office." It seems that owing to complaints made to him, the Acting Agent, on his arrival at *Chutterpore*, thought it proper to call for "a list of all persons, who, being under trial, were detained in custody before the Assistant Agent." This Return shewed that up to the end of June,

2 persons had been in custody from November 1856, or for 20 months.
1 person from April 1857, or for 14 months.
6 persons from August 1857, or for 10 months.
4 persons from January 1858, or for 6 months.
8 persons from February 1858, or for 5 months.
16 persons from March 1858, or for 4 months.
34 persons from May 1858, or for 1½ month.

3 since June, in all 74 persons, *exclusive* of 15 cases with 25 prisoners committed to *Captain Smith*, but awaiting trial under charge of the Head of Police "from March forwards." "Since," *Mr. Knox* goes on to say, "his report reached me, some cases have been disposed of, but the delay is beyond all excuse. *Captain Smith's* excuse is that on the visit of the Governor in end of March, he, (*Captain Smith*) came to his station (*Chutterpore*) and remained for six weeks, but I do not think this sufficient."

3. Accordingly under date 12th July, the *Foujdaree* called upon *Captain Smith* to explain. His statement is dated 29th Idem, and was forwarded by him direct to the *Foujdaree*. It is as follows:—

(*a.*)—The 2 who have been in custody for 20 months are followers of the rebel chief *Chokro Bissoye*, against whom (*i. e.* the 2 prisoners) no evidence has yet been forthcoming.

(*b.*)—The party who has been detained for 14 months is also a person of the same class, and his case has not been disposed of for similar reasons.

(*c.*)—As to the 6 who have been in confinement for 10 months, 3 are of the same genus as (*a*) and (*b*) and their case cannot be disposed of, on the same grounds. The other 3 are not. They were implicated in a case of "procuring abortion." It is true they have been in confinement for 10 months, but the late Agent is responsible for 5 months of that period, as certain papers important to the enquiry were detained by him for that time.

(*d.*)—The 4 who have been in custody for 6 months are of the same class as (*a*) and (*b*) "awaiting trial when evidence is forthcoming."

(*e.*)—The 8 in custody for 5 months. Of these one is in the same position as (*d*) and the other seven "were remanded on a charge of having made away with grain belonging to another party. When I ascertained the facts of the case, it appeared to me to be matter for a Civil Court, to which both the plaintiffs and defendants were referred."

(*f.*)—The 16 in custody for 4 months. To 13 of these, "the same remarks are applicable as those above alluded to" (*a*) and (*b.*) The remaining 3 are the servants of the *Zemindar* of *Collicotta* and *Hautghur*. "The *Zemindar* and his uncle were charged in case No. 11 of 1858 in my Court, and these 3 men were charged with having endeavoured to get false evidence in favor of the defendants. They could not therefore be released before the case (against the *Zemindar*) had been finally disposed of." It was not disposed of by him (*Captain Smith,*) as the Acting Agent called it up before him.

(*g.*)—34 for 6 weeks—23 of these men were detained, because the Assistant Agent had not succeeded in bringing the *Zemindar* of *Pedda Kemidy* (or his Vakeel) who was strongly suspected of being concerned in the same crime (a gang robbery,) before his Court; and the 11 others were prisoners in another charge of robbery, which required careful investigation.

(*h.*)—In regard, finally, to the 15 cases including 25 prisoners, he was unavoidably absent when they were committed, and "they have all since been disposed of."

4. *Captain Smith* further "thinks it right to mention that on the 3rd February 1858" (some of them must have been many months in custody at that time) he "addressed *Mr. Wm. Knox* regarding the "*Bungars*" or rebels, and that gentleman was perfectly satisfied with the explanation." In conclusion, he points out that the work of his office is very heavy.

5. In reply to this statement, the *Foujdaree* directed *Captain Smith* "explicitly to state the grounds upon which the parties stated to be followers of *Chokro Bissoye* were detained in custody, including the nature of the charge brought against them, the evidence upon which they were apprehended, and the sources of the further evidence against them which he expected to obtain." He was also to submit copy of the correspondence alluded to in para. 4 *suprâ*, between himself and *Mr. Wm. Knox*.

6. In obedience to this order, *Captain Smith* on the 28th Idem explains that, "the said parties were detained in consequence of the *Boad Tahsildar* having sent them to him, representing them to be *Bungars* who had established themselves in various *Pootoos*.* He (*Captain Smith*) was anxious that all records connected with *Bungars* in the Agent's Court and elsewhere should be well looked into, to see if any of the parties were implicated in criminal cases, and this was the source from which he hoped to have obtained further evidence against them." The parties, it seems, all acknowledged being rebels. "They are all *Goomsoor* men, and I believe they have been implicated in the various out-breaks there, otherwise they would never have abandoned their villages and establish themselves in "*Pootoos*" in the most remote part of the "Malwas." "

* The rude huts common to the migratory tribes.

As to the women and children, they might have left the men—but preferred not doing so. He sends copy of all correspondence that has taken place on the subject, and "begs to add *Mr. Wm. Knox* never made any remarks in his communications that he is aware of."

7. The foregoing reached the *Foujdaree* on the 27th August, and on the 31st Idem, the present Agent explains to the Court what "*Bungars*" are; that such men should not be released unconditionally, and that he will detain them pending enquiries, the result of which he promises to report. This report he submits in a letter dated the 23rd September or two days later than the date of the *Foujdaree* proceedings, recommending *Captain Smith's* dismissal. It is to the effect that 5 *Bungars* detained by *Captain Smith* are criminated by the record of certain trials held in 1855. Their trial will be proceeded with and the other 8 men will be released on security, if suspicious circumstances be sufficiently established against them.

8. In commenting on *Captain Smith's* proceedings, the *Foujdaree* allude particularly to the case of the "*Bungars*," as the other cases are insignificant in comparison. "These persons were sent up to the Assistant charged with having been followers of *Chokro Bissoye*. Not one atom of evidence was brought against them, and yet on this vague and unsupported accusation, these unfortunate people, including men, women and children have been kept in confinement for periods varying from 2 to 20 months." They see nothing in the Assistant's explanation which he submitted in return to their second Precept (paras. 5 and 6 *suprâ*) and attach no weight to his other pleas. They deem it extraordinary that the Acting Agent did not interfere, but are clear that this does not excuse *Captain Smith*.

9. A further letter from *Captain Smith* is submitted to Government by the Agent on the 2nd October—in which *Captain Smith* offers more explanation as to the "*Bungars*," who appear to be a peculiar people of vagrant and predatory habits.

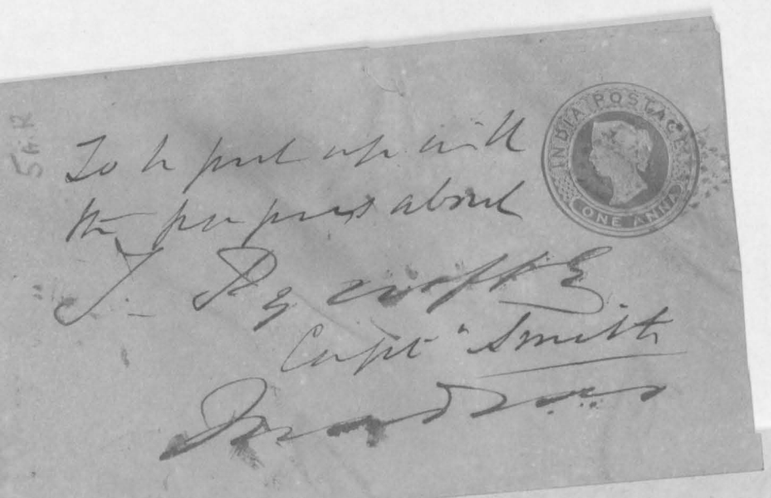
10. This concludes the case as connected with the report of the *Foujdaree* Court. There are other petitions against the Assistant Agent which reached Government direct, and were forwarded on the 25th August last to the Agent for *Captain Smith's* explanation; the charge being

"*Torture.*" The Agent reports on the 24th September, that they have been concocted by notoriously unscrupulous people out of revenge at the activity of *Captain Smith*, in investigating a charge in which several influential Officials were implicated. *This* case was disposed of by Government on the 21st May last. They returned it to the Officiating Agent, desiring him to try those who had not already been punished by his predecessors under the regulations, or in communication with the Board of Revenue. This batch of petitions is distinct from that belonging to the *Foujdaree* cases except that the three parties (servants of the *Zemindar*) referred to in para. 3, Section (*f*) *suprâ*, are to be found in both lists.

11. The Government have thus reviewed the whole of the proceedings connected with the charges against *Captain Smith*. They agree with the *Foujdaree Udalut* that the case which demands particular attention is that of the "*Bungars*," but they are not prepared to go the length that authority has gone in commenting on the detention of these people by the Assistant Agent. Considerable latitude must be conceded to the proceedings of Officers employed partly in a Political capacity, in a wild country and amid a lawless population, like that of *Goomsoor*. The class of people named "*Bungars*" belong to those tribes who have always been foremost in defiance of constituted authority in that part of the country; and living as they were, in the condition of men who are fugitives from justice, they were certainly objects for the exercise of *surveillance* on the part of the Assistant Agent, whose measures to that end are not to be scrutinized with all the minuteness called for in the supervision of judicial proceedings in more civilized Districts. His conduct at the same time is amenable to censure. It was not till February 1858, after some of the prisoners had been upwards of a year in custody, that he reported their apprehension to *Mr. Wm. Knox*, the late Officiating Agent. It was then that Officer's duty to have done, as the present Agent did, viz., searched the records of the trials connected with the insurrection of *Chokro Bissoye*, and learnt at once how far, if at all, the parties before *Captain Smith* were implicated thereby. *Mr. Wm. Knox*, therefore, is to blame, as well as his subordinate, though by no means to the same extent. It only remains for the Government formally to admonish *Captain Smith* of the duty of conducting his proceedings in a less arbitrary manner, and more in accordance with the regulations laid down for the observance of Magisterial Officers in such cases, under pain of incurring their highest displeasure. In regard, more particularly to the detention of Political *suspects*, the present Agent *Mr. Gordon Forbes*, will be careful to obtain from his Assistant periodical returns of parties under custody, and will be prompt to notice all cases; where substantial grounds for detention in custody, pending further enquiry, are not, to his own judgment, apparent.

(Signed) W. H. BAYLEY,
Acting Secretary to Govt.

Exd. F. Cartledge.


INDIA POSTAGE
ONE ANNA

6A

Charleston –
Sept 30 –

My dear Lyon –

You will be surprised
that after a note I
formerly wrote about
Smith I should have
taken up the cudgels
in favor of the charges
contained in the Jury's
but late proceedings.
The fact is that since
I subscribed contented
myself with Bodely

enquiring for Austin
whose character & prospects
seemed at 1st to left-
Stone was turned to
get rid of him & I should
be sorry to see such a worthless
succeed
I might-certainly have
a better qualified
assistant but I do
not find him
inserting it mind

his ways & he
makes a good Boy
of Sobrunde —
I complete is infinitely
less efficient in
fact I dont know
how we shall get
on — his career will
disgrace a schoolboy.
In Court have I
found Julius not a

great mistake in
expect a number of
the prisoners detained
by him. They [illegible]
do not immediately
join [illegible] in
[illegible] cases but it
must be remembered
that there were a number
of men out with Choka
& Briggs forces,
whose apprehension
has even since been
kept in mind & when
they are at last caught

8R

[illegible] leaders
[illegible] that time
[illegible] necessary [illegible]
[illegible] but at, through
[illegible] taken by
[illegible] the outrage
[illegible] was at
[illegible] there to
[illegible] county
[illegible] Santa Fe
[illegible] - Under
[illegible] participation
[illegible] occasions
[illegible] shooting
[illegible] - if of course
[illegible] It was
[illegible]

have had such
evidence sufficient
& have ordered
the release of the
prisoners if it be
practicable —
I dont see what
right the Court
have to overlook
as they have done
in these proceedings
my explanation of
the habits & mode
of life of these "rebels"
in these border
Irish rangers —?
I am answerable
for maintenance
of good order &
I cannot take
this into consideration
& put a place
Please telegraph
me if this decision

I should address
Jas. Spiers Esq
Secretary Inland Revenue
Somerset House
London

Proceedings

Inland Revenue
Office

Dated 21st September 1858

My dear Sir

Enclosed I beg to forward you a Letter addressed to me by Mr Gordon Forbes of Banff, which I have received this morning, and which I look back with great regret to the loss

Inclosure

Inland Revenue
Office

No. 1712

From
The Collector of Customs
Dated 21st September 1858

For Orders

I fully concur in the course taken by Mr Gordon Forbes and already communicated to the Solicitor on the Special case of Jas. Smith's defence before reading the Collector's comments. Forbes statement is clear & straightforward & fully rebuts the charges brought against him. Knowing as I do what a task of exemption the Customs Solicitors is, I have no hesitation in referring these accusations to the work of a conspiracy directed by Smith & I urge the attention of Jas. Smith's honest & energetic endeavours to obtain redress for & conviction the authors of this flagrant

Judicial Dept

Capt. Smith's Case

Extract from Proc 7th 21 Sept 58
From 7th — 9 Oct/58
From Agent in Ganjam 24 Sept/58
From do do 2 Oct/58

The Sudder Adalut L.s, in their Proc.s of the 21st Sept.r recommended the removal of Captain S. from his post, the Govt. called for all the papers in the case. These were furnished on the 9th October. They are 24 enclosures to the Registrar's letter, from 9 to 22 inclusive are in Telugu or Ooreeya - they will be returned in original.

2. Mr. T. J. Kuox, the act.g Agent in Ganjam addressed the Sudder on the 30th June last, relative to "the extraordinary state of things in Captain "Smith, the Agt.s Agent's office." It seems, that, owing to complaints made to him, the act.g Agent, on his arrival at Chatterpore, thought it proper to call for "a list of all persons, who, being under trial, were detained in custody "before the Agt.s Agent." This return showed that up to the end of June from Nov 1856 on 20 months:

2 persons had been in custody for 20
1 " from April 57 " 14
6 " from August 57 " 10
4 " from January 58 " 6
8 " from Feby 1858 " 5
16 " from March 58 " 4
34 " from May 58 " 1½
3 since June. in all 74 persons,

+ by the friends or relations of the persons under detention Mr T Knox says -

Here I think somewhere said that Complts were instigated by the parties implicated in the Kimedy case - but this does not affect the merits of the question.

Orders. Capt S. undertook the investigation by the direction of his immediate superiors. His proceedings met with the approval of Mr Wilkinson & Mr Lushington and does only on the arrival of Mr T Knox that the tables were unexpectedly turned & that the latter with his usual blundering & want of judgement allowed himself to be blinded by the parties interested &c.

Wholly unnecessary heading above

Wilkinson

exclusive of 15 cases wh 25 prisoners, committed to Capt Smith but awaiting trial under charge of the Head of Police "from March forwards"

"Since" Mr Knox goes on to say - "his "report reached me, some cases have "been disposed of, but the delay is "beyond all excuse - Capt Smith's excuse "is that on the visit of the Govr in end "of March, he (Capt Smith) came to this "station (Chittagong) & remained for "6 weeks, but I do not think this suffi-"-cient"

3. Accordingly, under date 12th July, the Sudder called upon Capt S. to explain. His statement is dated 29th idem & was forwarded by him direct to the Sudder. It is as follows.

(a) The 2 who have been in custody for 20 months are followers of the rebel chief Chokro Befooye, against whom (i.e. the 2 prisoners) no evidence has yet been forthcoming.

(b) The party who has been detained for 14 months is also a person of the same class & his case has not been disposed of for similar reasons.

(c) As to the six who have been in confinements for 10 months only, three are of the same sorts as (a) and (b) & their case cannot be disposed of, on the same grounds. The other 3 are not - They were included in a case of "procuring abortion". It is true they have been in confinement for 6 months, but the Agent is responsible for 5 months of that period, as certain papers important to the enquiry were detained by him for that time.

(d) The 4 who have been in custody for 6 months are of the same class as (a) and (b) "awaiting trial when evidence "is forthcoming"

(e) The 8 in custody for 5 months. Of them 1 is in the same position as (d), & the other seven "were remanded on a "charge of having made away with "grain belonging to another party. When "I ascertained the facts of the case, it "appeared to me to be matter for a "Civil Court, to which both the Plffs & "Defts were referred.

(f) The 16 in custody for 4 months - To 13 of these "the same remarks are applic-"cable as those above alluded to" (a & b) The remaining three are the servants of the Zemindar of Collectorate Hautsheer. "The Zemindar & his uncle "were stayed in Case No 11 of list in "my Court, & these 3 men were stayed "with having endeavoured to get false "evidence in favor of the defendants. "They could not therefore be released before "the case (against the Zemindar) had been "finally disposed of." It was not dis-posed of by him (against?), as the Asst Agent called it up before him.

(g) 34 for 6 weeks. 23 of these men were detained, because the Asst Agent had not succeeded in bringing the Zemindar of Peddar Bunedy (or his Vakeel) who was strongly

The papers were called for on the 4th & 30th Sept & 7th Dec 1857 - & rec'd 19th July 1858 - but as other cases were under enquiry this case was not committed to sessions until 18th June 1858 or for four months -

This is a fair sum as prisoners have been for months under detention apparently -

suspected of being concerned in the same crime (of any robbery), before his Court; & the 11 others were prisoners in another charge of robbery, which required careful investigation.

(b) In regard, finally, to the 15 cases including 25 prisoners, he was unavoidably absent when they were committed - & "they have all since been disposed of"

4. Capt. Smith further "thinks it right to mention that on the 3rd Feb. 58. [some of them must have been many months in custody at that time] he "addressed Mr. Wm. Knox regarding the "Bungars" or rebels, & that gentleman was perfectly satisfied with the explanation"

In conclusion he points out that the work of his office is very heavy.+

5. In reply to this statement, the Judge directed Capt. Smith "explicitly to state the "grounds upon which the parties stated to be "followers of Chokra Bufroye were detained in custody, including the nature "of the charge brought against them, the evidence upon which they were apprehended "& the sources of the further evidence "apt. them which he expected to obtain" He was also to submit copy of the correspondence alluded to in Para 4 supra, between himself & Mr. Knox (Mr. Wm. Knox, but is).

6. In reference to this order, Capt. Smith on the 28th idem explains that "the said par- "-ties were detained in consequence of "the Head Tahsildar's sent them to him, "representing them to be Bungars who had "established themselves in various "Portoos - the (Capt. Smith) was anxious "that all records connected with "Bungars in the Agent's Court & elsewhere "where it might be well looked into, to see "if any of the parties were implicated "in any of the parties were implicated in Criminal cases, & this was to be "found in the Criminal cases, & this was to be "found further evidence apt. them" To all the parties, it seems, to all acknowledged being Rebels - "They are "all Coomaon men, & I believe they "have been implicated in the various "outbreaks here, otherwise they would "never have abandoned their villages "& established themselves in "Portoos" in the most remote part of the "Mal- "was"

As to the women & children, they might have left the men - but preferred not doing so.

He sends copy of all correspondence that has taken place on the subject. & begs to add Mr. Wm. Knox never "made any remarks on his communi- "-cations that he is aware of.

7. The foregoing reached the Judge on the 27th August & on the 31st idem, the present Agent explains to the Court what "Bungars" are; that such men should not be released unconditionally & that he will detain them pending enquiries, the result of which he promises to report. This report he submits in a letter dated the

D The two first on this list from Nov/56 & for 15 & 16 months

Note. This correspondence is not before Govt. unless it is contained in the Oudh & R papers referred to in para 6 infrà.

+ He alludes to this subject in speaking of new levies for Kheyrabad Sibundies - but this appointment was not ordered till Dec/57

+ understood to be the rude huts common to the migratory tribes.

It does not appear that Capt. Smith made any enquiries about these Bungars until 7th Feb. last - that is the two of them and them is confined not for 15 & 16 months. Vide supra P 4.

to the Capt's return to para 3 - it is not clear whether all applies to the Bungars generally or to those especially brought before Capt. Smith by the Tahsildar.

+ not till Jan. 58, when the act. agent ordered it - see Encl. 20.

+ this must be the vernacular docts. Two docts 20 & 21 (marked also L & M, are in English. They show as lists of "Bungars in custody" & are furnished to his superior by Capt. S. in Jan. & Feb. of the present year. This must be what he refers to in Para 4 supra.

23d Sept. or two days later bears the date of the Sudder's Proc.s, recommending Capt. S's dismissal. It is to the effect that 5 'Bungars' detained by Capt. S. are criminated by the records of certain trials held in 53. Their trial will be proceeded with & the other 8 men will be released on security if no suspicious circumstances be ascertained.

8. In commenting on Capt. Smith's proceedings, the Sudder alludes particularly to the case of the "Bengars" - as the other cases are insignificant in comparison. "Here persons were sent up to the "Apt., charged with having been followers "of Chokro Bistoye. Not one atom of "evidence was brought against them, & yet on "this vague & unsupported accusation, these unfortunate people, "including men, women & children, "have been kept in confinement for "periods varying from 2 to 20 months" They ridicule the Apt's explanation which he submitted in return to their second precept (Paras 5 & 6 supra); and attach no weight to his statements. They deem it extraordinary that the acting agent did not interfere, but are clear that this does not excuse him (Smith)

9. A further letter from Capt. S. is submitted to Govt. by the agent on the 2d Oct. Capt. S. is very desirous that the term "Bungar" should be understood. He explains how they are "a peculiar people," [illegible]

It is clear the case will not come out till the Orissa papers shall have been translated. This I think should be done - as perhaps Capt. Smith may appear to have had no experience to plume until Feb.y last or after some of these Bengurs had been many months in confinement - but the Orissa papers may show otherwise

[illegible] "predatory habits" & much given to living in "Poolos". He also states that he referred their cases to the Agent, for enquiry in his office.

10. So much for the Sudder. There are other petitions apt. to the Apt., which reached Govt. direct & were forwarded on the 25th August last to the Agent for Capt. S's explanation; charge "Fortune". The Agent reports on the 24th Sept. that they have been concocted by the most "unscrupulous rascals" in the district, & out of revenge at the activity of Capt. S. in ferreting out the particulars of a charge in which several influential officials were implicated. This case was disposed of by Govt. on the 21st May last. They returned it to the Agent, desiring him to try those who had not already been punished by his predecessors, under the Regulations, or in communication with the Bd. of Revenue.

11. It occurs to remark that this batch of Petitions is distinct from the Sudder cases - except that the three parties (servants of the Zemindar) referred to in Para 3. sect (f) supra come over again.

J.T.C. 16/10/58.

J O

[illegible] officiating Agent. It was then that other

I quite agree with the above remarks the circumstances of the case are peculiar. & there can be no doubt - that in a wild country & a lawless population - it is impossible to conduct judicial proceedings with the precision used in more civilized districts - at the same time the Govt should be acquainted monthly of prisoners under detention & the latter upon whom might report from time to time to Govt in this monthly return

JP

Para 11. Resolution. The Govt have been received the whole of the proceedings connected with the charges agt Capt Smith. They agree with the Sudder Judge that the case wh demands particular attention is that of the "Bungars", but they are not prepared to go the length that authority has gone in commuting on the detention of these people by the Assistant Agent. Considerable latitude must be conceded to the proceedings of Officers employed in a wild country & amid a lawless population, like that of Goomsoor - The chiefs & people named "Bungars" belong to three tribes who have always been foremost in defiance of constituted authority in that part of the country; and living, as they [illegible] were, in the condition of men who are fugitives from justice, they were certainly objects for the exercise of surveillance on the part of the Agt Assistant Agent, whose measures to that end are not to be scrutinized with the minuteness that is called for in the supervision of judicial proceedings in more civilized districts. His conduct at the same time is amenable to severe censure - It was not till Feby 58, after some of the prisoners had been upwards of 2 years in custody, that he reported their apprehension to the late Officiating Agent - It was then that Officiating

In the above case of Bungaree it appears to me fully desirable that the contents of the Govt papers are known to the Sudder Court & the Circuit Judge that the merits of the case may be known to them

- 14. 58

I think to do - The matter of the Govt - has been referred - subsequent to the Trial - back -

The letter of Dec 7 - to - Blue - He was requested for he should have left matters to right - & after decay to the Govt case - [illegible] to obtain to have reported Cabt S - & get them to have reported to Govt that the Govt - this - Govt - decision

C 18 Dec R 23 ..

Judicial Department

No. 1037

Extract from the Minutes of Consultation
Dated 18th November 1858.

Read again the following papers

Extract from the Proceedings of the Tanjore Adalut. — Here enter 21st Sept. 1858.
Read also the following letters:
Letter from — do — do — Here enter 9th Oct. 1858.
From the Agent in Tanjore — Here enter 24th Sept. 1858.
From — do — do — Here enter 2d Oct. 1858.

The Tanj. Adalut having in their Proceedings of the 21st September recommended the removal of Captain Smith from his post, the Govt. called for all the papers in the case. These were furnished on the 9th October. There are also the Enclosures to the Registered letter. They will be returned in original.

2 It appears that Mr. F. Knox, the Acting Agent in Tanjore, addressed the Tanj. on the 30th June last, relative to

duty to have done, as the present Agent did, viz — examined the results of the trials connected with the insurrection of Chokra Bissoye, & carried to more or less far, & at all, the parties before Capt. Smith, were implicated thereby. Mr. Knox, therefore, is to blame, as well as his subordinate, though by no means to the same extent.

It only remains for the Govt. formally to admonish Capt. Smith of the duty of conducting his proceedings in a less arbitrary manner, & more in accordance with the regulations laid down for the demeanor of Magisterial officers in such cases, under pain of incurring his highest displeasure. In regard, more particularly, to the detention of political suspects, the present Agent, Mr. Gordon Forbes, will be careful to obtain from his Assistant, periodical returns of the parties under custody, & will be prompt to notice all cases, where substantial grounds for detention in custody, pending further enquiry, are not, to his own judgment, apparent.

D. F. C. 5/11-58

G: 23 Oct
18 Nov.

to "the extraordinary state of things in
"Captain Smith, the Asstt.
"Agents Office." It seems
that owing to complaints
made to him, the Acting
Agent, on his arrival at
Chutterpore, thought it pro-
per to call for "a list of all
"persons, who, being under
"trial, were detained in
"custody before the Asstt. Agent."
This return showed that up
to the end of June
2 persons had been in
custody from Novr. 1856,
or for 20 Months-
1 person from April 1857,
or for 14 Months-
6 persons from Augt. 1857
or for 10 Months-
4 persons from January
1858 or for 6 Months-
8 persons from February
1858 or for 5 Months-
16 persons from March
1858 or for 4 Months-
34 persons from May 1858
or for 1½ Months-
3 since June. in all
74 persons Exclusive

17R

of 15 cases with 25 prisoners
committed to Captain Smith,
but awaiting trial under
charge of the Head of Police
"pow March forwards."
"Since", Mr. Knox goes on to
say- "his report reached
"me, some cases have been
"disposed of, but the delay
"is beyond all excuse- Captn.
"Smith's excuse is that on
"the visit of the Governor
"in end of March, he,
"(Captn. Smith) came to his
"station (Chutterpore) and
"remained for 6 Weeks, but
"I do not think this
"sufficient."

3 Accordingly under
date 12th July, the Govt.
called upon Captain
Smith to explain. His
statement is dated 29th Idem,
and was forwarded by
him direct to the Govt.
It is as follows-

(a) The 2 who have been
in custody for 20 Months,
are followers of the
rebel

rebel chief Chokrot Sirsoye, against whom (i.e the 2 prisoners) no evidence has yet been forthcoming.

(b) The party who has been detained for 14 Months is also a person of the same Class, and his case has not been disposed of for similar reasons.

(c) As to the 6 who have been in confinement for 10 Months or [illegible], 3 are of the same genus as (a) and (b) and their case cannot be disposed of on the same grounds. The other 3 are not. They were implicated in a case of "procuring abortion". It is true they have been in confinement for 10 Months, but the late Agent is responsible for 5 Months of that period, as certain papers important to the enquiry were detained by him for that time.

(d) The 4 who have been in custody for 6 Months are of the same Class as (a) and (b) "awaiting trial when evidence is forthcoming."

(e) The 8 in custody for 5 Months. Of these one is in the same position as (d) and the other seven "were "remanded on a charge of "having made away with "grain belonging to another "party. When I ascertained "the facts of the case, it "appeared to me to be matter "for a Civil Court, to which "both the Plaintiffs and "Defendants were referred."

(f) The 16 in custody for 4 Months. To 13 of these "the "same remarks are applicable as those above "alluded to" (a & b). The remaining 3 are the servants of the Zemindar of Collicotta and Hautghur. "The Zemindar

"Zemindar and his Uncle
"were charged in case No 11 of
"1858 in my Court, and
"these 3 men were charged
"with having endeavoured
"to get false evidence in
"favor of the Defendants.
"They could not therefore
"be pleaded before the case
"against the Zemindar had
"been finally disposed of"
It was not disposed of by
him (Captain Smith), as
the Acting Agent called it
up before him.

(g) 34 for 6 Weeks. 23 of
these men were detained,
because the Asst. Agent
had not succeeded in bringing
the Zemindar of Pedda
Kemedy or his Vakeel, who
was strongly suspected of
being concerned in the same
crime, a Gang robbery, before
his Court; and the 11 others
were prisoners in another
charge of robbery, which
required

19R

required careful investigation.

(h) In regard, finally,
to the 15 cases, including
25 prisoners, he was unde-
=voidably absent when they
were committed - and "they
"have all since been dis-
"posed of"

4 Captain Smith
further "thinks it right
to mention that on the
3rd February 1858 (some of
them must have been
many months in custody
at that time) he" addressed
Mr. Wm. Knox regarding
the "Bungaru" or rebels, and
that Gentleman was
perfectly satisfied with
the explanation" - In con-
=clusion, he points out that
the work of his office is
very heavy -

5. In reply to this
statement, the Govt. directed
Captain Smith "explicitly
"to state the grounds upon
"which

"which the parties stated
"to be followers of Chokero
"Bifsoye were detained
"in custody, including
"the nature of the charge
"brought against them, the
"evidence upon which they
"were apprehended, and the
"sources of the further evidence
"against them which he ex=
=pected to obtain" - He was
also to submit copy of the
correspondence alluded to in
Parat supra, between
himself and Mr. Knox -
6 In obedience to
this order, Captn Smith
on the 28th Idem explains
that "the said parties
were detained in consek
=quence of the Road
Tahsildar having
sent them to him,
representing them to
be Bungars who had

Established

+ he understands to be common to migratory tribes.

"established themselves in
"various Pootoos. He Captain
"Smith was anxious that
"all records connected with
"Bungars in the Agents
"Camt and elsewhere should
"be well looked into, to
"see if any of the parties
"were implicated in Cri=
"minal cases, and this
"was the source from which
"he hoped to have ob=
"tained further evidence
"against them." The
parties, it seems, all
acknowledged being Rebels
"They are all Goomsur
men, and I believe they
have been implicated
in the various outbreaks
there, otherwise they would
never have abandoned
their Villages and estab=
lish themselves in
"Pootoos" in the most
remote part of the
"Malwas."
6 As to the women
and Children, they might
have left the new-but
preferred not doing so -
-Fe

He sends copy of all correspondence that has taken place on the subject, and begs to add Mr Wm Knox never made any remarks on his communications that he is aware of.

The foregoing reached the Sudder on the 27th August, and on the 31st idem, the present Agent explains to the Court what "Dungars" are. that such men should not be released unconditionally, and that he will detain them pending enquiries, the result of which he promises to report. This report he submits in a letter dated the 23d September or two days later than the date of the Fouj: Proceedings recommending Captain Smith's discharge. It is to the effect that 5

Dungars

Dungars detained by Captain Smith are criminated by the record of certain trials held in 55. Their trial will be proceeded with and the other 8 men will be released on security if suspicious circumstances be sufficiently established against them.

8 In commenting on Captain Smith's proceedings, the Fouj: allude particularly to the case of the "Dungars", as the other cases are insignificant in comparison. "These "persons were sent up "to the Assistant Charged "with having been followers "of Cheitro Bissuye "Not one atom of evidence "was brought against them, "and yet on this vague "and unsupported accu- "sation, these unfortunate "people, including men, "women and Children

heine

have been kept in confinement for periods varying from 2 to 20 months". They see nothing in the Assistant's explanation which he submitted in return to their second precept (Paras 5 & 6 supra) and attach no weight to his other pleas - They deem it extraordinary that the acting Agent did not interfere, but are clear that this does not excuse Captain Smith.

9. A further letter from Captain Smith is submitted to Govt by the Agent on the 2d October. Captain Smith in his explanation to the ~~Assistant~~ Commissioner that the terms "Bungars" ~~should be understood to explain~~ ~~the appear to be~~ ~~but they are~~ a peculiar people - of vagrant and predatory habits ~~and much given to living on~~ "Dootoes". ~~He also states that he~~ ~~refers their cases to~~ the

~~the Agent, for enquiry in his office~~. This concludes the case as connected with the report of the Fouzdaree Court. There are other petitions against the Assistant Agent which reached Govt direct, and were forwarded on the 26th August last to the Agent for Captain Smith's explanation; the charge being "Torture". The Agent reports on the 21st September that they have been concocted by ~~notoriously unscrupulous persons~~ the most unscrupulous rascals "in the district, and out of revenge at the activity of Captain Smith in investigating a charge in which several influential officials were implicated. This case was disposed of by Govt on the 21st May last. They returned it to the officiating Agent

Agent, desiring him to try those who had not already been punished by his predecessors under the Regulations, or in communication with the Board of Revenue. This batch of Petitions is distinct from that belonging to the Fouj: cases; except that the three parties Servants of the Zemindar referred to in Para 3 Sect II supra. one to be found in both lists.

11. The Govt have thus reviewed the whole of the proceedings connected with the Charges against Captain Smith. They agree with the Fouj: Adalut that the case which demands particular attention is that of the "Bungars" but they are not prepared to go the length that authority has gone in commencing on the detention of these people by the Assistant Agent. Considerable latitude

partly in a Political capacity

latitude must be conceded to the proceedings of officers employed in a wild country and amid a lawless population, like that of Goomsoor. The Class of people named Bungars" belong to those tribes who have always been foremost in defiance of constituted authority in that part of the Country, and living as they were, in the condition of men who are fugitives from justice, they were certainly objects for the exercise of surveillance on the part of the Asstt Agent, whose measures to that end are not to be scrutinized with the minuteness that is called for in the supervision of Judicial proceedings in more civilized districts. His conduct at the same time is amenable to severe censure. It was not till February 1858, after some

some of the prisoners had been upwards of a year in custody, that he reported their apprehension to Mr Wm Knox, the late officiating agent. It was then that officer's duty to have done, as the present Agent did, viz. searched the records of the trials connected with the insurrection of Chokra Bissoye, and learnt at once how far, if at all, the parties before Captain Smith were implicated thereby. Mr Wm Knox, therefore, is to blame, as well as his subordinate, though by no means to the same extent. It only remains for the Government formally to admonish Captain Smith of the duty of conducting his proceedings in a less arbitrary manner, and more in accordance with the regulations laid down for the observance of Magisterial Officers in such cases, under pain of incurring their highest displeasure. In regard, more particularly to the detention of political suspects, the present Agent Mr Gordon Forbes will be careful to obtain from his Assistant, periodical returns of parties under custody and will be prompt to notice all cases, where substantial grounds for detention in custody, pending further enquiry are not, to his own judgment, apparent.

DLC 6/11/58

WR 13

To the Foreign Department with 24 orig Enclos:
Agent in Sanjans

Dispd 24th

Lt Col Commanding
Guzerat

Capt Smith's Co

D. F. C

Recorded

Sub. Dr. to Engr. 15th January
No. 7 of 1859 Para 10.

Dr. Dy. to Cons: 23d November

Judicial 1858 Dept.

No. 1637.

Extract Mins: Cons:

Dated 18 November 1858.

Reviewing the whole of the proceedings connected with the charges preferred against Captain Smith the Assistant Agent in Sanjam - and admonish that Officer of the duty of conducting his proceedings in a Just Arbitrary Manner.

12 @ 15