

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	332	Press
85 to 88		Dis
85, 86-87-88		
12-3-1858		
Dated	11-3-	1858

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 12th March 1858.

Read the following papers.

No. 85. From R. G. CLARKE, Esq., Commissioner, Tinnevely; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated 8th February 1858, No. 102.

SIR,

I have the honor to submit herewith, for the information of the Right Honorable the Governor in Council, an English translation of the record of case No. 3 of 1857, on the file of the Commissioner of Tinnevely, tried and disposed of by me under Act XIV of 1857, together with a copy of the sentence therein passed.

2. I beg at the same time to draw the attention of Government to the state of the Police in the talook of Oottapedarum, as set forth in the Joint Magistrate's communication, dated 22nd December 1857, which accompanies the record of this case.

Tinnevely Commissioner's Case, No. 3 of 1857.

Sentence.—1. All the prisoners plead "not guilty."

2. It is urged in defence of prisoners 1, 2, 3, 4, 5, 6 and 53 that they are men of high station and character, and further that on the date of charge, prisoners 1 and 4 were in grief on account of the death of a relation. Prisoners 2, 3 and 5 were not in the village of Auttankaray, and prisoners 6 and 53 were severely indisposed.

2. Old age is pleaded on behalf of the 9th prisoner, an alibi is set up in defence of the remaining prisoners, and enmity on the part of the prosecutors, and 22 of their witnesses is further asserted to have given rise to this false complaint against prisoners 7, 8, 12, 15, 16, 17, 18, 19, and 24 to 51.

4. An ancient feud appears to exist between the Zemindar of Auttankaray and the Nagalapoorum Mittadar, relative to a water channel which runs through the whole length of the Nagalapoorum lands and feeds the Seroocolum tank in the estate of the Attankaray Zemindar. The lands on either side and up to the banks of this channel are cultivated by the people of Nagalapoorum, with the exception only of a portion towards the east end which is waste, and on this waste ground the affray set forth in the charge took place. As breaches occurred from time to time in the channel bank, they had been repaired with mud collected from the waste lands in question which, (there can be no doubt from an order of the Collector of the district, bearing date 11th February 1834, and precept of this Court dated 19th May 1851, as well as from similar orders of an earlier date) are included in the estate of the Nagalapoorum Mittadar. With a view to prevent any future trespass, and also doubtless to cause inconvenience to the Attankaray Zemindar, it was resolved to bring the waste land under cultivation. A Cowle was purchased by the prosecutors, and the work of cultivation was about to commence, when the Attankaray Zemindar unwisely had recourse to violence to frustrate this scheme, and outrage ensued.

5. The 1st prisoner is proved by the evidence of witnesses 17, 37 and 38, and by the wound on 17th witness' head to have cut down the 17th witness with a sword. He is fully convicted by his own admissions before the Joint Magistrate and by the statements of the 51st and 52nd witnesses, a Shroff and Royasom in his service, of the charge set forth in the 5th count, and being guilty of having instigated the gang to assemble together unlawfully with force and arms to the disturbance of the peace and good order, in contempt of all law, in direct violation of orders issued by the highest revenue and judicial authorities in the district, and to the evil example of others, he is sentenced to be imprisoned with hard labor in irons for 10 years.

6. The 2nd and 5th prisoners are convicted on the concurrent testimony of the 15th, 18th, 20th, 22nd, 23rd, 26th, 32nd, 40th and 44th witnesses of having caused the death of one Kamia Naicker, by beating, stabbing, wounding and cutting him on the head and neck with a sword and iron pointed stick, and are sentenced to be imprisoned with hard labor in irons for 7 years.

7. The 3rd and 4th prisoners are convicted on the evidence of the 14th, 18th, 21st, 36th, 39th, 42nd, and 43rd witnesses, of having knocked down, stabbed and killed with a cudgel and iron pointed stick, one Errasoothoo Naicken, and are sentenced to be imprisoned with hard labor in irons for 7 years.

Fort St. George, Judicial Consultation, 12th March 1858.

8. It is proved by the evidence of 2nd prosecutor and 8th and 32nd witnesses, that the 9th prisoner beat, knocked down, and broke the wrist of 9th witness with a ferruled stick, by the evidence of the 16th and 28th witnesses that the 10th and 11th prisoners beat and cut the 16th witness on the head with a sword and stick, by the evidence of the 2nd prosecutor, corroborated by that of the 8th and 32nd witnesses, that 22nd prisoner knocked down and wounded 8th witness by striking and stabbing him on the head with a pointed stick, by the evidence of 2nd prosecutor and 32nd witness, that 24th prisoner wounded the 10th witness by stabbing him on the forehead with a sword-stick, and knocking him down, and by the evidence of the 12th and 42nd witnesses, that the same 24th prisoner cut the 12th witness on the head; and they are sentenced to be imprisoned with hard labour in irons for 3 years.

9. From the admissions of the 51st and 52nd witnesses, the Shroff and Royasonr in the Auttankaray Zemindar's service, as well as from wounds which many of them have sustained, the prisoners 7th, 8th, 12th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32nd, 33rd, 35th, 36th, 37th, 38th, 39th, 40th, 42nd, 43rd, 44th, 45th, 46th, 47th, 49th, 50th and 51st are convicted of having been present, aiding and abetting in the affray, and are sentenced to be imprisoned with hard labor in irons for 1 year.

10. There is no evidence to convict the remaining prisoners 6th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 23rd, 31th, 41st, 48th, 52nd and 53rd, and they are accordingly ordered to be released.

11. The prisoners have been sentenced under the provisions of Section IX, Act XIV of 1857.

(True Copy.)

(Signed) R. G. CLARKE,
Commissioner.

No. 86.

Sir,

On behalf of the Zemindar of Attengary and others, convicted in case No. 3 of 1857, on the file of the Commissioner of Tinnevely, I have to request that you will allow the parties to procure copies of such documents affecting their interests as have been forwarded to Government.

I trust you will excuse any informality in this application, as the course to be pursued in cases of this class is necessarily unsettled.

I have the honor to be, &c.,

(Signed) JOHN D. MAYNE,
Counsel for Prisoners.

D. Carmichael, Esq., Deputy Secretary to Government, Fort St. George.

No. 87. Abstract of a Petition from MOHIADDEEN HOOSSAIN, of Tinnevely, dated 12th February 1858, No. 92.

Submitting Extract Proceedings of the Foujdary Udalut, under date the 3rd January, and his former petition to Government, dated the 3rd August 1857, in the case of his brother, the 3rd prisoner in No. 22 of the Calendar of 1856, of the Sessions Court of Tinnevely, and stating that the higher Court only remitted the punishment of stripes, but not that of 7 years' hard labor in irons awarded to his brother, and with reference to the Endorsement of Government, setting forth certain arguments in his brother's defence, and praying that the Foujdary Udalut may be enjoined to order the Sessions Court to release his brother.

No. 88. ORDER THEREON, No. 332; dated 11th March 1858.

With the above letter, the Commissioner of Tinnevely submits an English translation of the Record of Case No. 3 of 1857, on his file, tried and disposed of by him under Act XIV of 1857, together with a copy of the sentence thereon passed.

Fort St. George, Judicial Consultation, 12th March 1858.

2. In this case, fifty-three persons were charged with the crime of affray and robbery attended with murder and severe wounding.

3. Thirty-seven of the prisoners have been convicted and sixteen released.

4. Of those convicted the 1st prisoner, the Zemindar of Attenkurry, has been sentenced to 10 years' imprisonment with hard labor in irons.

The 2nd and 5th to 7 years.

3rd and 4th to 7 do.

9th, 10th, 11th and 24th to 3 do.

7th, 8th, 12th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32nd, 33rd, 35th, 36th, 37th, 38th, 40th, 42nd, 43rd, 44th, 45th, 46th, 47th, 49th, 50th and 52nd to one year.

5. The affray was connected with a dispute about land which is of long standing, and has lately been assuming a serious aspect.

6. The parties concerned were the Nagalapooram and Attenkurry Zemindars and their respective servants and ryots. The immediate cause of the affray was an attempt made on the part of the Zemindar of Nagalapooram to cultivate some waste land. In so doing his tenants were at once opposed by some of the people belonging to the Zemindar of Attenkurry. No fight then took place; but the Nagalapooram ryots sent to their village for aid to enable them to overcome the opposition offered to them. The assistance sought was at once afforded to the extent as they admit of some 30 or 40 Peons. The Attenkurry people were also re-inforced. A fight then ensued. Injuries were inflicted on both sides. Two of the Nagalapooram people have died, and it is alleged that two of the Attenkurry men are missing and have been killed.

7. The defence urged by the 1st, 2nd, 3rd, 4th, 5th, 6th, 10th, 11th and 52nd prisoners was that they were not present, and to this plea the Commissioner refused to call the witnesses named by them, assigning as his reason, that some of them were wounded; such however could not be the case as regards the 1st, 2nd, 3rd or 5th prisoners, as they urge in their defence the absence of wounds, as going far to show that they could not have been present in such a mêlée and escape unhurt.

8. The 52nd and 53rd witnesses when examined before the Joint Magistrate, aver that the 1st prisoner was not present at the affray. The 52nd witness stating that he (the 1st prisoner) was that day confined to his house consequent on the death of his uncle's son's child. This uncle is the 4th prisoner. To prove this alibi however neither of them were allowed to call witnesses.

9. The Vakeels for the prisoners do not appear to have asked the witnesses any questions. It is alleged they were not permitted to do so.

10. The 6th, 44th, 47th and 52nd prisoners were ill in hospital, and not even present during the trial.

11. The Right Honorable the Governor in Council has attentively considered these proceedings and is of opinion that they are altogether illegal, that the Commissioner has exceeded his power in trying the Case under Act XIV 1857, that his sentences must be annulled, and the prisoners released.

12. In Extract Minutes of Consultation 25th August 1857, the Government when they had authorized the employment of Commissioners under the Act deemed it indispensable strictly to limit their jurisdiction and expressly confined it to State offences, dacoity and gang robbery by open violence.

13. The present case falls under none of the above heads. It is simply an affray about land, of a grave character no doubt, resulting in serious consequences and deserving of severe punishment, but not of the nature either of dacoity or gang robbery, nor within the purview of Act XIV (Section VII) and Act XVI (Section II) 1857, nor such as to require being dealt with except by the ordinary course of Law.

14. It is the more to be regretted that the parties have been proceeded with, thus irregularly, inasmuch as their acts have been highly reprehensible and such as would have properly been visited with punishment under the ordinary regulations. But they are not the only persons in fault, or obnoxious to legal penalties. The Nagalapooram people were to the full as culpable. Indeed they were the aggressors. On being prohibited from ploughing the land, it was their

Fort St. George, Judicial Consultation, 12th March 1858.

duty to have complained to the Thasildar, and sought the enforcement of their alleged rights by legal means; whereas they were the first to appeal to force, and by bringing a posse of their followers to till the land by violence, were the immediate cause of the riot and homicide which followed.

15. It will be pointed out to the Joint Magistrate that it was his duty in the present instance to have acted under Sections XII, XIII, XIV, Regulation V of 1822, and to have sent up for trial before the Criminal Court all the parties implicated in these outrages. Had he done *Vide Supra*, paras. 7, 8, 9, 10. this, the errors pointed out would not have occurred and the lawless acts committed would not have passed unpunished.

16. As it is, the parties who have been convicted must be released forthwith. It will however be for the Magistrate under the provisions of Regulation VI, 1827, Section V, to take security for the maintenance of the public peace from such of them, as well as of the Nagalapooram people who were most prominently concerned in the affray of the 2nd December. The dispute between the two Zemindars both as regards the channel and the waste land in the vicinity should be fully enquired into and settled without loss of time.

17. Mr. J. D. Mayne will be informed, that the Government decline to furnish him with copies of the documents applied for in his letter of the 15th Ultimo.

18. The Right Honorable the Governor in Council further resolves in modification of the orders conveyed in Extract Minutes Consultation 25th August last, to restrict the jurisdiction of all Commissioners under the 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 will be re-called and fresh Commissions to the above effect issued.

(Signed) T. PYCROFT,
Chief Secretary.

*On behalf of the Zemindars
of Attungay Vattars convicted
in case No 3 of 1857 on the
file of the Commissioner of
Tinnevely I have to request that
you will allow the parties to
procure copies of such documents
affecting their interests as have
been forwarded to Government.*

Fort St. George,

duty to have complained to the legal means; whereas they were lower to till the land by violence followed.

15. It will be pointed out stance to have acted under Section up for trial before the Criminal Vide Supra, paras. 7, 8, 9, 10. this, the acts committed would not have p

16. As it is, the parties who ever be for the Magistrate under security for the maintenance of the ram people who were most prominent between the two Zemindars both be fully enquired into and settled

17. Mr. J. D. Mayne will copies of the documents applied for

18. The Right Honorable the orders conveyed in Extract Mir of all Commissioners under the Act and to direct that henceforward cases be dealt with under the ordinary Law fresh Commissions to the above effect

I trust you will excuse

any informality in this application

As the Council have pursued in cases

this class is necessarily unsettled

Yours truly

Sir,

Yours obedient servant

J. D. Mayne

Commissioner of the District

Madras

18th Dec 1861

Recd
15/2-52

J. Carmichael Esq
Deputy Secretary Legation
Fort St. George

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43-4

To

Agent to the Governor of Fort St. George

in

The Right Honorable the Governor in Council of Fort St. George, under the authority vested in him by Section 7, Act XIV of 1857, hereby appoints you ^{certain} Commissioner, for the purposes specified in that Act, within the limits of the Government Agency over which you preside.

You are accordingly directed to try all or any persons or person charged with having committed any offence against the State, or heinous ~~crime against person or property within the above described limits~~, who may be committed before you by the Magistrate, or other Officer having power to commit for trial within the District, and upon conviction you are authorised to pass sentences of punishment in accordance with the provisions of the said Act, No. XIV of 1857.

This Commission is hereby declared to be in force while you continue to hold the office of Agent to the Governor of Fort St. George in or until the further orders of Government.

By order of the Governor in Council.

Acting Chief Secretary.

12

12

40-7
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43-4

To

Session Judge of the Zillah of

The Right Honorable the Governor in Council of Fort St. George, under the authority vested in him by Section 7, Act XIV of 1857, hereby appoints you Commissioner, for the purposes specified in that Act, within the limits of the Zillah Court over which you preside.

You are accordingly directed to try all or any persons or person charged with having committed any offence against the State, or heinous crime against person or property within the above described limits, who may be committed before you by the Magistrate, or other Officer having power to commit for trial within the District, and upon conviction you are authorised to pass sentences of punishment in accordance with the provisions of the said Act, No. XIV of 1857.

*This Commission is hereby declared to be in force while you continue to hold the office of Session Judge of the Zillah of
or until the further orders of Government.*

By order of the Governor in Council,

Acting Chief Secretary.

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43-4

9
Remarks by the Members of Government
on a letter from B. G. Clarke Esq., Commissioner
of Travels, dated 8th February 1858.

By the Right Honorable
the President

I presume these papers
are circulated in order to
ascertain, whether Mr. Mayne's
request is to be granted.

The case was evidently
a very grave one, but whether
one of gang robbery strictly
so called may be doubted.

Mr. Mayne does not
state his object, and the
act gives no right of
appeal.

I would recommend
that nothing be done
except under legal advice.

February 18th Signed J. H.

By the Honorable Walter
Elliot Esq.

The offence is
plainly not gang robbery, but
rather an affray, one how-
ever of a serious na-
ture, in which two men
were killed and some

40-7
41-6
42-3
43-4

12 or 15 wounded.

Such contests between
Grimdars must be reprob-
ated with severity, or they
grow into desperate &
dangerous feuds. I do
not think the sentence
is too severe under
such circumstances.

I suppose there is
no objection to give the
applicants copies of
the papers they require
signed W.C.

Timorely
Commissioners Case.

By the Honorable W.C.
Morehead Esq.

In this case 53 per-
sons were charged with
affray, attended with
homicide

10 were released.

1st sentenced to 10 years

2^d & 5th P. to 7 years

3 & 4th P. to 7 — 20 —

7, 10, 11, & 21, to 3 — 20 —

7-8-12-25-26-27-28-29-30-31-32-

-33-35-36-37-38-39-40-42-43-

-44-45-46-47-49-50-52 to
one year.

The affray was connected
with

with land.

The dispute is of long
standing, and it will also
be seen from page 222 Com-
missioner's report that
lately it has been assuming
a serious aspect.

The immediate cause of
the affray was an attempt
made, at the instigation of
of the Nagala pooram Grim-
dars, to cultivate some
waste land. in so doing
his tenants were at once
opposed by some of the
people belonging to the Grim-
dar of Allen Harry (I.P.) on
this, no fight had then taken
place. They sent to Nagala-
pooram for aid, to enable them
to overcome the opposition made
to their cultivators, and there
was at once a fight. They
admit to the extent of some
30 or 40 persons, the Allen Harry
people also obtained assistance,
a fight was the consequence
injuries were inflicted on
both sides. two of the Nagala-
pooram people have died
and it is asserted that
two

two of the Attentary
people ^{were} missing - alleged to
have been killed. The
aggressors appear to me
to have been the Naga-
lapoosam people, whom
instructed they should
have applied to the
Police, and not have
resorted to violence
to effect their object.

I think it is to
be regretted that the
Said Magistrate
did not deal with
the case as provided
for in Regulation of
1822. The process in
the Commission
in the trial has been
guilty of serious in-
regularities, such as
I feel certain he
would not have
permitted upon had
he tried the case as
a Session Judge. It
is singular that almost
every Commissioner
seems to entertain
the belief that the

XIV

XIV of 1857 permits
him to set aside
the most obvious
principles of jus-
tice and to neglect
every thing that has
heretofore been con-
sidered by him essen-
tial to the due ad-
ministration of
Justice.

The defence urged
by the 1-2-3-4-5-6-10
11-152 prisoners was
that they were not
present, and to this
plea the Commission
or refused to call the
witnesses named by
them - alleging, as
his reason, that some
of them were wounded
~~wounded, but were~~
~~dead~~, ^{fully recovered} ~~and~~ could
not be the 1-2-3- or
5th Prisoner, as they
were in their defence
the absence of
all wounds, as going
far to show that they
could

40-7
41-6
42-3
43-4

the Plea of libbi was put
in by his counsel

could not have been
present in such a
mob, and escape un-
hurt.

The 6-14-17-182, ⁰⁰ then
Pha of Alibi was put
in by his counsel.
Prisoners were ill
in hospital, and
not even present dur-
ing the trial.

The 6, and 52
have been re-
leased.

It is difficult
to know what to
do in such a
case as this.

The record shows
that the first prisoner
the Zaminadar, has denied
throughout. The 17th witness
~~he~~ swears that he
cut him down by a blow
in the head with a sword.
but he appears from
the Doctors report
to have a contused
wound on his
head, not a cut

The 52 and 53. Witnesses
when examined before the Joint
Magistrate aver that
the 1st Prisoner was not
present at the affray.
The 52nd Witness stating
that the (1st Prisoner) was
that day confined to his
house consequent on the
death of his uncle's
son's child. This uncle
is the 4th Prisoner, to prove
this however neither of them
were allowed to call
Witnesses.

The Valuers for
the Prisoners do not ap-
pear to have asked the
Witnesses any questions.
It is alleged they were
not permitted to do so.

Enough has been
stated to show that the
Trial has not been
conducted by the Com-
missioner in such a
manner as to entitle
it

40-7
41-6
42-3
43-4

40-7
41-6
42-3
43-4

The Magistrate should
be instructed to have
the dispute between the
Zamindars both as re-
gards the channel and
the waste land in its
vicinity fully discussed
and adjusted. The
Magistrate should
also be desired to bind
them over to keep the
peace under the pro-
visions of Section V
Regulation VI of 1821
p. 111. 112.

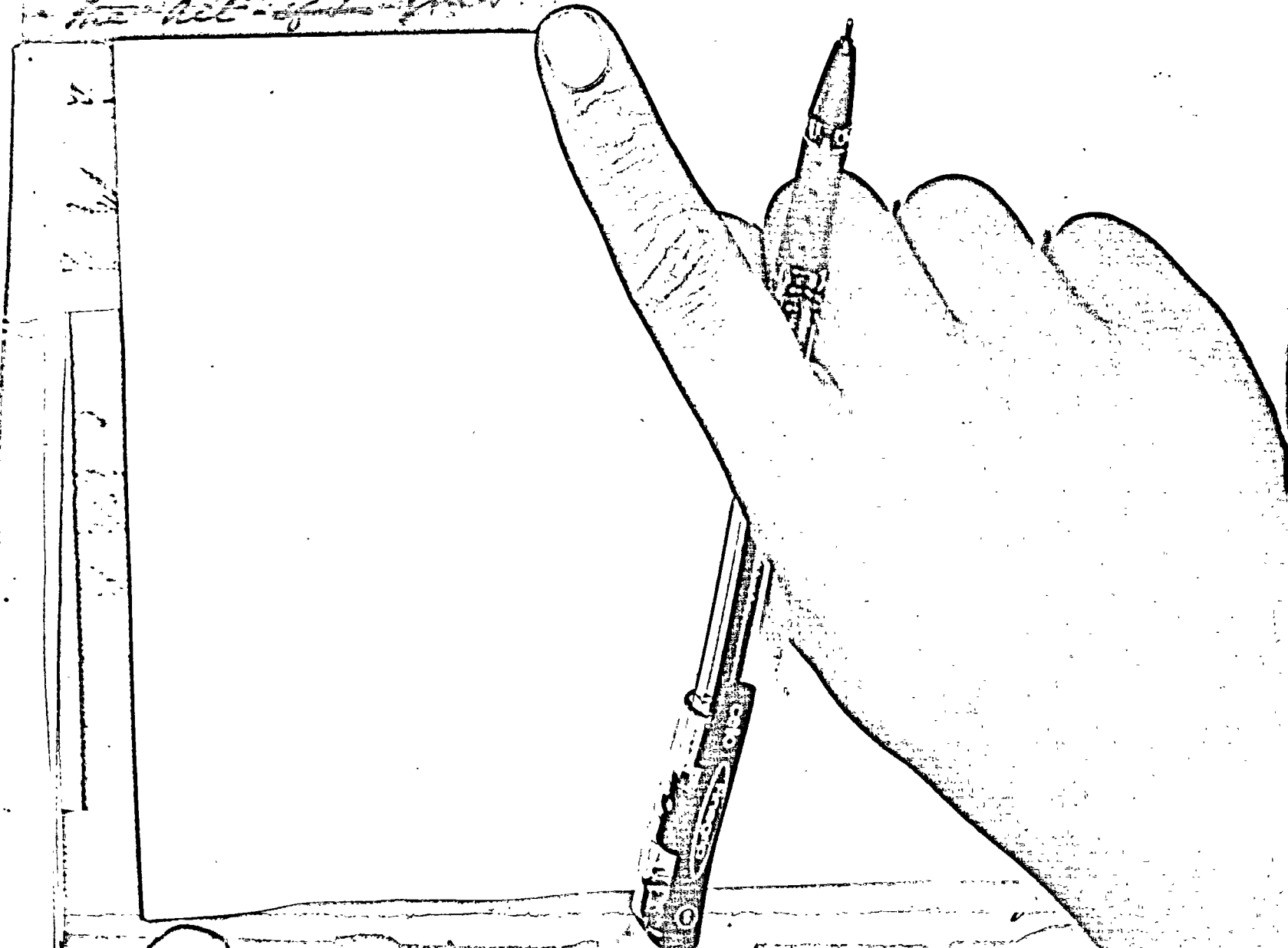
There appears to
be no more to report
than that suggested
by Mr. Housden who
has carefully investigated
the proceedings.
The papers have been
brought to the next
Committee.

26/27/77 My view is the
same
J. M. M.

85 c 88

I presume these papers
are circulated according
to instructions. What
Mr. Mayne's request
is I do not know.

The case was evidently
a very grave one - but
whether one of gang
robbery or not is what
may be doubted.
Mr. Mayne doubts
that his report to
the Act of the Government



with right of appeal -

I recommend that
nothing be done except
under legal advice.

Feb 10/11

The office is certainly
not going to be a
place of a very serious nature in
which women were killed.
Such contacts between people
must be respected with privacy
or they will be destroyed.

our friends. I do not think
the sentence is too severe
and such care as
suppose there is no objection
to give the applicants copies
of the papers they require.

Immunally ~~immunized~~ case

In this case 53 persons were charged with affray

— charged with homicide —

16 were released

19 sentenced to 10 years

22 5 yr. to 7 years

32 4 yr. to 6 yr.

9, 10, 11, 24 to 3 years

7, 8, 12, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52 — to one year

The affray was not settled with bond

The affray was not settled with bond

The affray was not settled with bond

The affray was not settled with bond

The affray was not settled with bond

The affray was not settled with bond

The affray was not settled with bond

The affray was not settled with bond

The affray was not settled with bond

The affray was not settled with bond

leaves are given, to cultivate the
wasteland - in 1800, his descendants were
at once opposed by some of the people
belonging to the Government of the Kingdom
(1807) - on this, no fight had then taken
place - They went to the capital to
present, to enable them to overcome
the opposition made to their cultivation -
& this was at once afforded - they all
went to the extent of some 80 or 100 acres -

They petitioned the King to have
the land given to them - a grant was made
to have the land - because - injuries were inflicted on
the people - both sides - two of the people were
killed - people have died - & it is agreed
applied to the King - that two of the people
to rise & without any difficulty - alleged to have been
killed - killed - ++
effect - I think it is the result of the
dispute - the King has not decided yet

The case was decided by the King of 12 - the
King is at the present moment in the trial
house - fully of persons - the people
asked as to the case - he would not
have decided a few days before he died
the case as a result - singular that
almost any one person would
be able to see the trial - that it was
57 - permit him to set aside the most
serious principles of justice & to reject
anything that has been before him
was based by him - essential to the
determination of justice.

The defense was by the 1 - 2 - 3 - 4 - 5 - 6 - 7 - 8 - 9 - 10 -
11 - 12 - 13 - 14 - 15 - 16 - 17 - 18 - 19 - 20 -
The defense was that they were
not present and to his plea the
people were refused to take the
King's word - named by them - saying
that King - that King of them
were wounded - which he does not

66

The 6452 has been released -

No we feel it is not
the case. I think that the
General has been throughout.

the Doctor's report - to have a contused
wound on his head - web-a-cut

2^d Refers -
The balance for the Mission do not
appear there as the Mt. any year
shows - it is alleged they care not for
2^d Refers to do to -

2. Michiel to do in
 Even Enough has been asked
 to show that the trial has not been
 conducted by the Commission in
 such a manner as to be the
~~best evidence of the~~

the respect of the Government
is upheld by them - and as it
now appears that under the
instructions of Govt - dated 29th
Sept-57 - the Com. Military of
the case to the four members for
that under the provisions of Act
XV of 57 was illegal it seems
to me that the only way left for
the Govt. to deal legally with
the case is to pronounce the
Act illegal & to set aside
the proceedings of the four

2. Memorandum -

It should be noted that the provisions

19
out to the P. & L. that he had also in
the opinion of Govt. seriously considered
in only attaching criminality
to the acts of the Alcock & Ginn
and his people -
The Govt. sent up, show that the
provisions of the Act had
throughout the disputes existing
between himself & the Alcock & Ginn
Ginn had been the offender -
It was clearly the duty of the P. & L. in
the present instance to have sent
up for trial all the parties impli-
cated in the affair - and he attended
to the provisions of Act X, XII & XIV of
Reg V of 1822 - the errors were committed
and not have occurred &

The Lawless as to how much
would not have passed us

I guess

I think the it or the I de should
be instructed - to pass the dispute
between the General de both

as regards the Channel of the
waste land in the vicinity
fully discussed & adjusted -

He should also be desired

to keep the peace

under the provisions of act V

July 11 of 27

W. H. H. H.

Judicial Department

N^o 332

Extract from the Minutes of Consultation
Dated. 11 March 1858.

Read the following
papers.

From Commissioner of Tinnevely - 3 Here enter 8 Febry 1858

From J. D. Maynard Esq " " 15 - 18 - "

Petitions from Mohiaddin
Koopain of Tinnevely - 8 " " 12 - 18 - "

With the above
letter the Commissioner of
Tinnevely submits an
English translation of the
Record of Case N^o 3 of 1857
on his file - tried and
disposed of by him under
Act XIV of 1857 together
with a copy of the sentence
thereon passed.

2. In this case, fifty
three persons were charged
with the crime of affray
and robbery attended
with murder & severe
wounding -

Thirty

3. Thirty seven of the prisoners have been convicted and 16 released.

4. Of these convicted 1st Prisoner, the Zemindar of Attenkerry, has been sentenced to 10 years imprisonment with hard labor in irons.

The 2^d and 5th to 7 years

3^d & 4th to 7 do

9-10-11 & 24 to 3 do

7-8-12-25-26-27-28-29-30

31-32-33-35-36-37-38-40

42-43-44-45-46-47-49

50 & 52 to one year.

5. The affray was connected with a dispute about land which is of long standing, and has lately been assuming a serious aspect.

6. The parties concerned were the Nagalapooram and Attenkerry Zemindars and their respective servants and ryots. The immediate cause of the affray was an attempt made on the

the part of the Zemindar of Nagalapooram to cultivate some waste land. In so doing his tenants were at once opposed by some of the people belonging to the Zemindar of Attenkerry. No fight then took place, but the Nagalapooram ryots sent to their village for aid to enable them to overcome the opposition offered to them. The assistance sought was not

once afforded to the extent

as they admit of some

30 or 40 persons. The At-

tenkerry people were also

re-inforced. A fight then

ensued. Injuries were inflicted

on both sides. Two

of the Nagalapooram

people have died - and

it is alleged that two

of the Attenkerry men

are missing and have

been killed.

The

4 The defence urged
by the 1st 2nd 3rd 4th 5th 6th 10th 11th &
52nd Prisoners, was that they
were not present and to
this Plea the Commissioner
refused to call the witnesses
named by them, assigning
as his reason, that some
of them were wounded;
such however could not
be the case ^{as regards} the 1st 2nd
3rd or 5th Prisoners as they urge
in their defence the absence
of wounds, as going far
to show that they could
not have been present in
such a melee and escape
unhurt.

8 The 52nd and 53rd witnesses
when examined before the
Joint Magistrate aver
that the 1st Prisoner was
not present at the affray.
The 52nd witness stating
that the (1st Prisoner) was
that day confined to his
house consequent on the
death of his Uncle's son's
child. This Uncle is the
1st Prisoner, to prove this
alibi however

23
however neither of them
were allowed to call
witnesses.

9 The Vakeels for the
Prisoners do not appear
to have asked the witnesses
any questions. It is alleged
they were not permitted to
do so.

~~x the Plea of Alibi was put
in by his Vakeel.~~

10 The 6th 46th 47th & 52nd
Prisoners were ill in hospital
and not even present during
the trial.

11 The Right Honble
the Governor in Council
has attentively considered
these proceedings and is
of opinion that they are
altogether illegal, that
the Commissioner has exceed-
ed his power in trying the
case under Act XIV-1857.
that his sentences must
be annulled, and the
prisoners released.

12 In Extract Minutes
of Consultation 25 August
1857 the Government when
they

by bringing a posse of their followers to till the land by violence, were the immediate cause of the riot and homicide which followed.

15 It will be pointed out to the Joint Magistrate that it was his duty in the present instance to have acted under Sections XII-XIII-XIV Reg V-1822 and to have sent up for trial before the Criminal Court all the parties implicated in these outrages. Had he done this the errors pointed out would not have occurred and the lawless acts committed would not have passed unpunished.

16 As it is the parties who have been convicted must be released forthwith. It will however be for the Magistrate under the provisions

provisions of Reg. VI-1827 Sec V to take security for the maintenance of the public peace from such of them, as well as of the Nagalapuram people who were most prominently concerned in the affray of the 9th December. The dispute between the two Zemindars both as regards the channel and the waste land in the vicinity should be fully enquired into & settled without loss of time.

17 Mr. J. B. Mayne will be informed that the Government decline to furnish him with copies of the documents applied for in his letter of the 15th ultimo.

18 The Right Honble the Governor in Council further resolves in modification of the orders conveyed.

Vide Supra paras 7.8.9.10

Conveyed in L. M. C. 25th
August last to restrict
the jurisdiction of all
Commissioners under the
Act XIV of 1857 solely to the
trial of offences against
the state, and to direct
that henceforward as
dacoity gang robbery
and all other crimes
except State crimes be
dealt with under the or-
dinary law. The Com-
missions already issued
will be recalled and
fresh Commissions to the
above effect issued.

JF

Copy to
The Commissioner of Tinnevely }
with proceedings returned } Disp^d 13th
to the Magistrate of Tinnevely.
Para 16 to all Commissioners }
Magistrates & Sessions } Disp^d 13th 1857
Adlawlat. }
Para 17 to S. D. Mayne Esq. } Disp^d 13th

