M.R.O. 1—38,000—16-10-37.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

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36-38

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412

13.11.29

M.E.C. 1—89,000—16-10-27.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 412 Press ~~Mis~~

36-38

Dated 29. 2. ~~1938~~

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13.11.29

No. 36. Read the following letter from E. STORY, Esq., Commissioner, Tinnevelly ; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated 18th November 1857, No. 1221.

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 a case tried by me under Act XVI of 1857, under the power vested by Act XIV, together with the sentence passed therein.

2. The prisoners were in the first instance committed by the Police to the Court of the Principal Sudder Ameen, by whom they were held to bail pending the trial ; but upon an appeal made to me against this proceeding, I considered the case as falling under Section II, Act XVI of 1857, and ordered the Magistrate to call it up from the Principal Sudder Ameen and commit it to me direct.

ZILLAH OF TINNEVELLY. 1857.

Case No. 1 of 1857, on the Tinnevelly Commissioner's file.

Trial for the crime of Sedition.

Prosecutor.

Rev. J. Thomas, by Vakeel Soobramonia Pillay.

Versus.

Prisoners.

1 Ramasamytaven.
2 Moottoosamytaven.
3 Permamoottoo Chetty.
4 Soobramonean Chetty.
5 Ramalinga Vathear.
6 Velliataven, Cavilgar.
7 Vunnamootoo Carialum, Village Moonsiff.
8 Ramasawmy Pillay, Number Curnum.
and
9 Chockuppa Naicken, Mettoo peon.

Proceedings of the Court.—Trial commenced on the 29th October and closed on the 10th November 1857.

The Commissioner having attentively perused and considered the documents received from the Magistrate, No. 1 to 45, proceeds with the trial of the prisoners.

The prisoners are brought into Court by the Nazir.

The prosecutor's Vakeel also attends.

The Government Vakeel opens the trial by reading the charge.

Arraignment.—Prisoners Ramasamytaven, Moottoosamytaven, Permamoottoo Chetty, Soobramonien Chetty, Ramalinga Vathear, Velliataven, Vunnamoottoo Carialum, Ramasawmy Pillay and Chockuppa Naicken, you stand at the bar charged by the prosecutor for seditious acts and for using highly seditious language, tending to forward the designs of the rebels who are waging war against the State, at 12 A. M. on the 15th September 1857, in the village of Thuchamoly, in Punjamal Talook.

How say you prisoners Ramasamytaven, Moottoosamytaven, Peramamoottoo Chetty, Soobramonien Chetty, Ramalinga Vathiar Velliataven, Vunnamoottoo carialun, Ramasamyapillay and Chockuppa Naicken, are you guilty of this crime or not.

1st prisoner Ramasamytaven, not guilty.
2nd prisoner Moottoosamytaven, not guilty.
3rd prisoner Permamootoo Chetty, not guilty.
4th prisoner Soobramonien Chetty, not guilty.
5th prisoner Ramalinga Vathiar, not guilty.
6th prisoner Velliataven, not guilty.
7th prisoner Vunnamoottoo Carialum, not guilty.
8th prisoner Ramasamypillay, not guilty.
9th prisoner Chockuppa Naicken, not guilty.

Thursday, 29th October 1857, Prosecutor's Vakeel, Soobramoniapillay.

The prosecutor's Vakeel Soobramoniapillay, son of Ponnumbalempillay, Vellala caste, Siva sect, a Vakeel under the Rev. Mr. Thomas of Megnanapoorum, aged 42 years' residing at Sattan-

colum in Punjamal Talook, having been caused to make the solemn affiirmation required by Act No. V of 1840 the following examination takes place.

The 3rd witness sent the 4th to the Reverend Mr. Paul at Sattancolum, with a message to say that at about 12 o'clock in the day time of Tuesday, the 15th September 1857, the prisoners who are now before the Court,and Ramasamytaven, a Cavilgar of Pallencolum 1,Oleymoottoopillay 2, Paramasivenchetty 3, Sunkaralingompillay 4, and Velliempillay 5, who are now absent, making in all 14 persons, were engaged in placing small earthen idols on the western wall of the Thatchenmooly Olagoosurren bungalow and in painting the wall with white and red streaks; that on discovering this the gardener (4th witness) of the bungalow went up and questioned the said defendants, but as no direct answer was given, he (the gardener, 4th witness) went and reported the circumstance to the 3rd witness who is the Superintendent of the village, whereupon the said 3rd witness, and the 4th, 2nd and 1st witnesses and one Theerthan alias Pakianatha Mookenden and Soodalamoottoonadan alias Sooveesashamoottoonadan who are now absent, went to the place where the idols were placed, and of them the 3rd witness addressed the defendants saying, "the bungalow is a place where Reverend gentlemen and Europeans come and reside, can idols be placed on the wall of such a bungalow and the wall painted contrary to religion," that the 1st, 2nd, 3rd, 4th, 5th and 6th prisoners and 5 others who are absent, making in all 11 persons, then replied, "you are come to boast of the terms Europeans and Missionary. The Europeans were cut and made to retreat in the north. Orders have been received and the Europeans who are here are running away. How is it that you are making a boast (of them)," that the 3rd witness thereupon spoke to the 7th, 8th and 9th prisoners saying, "They are aspersing the Europeans in this manner, can you, who are Circar people, be listening to it," and that the 7th, 8th and 9th prisoners then answered, "be off, the circumstance of their having retreated is known to all. You may "complain regarding the matter and we shall answer." I was present when the said 4th witness came and reported the circumstance to the Reverend Mr. Paul, and he directed me to enquire into the matter. I and the 4th witness set out immediately. The 1st prisoner was forming idols and placing them on the aforesaid wall. The 2nd prisoner was painting the wall with red ochre, and Ramasamytaven of Pullencolum was streaking with white sand (lime.) The 9th prisoner was exacting work from them. The other prisoners were standing in a crowd. I then addressed the 1st prisoner and those that were working, and said, "can you in this manner place idols in the "garden appertaining to a bungalow and mark it with streaks and use abusive language towards "gentlemen." Whereupon the 1st and 2nd prisoners and Ramasamy of Pullencolum, furiously replied, "we have spoken to the Catechist, are you come for his assistance." When I reported the circumstance to the Mettoo peon, the 9th prisoner, and to the Village Moonsiff the 7th prisoner, they said, "It is a matter that is well known to all. You may prefer a complaint respecting it." This expression was very furiously uttered by the 1st, 2nd, 3rd, 4th and 5th prisoners and by the 5 individuals who are now absent. When I was returning from the place, the 6th and 8th prisoners wereexciting those that were making the streaks to work, by stating, "why do you stop." As the witnesses from 1 to 4 and 2 others who are now absent, came and stood by me when I arrived at the place, I desired them to bear witness and went and related the circumstance to the Reverend Mr. Paul, who reported it to the Reverend Mr. Thomas of Meygnanapoorem. The said Mr. Thomas and his younger son came and inspected the place on the 19th September, after which I was furnished with a Vakalutnamah for prosecuting the case. This is all. The wall was marked with streaks to the length of 60 yards, which runs from the commencement of the wall up to the school-room." It was not customary to make the streaks annually. The wall in question was erected by the Missionaries in the days of Mr. Schaffter. I have known the prisoners since the last 15 years.

The prosecutor's Vakeel has no question to put.

Answer to the prisoner's Vakeel's question.—I do not know if the Board of Revenue passed an order in A. D. 1850, prohibiting the Missionaries from interfering with the wall now in dispute. The streaks were made on a mud wall. The distance between the above wall and the western gate of the bungalow is about 10 yards. The streaks were made on the outer side of the wall and at certain parts on the inner side also. The above bungalow has no other wall besides the one in dispute. The idols that were placed on the wall in question were balls of mud without features, &c., they were placed as "pillayar" (earthen pyramids worshipped in the name of the

deity called pillayar.) It is usual in other Ummen covil temples to place such balls of mud, if the walls should pertain to the temples. I do not know if in A. D. 1846, a gap made for a passage in the disputed wall, was blockaded by order of the Board, because I was not then employed at that place. The temple situated in the vicinity of the aforesaid bungalow has no walls on the other 3 sides similar to the one in dispute. The wall is on the west side of the road and there are garden-walls on the north and south sides.

(Signed) SOOBRAMONIAPILLAY.

Solemnly affirmed before me in open Court, this 29th day of October, A. D. 1857.

(Signed) E. STORY,
Commissioner.

Thursday, October 29th.—Prosecutor's 1st witness Packeanathanadan.—The 1st witness Palavasamootoo Nadan alias Packeanathanadan, son of Thalanay Sunthoshanadan, Shawar caste, a Christian, a cultivator, aged 40 years, residing at Thachamoly Veeramathondanulloor in Punjamal Talook, having been caused to make the solemn affirmation required by Act No. V of 1840, the following examination takes place.

At noon of the 1st of Poorattasy (15th September) the 3rd witness was standing at the gate of my house, purchasing Palmirahs from me and the 2nd witness. The 4th witness arrived at the time and addressing the 3rd witness, told him that the prisoners and certain others who are now absent, were placing idols and were making colums or white, &c. streaks on the compound wall of the bungalow belonging to the Missionary gentlemen; that he (4th witness) asked them as to why they were doing those things on the wall appertaining to the bungalow, but that they grossly abused and sent him away. The 3rd witness went up immediately, I and the 2nd and 4th witnesses and certain others accompanied him. The 3rd witness addressed those that were standing at the place and said, "Is not this a place in which Europeans reside, can you do these things in such a place, will your religion be consonant to theirs." To which the 1st and 2nd prisoners and another who is now absent, replied, "you boast of the term Europeans, have younot heard of the difficulties and sufferings they have been subjected to in the north, they were injured by cuts and stabs and were made to retreat, and it appears that an order has been received calling down the Europeans that are here." The 3rd witness immediately spoke to the 9th prisoner saying "Did you hear what this man said, cannot you prevent," to which he (9th prisoner) answered, "am I to prevent at your request, go and mind your business, we shall answer the authority who may summon and question us." The 3rd witness then addressed the 7th and 8th prisoners, "cannot you at least prevent him," but the whole of them got up and came and replied, "did they state any thing that has not occurred? It is a matter that has taken place. Be off." The 3rd witness then said "these are bent upon creating a disturbance," whereupon he and we repaired to the verandah of the bungalow. The 3rd witness subsequently sent the 4th to report the circumstance to the Reverend Mr. Paul, and he went and reported it, and by order of the aforesaid Missionary brought the Vakeel for the prosecution, (prosecutor's Vakeel) who came and spoke to the prisoners and others that were standing at the place, saying, "It appears that you have been conducting such improper things on the Missionaries' garden wall and that you aspersed the Europeans also," but they answered him saying, "be off, is it an untruth that destruction was caused by cuts and stabs, are you come to sever the head." "If a complaint be preferred, we shall answer it," and went away. The Vakeel also went away, after citing witnesses. This is all.

I did not measure and see as to how far the wall was painted, but it was streaked to the length of 35 or 40 yards, the streaks were marked both outside and inside the wall, it was not at all customary for such streaks being made on the wall in question on any day. Of these prisoners, I have known the 9th since 3 months, and the others since a long time.

The prosecutor's Vakeel has no question to put.

Answer to the prisoners' Vakeel's question.—Enmity existed for a short time between me and the 7th prisoner, in consequence of his having submitted a report against me. The 7th prisoner has

given evidence in my favor in the matter of the complaint that was preferred, accusing me of having struck one Vellien. I did not steal an ass and kill it, the 9th prisoner submitted a report in my favor.

(Signed) PACKEANATHANADAN.

Solemnly affirmed before me in open Court, this 29th day of October 1857.

(Signed) E. STORY,
Commissioner.

Thursday, October 29th—Prosecutor's 2nd witness, Visoovasanadan.—The 2nd witness Visoovasanadan, son of Elyapermal Nadan, Shanar caste, a Christian, cultivator, aged 35 years, residing at Thuchamoly Veeramarthandanalloor in Punjamal talook, having been caused to make the solemn affirmation required by Act No. V of 1840, the following examination takes place.

At noon of the 1st Pertasy (15th September) the 3rd witness came to my gate for the purpose of buying Palmirah rafters, the 4th witness then came and informed the 3rd witness that the 1st prisoner and others formed an I placed images on the compound wall of the bungalow, and that Ramasamy of Palancolum, who is absent, was painting the wall with white, and the 2nd prisoner with red streaks. The 3rd witness, I and Soodalamoottoonadan and Theerthan Pakeanadan who are absent, and the 1st and 4th witnesses repaired to the said place. The 3rd witness addressed the persons who were placing images and who were painting the wall and asked "can you do this on the compound wall of the bungalow in which Europeans reside." They furiously replied "why do you mention a bungalow and Europeans, the Europeans in all the northern countries have retreated from cuts and stabs, the Europeans here also will run away to some town. Order will be received, why do you boast of this." The 9th prisoner was exacting work from the said workmen. The 3rd witness asked the 9th prisoner, "how do you, a Cirear man, exact work in this manner and allow the use of abusive language towards Europeans," and the 9th prisoner replied "did they speak an untruth, it is the fact, why do you talk? If a complaint be preferred, we shall answer it." The 7th and 8th prisoners and certain others attached to them were on the elevated ground of the Pillyar pagoda, the 3rd witness informed them also, they too said "be off, all these are facts, why do you dwell upon them." All the other prisoners and others got up and approaching the wall in question with a view to create disturbance, spoke angrily and said "go, go, it is true that Europeans have gone away from stabs and cuts." The 3rd witness sent the 4th witness for the purpose of informing the circumstance to the Reverend Mr. Paul, thereupon the prosecutor's Vakeel arrived, and on his asking the prisoners as to how they can act in this manner, all combined together and said "go, go, and prefer a complaint, let them sever (our) heads." This is all.

The wall was streaked on the outside to the length of about 40 yards, it was also streaked in some places on the inner side. It was never before usual to use such streaks. I have known the prisoners from the time I attained my majority, but I have known the 9th prisoner for 2 or 3 months only.

Memorandum.—The prosecuter's Vakeel has no question to put.

Answer to the question put by the prisoner's Vakeel.—The 2nd prisoner gave evidence against me in the matter of the charge that was brought against me accusing me of having killed an ass, the said charge was dismissed, the 9th prisoner submitted a report against me regarding the said matter, but no enmity exists between us. I preferred a complaint against the 7th prisoner at the Police and we entered into an amicable settlement. I was fined 3 Rupees on the report forwarded against me by the 7th prisoner. The 5th prisoner gave evidence against me in the matter of myself and others having broken the fire chatty of the Ummen pagoda, and it was dismissed, but I was not fined, the wall which was streaked is a mud wall, there is no Peedum (image) adjoining the said wall, there is no other wall besides the one in dispute between the above bungalow and the Ummen pagoda.

Mark of VISOOVASANADAN.

Solemnly affirmed before me in open Court, this 29th day of October 1857.

(Signed) E. STORY,
Commissioner.

Note.—The 3rd and 4th witnesses were not examined before the Commissioner.

Memorandum.—The evidence for the prosecution being closed, the prisoners' Vakeel puts in the following defence.

Translation of the defence given by Rajasagara Moodeliar, Vakeel on behalf of the prisoners in case No. 1 of 1857 on the file of the Commissioner of Tinnevelly.

1st. The prisoners did not commit the crime laid to their charge.

2nd. In 1846 the Missionary endeavoured to throw open a gate in the wall on which the streaks are now stated to have been made, and complaints were preferred to the Board of Revenue and Government, and the order passed thereon to the effect that the wall in question pertains to the Ummen covil temple and that the Missionary cannot open a gate, is on the Hoozoor records.

3rd. When coday or sacrifice was offered in 1850 in the Ummen covil situated within the disputed wall the 1st witness and others entered the temple and broke the chatty which contained fire on account of which each of them was fined Rupees 5 by the Magistrate, and the fine in question has been confirmed by the Board of Revenue, and an order has been passed to the effect that the Missionary and others should not interfere with the ceremonies, &c., that may be performed in the said temple, which order is on the Hoozoor records.

4th. All the witnesses are Christians, and the servants of the Missionary who are all along at enmity with the prisoners.

5th. The evidence of the witnesses regarding seditious language having been used by the prisoners against the State is contradictory, and this is sufficient to show that the crime was not committed.

6th. The prisoners, who are poor inhabitants depending solely on this Government, have in no way spoken ill of the Government; and this false charge has been got up by the Christians who reside in the vicinity of the Ummen covil temple in view to wreak the vengeance inwardly entertained by them since a long time, regarding the said temple, which is situated within the disputed wall.

7th, At any rate the matter of the present complaint does not fall within the provisions of Act XIV of 1857.

8th. I therefore pray that the witnesses hereunder named by the prisoners may be summoned and examined, and the prisoners, who are innocent, released.

Prisoners' witnesses.—Aaroomoogataven, head Cavilgar of Odengoody and Permaltaven will prove that 1st prisoner was absent from the village.

Soodalamoottootaven, son of Palavasataven and Nagappataven of Tharangay in Punjamal talook, will prove that 2d prisoner was absent from the village.

3rd and 4th prisoners have cited no witness.

Moottoosamyapillay of Veeramarthandanalloor and Moottoosamy Chetty, son of Auroomoogum Chetty, will prove that 5th prisoner was in the school.

Veeranacunnoopillay, shroff of Thachaymooley and Coottalenpillay, son of Nynapillay will prove 6th prisoner's alibi.

Soobramoniapillay, Village Moonsiff of Pallacoorchy, and head Cavilgar Soodalamoottoopillay will prove 7th prisoner's alibi.

The Revd. Mr. Suiter of Moothaloor and Parinbamookoonden, son of Vailoyda Mookonden will prove 8th prisoner's alibi.

The police Ameen of Padookayput and Moottookistnappa Naick, the Mettoo peon of Colasaigurem will prove 9th prisoner's alibi.

29th October 1857.

Tuesday, November 10th—1st prisoner Ramasamy Taven.

Statement of the 1st prisoner Ramasamytaven, son of Erooluppataven, Marava caste, Siva sect, a cultivator and Cavilgar, aged 33 years, residing at Veeramathandanulloor in Punjamal talook.

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A.—On the 31st of Auvany, (14th September) I went to Vooduncoody, for purchasing a bullock and remained at that village both that night and on the following day which was the 1st of Poorathasy, (15th) September. I have cited witnesses to prove this circumstance. I returned to my village at 10 o'clock on the morning of the 2nd, (16th.) My witnesses have seen me the whole of the time I remained at Voodungoody. I put up in the house of the 1st witness. I arrived at his house at lamplight on the 31st Auvany, (14th September.) I went alone, I went direct to the 1st witness' house, he was then in his house, and his wife also was present. On the morning of the following day which was a Tuesday, the 2nd witness Paroomaltaven saw me, he saw me at the gate of the 1st witness' house, I do not know why he came here, I went to the 1st witness' house for purchasing a bullock and bought one of him for 9 Rupees paying the value in cash, but I obtained no receipt for the payment, there was no one present when I paid the money, I paid him the money at the gate of his house and it was then 1 or 1½ Indian hour (24 or 36 minutes) after day-break, subsequently I and the 1st and 2nd witnesses went to enquire for bullocks, I paid the money before buying the bullock, the 2nd witness was not present when I paid the money. The 1st witness brought the 2nd, but as the two bullocks which we inspected after enquiry did not suit me, I purchased the one he (1st witness) had. The distance between Thuchaymoly where the crime was committed and Voodungoody, will be about 5 or 6 Indian miles, (7 or 8 English.) We were enquiring for bullocks until the 20th Indian hour (2 P. M.) of Tuesday. The 2nd witness was not present when I purchased the 1st witness' bullock, but he saw me while I was taking the bullock on the following day, which was a Wednesday. We were enquiring for bullocks in that village only from morning until the 20th Indian hour (2 P. M.) of Tuesday. We made enquiries in ten places. I at first gave him (1st witness) 10 Rupees, and he returned me 1 Rupee.

Mark of RAMASAMYTAVEN.

Taken before me in open Court, this 10th day of November 1857,

(Signed) E. STORY,
Commissioner.

Tuesday, November 10th.—2nd prisoner Moottoosawmy.—Statement of the 2nd prisoner Moottoosawmy, son of Palavasataven, Marava caste, Siva sect, a cavilgar and cultivator, aged 40 years, residing at Thuchaymolyvoodooraurum in Punjamal talook,

A.—I have no other witnesses on my behalf. The Court need not wait for the witnesses who are absent.

(Signed) MOOTTOOSAWMY.

Taken before me in open Court, this 10th day of November 1857.

(Signed) E. STORY,
Commissioner.

Tuesday, November 10th.—5th prisoner Ramalinga Vathiar.—Statement of the 5th prisoner Ramalinga Vathiar, son of Theroovengadnothoonar Vellala caste, Siva sect, a school master, aged 41 years, residing at Veeramarthandanulloor in Punjamal talook.

A.—The witnesses named by me are absent from their village. I have no other witnesses. I do not require the witnesses who are absent.

(Signed) RAMALINGA VATHIAR,

Taken before me in open Court, this 10th day of November 1857.

(Signed) E. STORY,
Commissioner.

Tuesday, November 10th—6th prisoner Velliataven.—Statement of the 6th prisoner Velliataven, son of Auroomoogataven, Maràva caste, Siva sect, a cultivator and cavilgar, aged 47 years, residing at Veeramarthandanulloor in Punjamal talook.

A.—The witnesses cited by me are absent. I have no other witnesses. The Court need not wait for the witnesses who are absent.

Mark of VELLIATAVEN,

Taken before me in open Court, this 10th day of November 1857.

(Signed) E. STORY,
Commissioner.

Tuesday, November 10th.—7th prisoner Vunnamootoocaryalun.—Statement of the 7th prisoner Vunnamootoocaryalun son of Koolasagarapermal Caryalun, Vellala caste, Siva sect, a cultivator, aged 43 years, residing at Thatchaymoly in Punjamal talook.

A.—My witnesses need not be examined.

(Signed) VUNNAMOOTTOOCARYALUN.

Taken before me in open Court, this 10th day of November 1857.

(Signed) E. STORY,
Commissioner.

Monday, November 2nd—8th prisoner Ramasamyapillay.

Statement of the 8th prisoner Ramasamyapillay, son of Sethumbarumpillay, Vellala caste, Siva sect, a number Curnum, aged 29 years, residing at Veeramarthandanulloor in Punjamal talook.

At half past 8 o'clock on the morning of Tuesday the 15th September, I went to Reverend Mr. Suter at Moothaloor and prepared a Mahazurnamah regarding a Tank; which the said Missionary forwarded to the Collector together with his letter. I remained there till after 2 o'clock that day.

(Signed) RAMASAMYAPILLAY.

Taken before me in open Court this 2nd day of November 1857.

(Signed) E. STORY,
Commissioner.

Tuesday 10th—8th prisoner Ramasamyapillay.

Examination resumed on the 10th November 1857.

A. It is not necessary to examine the one witness on my behalf who is absent. I have no other witnesses.

(Signed) RAMASAMYAPILLAY.

Taken before me in open Court, this 10th day of November 1857.

(Signed) E. STORY,
Commissioner.

Friday, November 6th—9th prisoner Sokkuppanaicken, Mettoo peon.

Statement of the 9th prisoner Sokkuppa Naicken, son of Mooneesamy Naicken, Gentoo caste, Vistnoo sect, a peon of the Punjamal talook, aged 36 years, residing at Calacaud in Nangoonary talook.

A. At 4 o'clock on the evening of the 14th September, I obtained leave from the Police Ameen, and setting out from Coolasagarapatam at 12 o'clock in the day time of the 15th of the above month, the date on which the crime is alleged to have been committed, returned to Sattancolum in advance at 4 o'clock that evening. The witnesses whom I have cited will consequently

prove my absence during the time the crime was committed. Of my witnesses, the Police Ameen who is the 1st is not aware of my having remained at the place during the day time of the 15th.

(Signed) SOKKUPPA NAICK.

Taken before me in open Court, this 6th day of November 1857.

(Signed) E. STORY,
Commissioner.

Tuesday 10th—9th prisoner Sokkuppanaicken, Mettoo peon.

Examination resumed on the 10th November 1857.

A. It is not necessary to examine my one witness who is present.

(Signed) SOKKUPPA NAICKEN.

Taken before me in open Court, this 10th day of November 1857.

(Signed) E. STORY,
Commissioner

Tuesday, November 10th—1st prisoner's 1st witness Auroomoogataven.

The 1st prisoner's 1st witness Auroomoogataven, son of Poolamadataven, Condyencottay, Marava caste, Siva sect, a Cavilgar and Cultivator, aged about 55 years, residing at Oodengoody in Punjamal talook, having been caused to make the solemn affirmation required by Act No. V of 1840, the following examination takes place.

A. I know the names of months and dates, this day is Tuesday the 27th of Arpesy (10th November.) I know where the 1st prisoner was on the 15th September or 1st Peratasy, he was in my house, he had come to buy a bullock, he came to my house at sun-set of Monday (14th September.) I sold him a bullock for 9 Rupees. I first charged 10 Rupees, and then gave it for the above price, the prisoner paid the money in cash, he paid the money at the time he purchased the bullock, it was then the 20th Indian hour (2 o'clock) at noon he paid the money at the door-way of my house, it was then 1 Indian hour (24 minutes) after day-break, he paid the money before he purchased the bullock, and said that he wanted to purchase a bullock. I and the 1st prisoner were absent from my house since that morning till the 20th Indian hour, (2 o'clock) at noon, we had been to the village common which belongs to the village, there is only one village common, and it is a place in which the bullocks of the villagers are herded, we went there to enquire for a bullock, we went to enquire of the neighbours for a bullock, for the money which was given to me, the 1st prisoner did not approve of the said bullocks, the prisoner saw my bullock which was in the said village common, and asked me for it, he gave me 10 Rupees, he had 10 Rupees only, he said that he should buy a bullock within that sum. As no other bullock was procurable, I gave him my bullock, no one was present when he gave me the money. I and the 2nd witness went with the said prisoner to enquire for a bullock. As he is a Cavilgar of my village, I took him with me to enquire for a bullock. As we were going, we saw him at the gate of his house and took him. I did not give a receipt to the prisoner for the said money.

A. to the Q. by the Government Vakeel.—We went after 1 Indian hour (24 minutes) in the morning to enquire for a bullock and returned at the 20th Indian hour (2 o'clock.) We enquired of 5 or 6 persons for bullocks, the 2nd witness was present with us during the whole of this time. While we were returning home, he left us in the middle of the road.

A. to Q. by prosecutor's Vakeel.—The 1st prisoner is not related to me, but he is of my caste. If a Maraven was to go to another place and stay there for a day, it is usual for him to go on obtaining a passport or the permission of the Mettoo peon. No passport was given for the

bullock which was sold to the prisoner. If a bullock be purchased from another village, it is not usual to send it with a passport. I did not sign the Summons which was issued for me.

(Signed) AUROOMOOGATAVEN.

Solemnly affirmed before me in open Court, this 10th day of November 1857.

(Signed) E. STORY,
Commissioner.

Tuesday 10th.—1st prisoner's 2nd witness Paroomaltaven.

Paroomaltaven, son of Chinnataven Condiencottay, Marava caste, Siva sect, a Cavilgar and cultivator, aged about 35 years, having been caused to make the solemn affirmation required by Act No. V of 1840, the following examination takes place.

I know the prisoner. I know the names of the months and dates. This day is the 27th of Arpusy, (10th November.) I know where the prisoner was on the 1st Perattasy (15th September.) I saw him the preceding day also. I saw him in the evening, when I went to the 1st witness' house. I wished him a welcome. I saw him and the 1st witness on the following day in the street. I was then at the street door. It was then about 4 or 5 Indian hours (24 minutes before 8 or 8 o'clock) after day break. I went with them. I went to purchase a bullock. The 1st witness called me. He said that he had to buy one bullock and requested me to accompany him, he said that the bullock was for the prisoner. The bullock was bought from the 1st witness. The bullock in question was in the village common together with the bullocks belonging to other parties. Enquiries were made from other people also at the time, but no good bullock was procurable. Money was not paid for the 1st witness' bullock. The prisoner said that he will pay the money after going home. It was about 12 o'clock in the day when the price of the bullock was settled. I did not go along with them, but parted on the road and went away to the bazzar. The prisoner went with the above bullock on the following day.

A. to the Q. of the prosecutor's Vakeel.—If people of the Marava caste were to remain for one day in another village, they usually do so upon obtaining a passport or upon getting the permission of the Mettoo peon. I was not aware that a passport was necessary if a bullock were to be purchased at another village. I do not remember how many days there were in the months of Vicausy (May) and Audy (July) last. I remember the date of the above mentioned month, because it was the 1st day in that month.

I do not remember what I ate yesterday.

Mark of PERMAULTAVEN.

Solemnly affirmed before me in open Court, this 10th day of November 1857.

(Signed) E. STORY,
Commissioner.

Monday, November 2nd.—8th prisoner's 1st witness, Reverend Mr. Suter.

Deposition of the Reverend T. H. Suter, residing at Moothaloor in Punjamal talook, the 1st witness for the 8th prisoner in case No. 1 on the file of the Commissioner for the Zillah of Tinnevelly.

Q.—Do you know the prisoner before the Court?

A.—Yes.

Q.—Do you know where he was on the 15th September last?

A.—He was with me that morning between 9 and 10 A. M.

Q.—Did you see him that day after 10 A. M?

A.—No.

Q.—What is the distance between the place where you saw the prisoners that day and Thutchamoly?

A. About 2½ miles.

Q. By the prisoner. Did you see me that day at 12 o'clock?

A. No.

(Signed) T. H. SUTER.

Solemnly affirmed before me in open Court, this 2nd November 1857.

(Signed) E. STORY,
Commissioner.

From J. SILVER, Esq., Magistrate; to E. STORY, Esq., Commissioner of Tinnevelly, dated 2nd November 1857, No. 375.

SIR,

With reference to your letter of the 30th Ultimo, requesting me to forward to you, if on the records of my office, the two documents cited by the Vakeel for the prisoners in case No. 1 of 1857, on your file, and therein enumerated, I have the honor to inform you that no order purporting to have been issued by the Board or Government in 1816, prohibiting the Mission opening a gate on the wall in question in Tutchamoly village in the Punchamaul talook, is forthcoming from the records of my office.

2. Copy of an order passed by the Head Assistant Magistrate under date the 26th September 1850, fining Parinbum, a servant of Reverend Mr. Hobbs, then residing at the above village, and certain others for having broken a chatty belonging to the Ummencovil enclosed by the said wall, and of an order passed by the Magistrate under date the 28th February 1851, prohibiting the Mission interfering with the ceremonies performed in the said covil, are herewith forwarded.

3. There is on the record an Extract Minutes Consultation dated the 18th February 1851, on which the second order above mentioned was issued by the Magistrate, copy of the above Extract will be furnished to you, if required.

Translation of an order No. 87, issued from the office of the Head Assistant Magistrate of Tinnevelly, to the Police Ameen of Padookaput Division.

I have perused the Urzee No. 112, which was submitted by you together with documents after holding an investigation into the complaint preferred in case No, 59, by Shanar Pairinbum the Cavilgar of the bungalow situated at Thutchamoly attached to Veeramarthandanulloor in the above division, stating that Palavaisataven and others conjointly beat him with hands and sticks, robbed him of vaisty cloth and handkerchief valued at ⅛ Rupee and threatened to murder him with the bill-hook which they had with them; and stating your opinion that of the 8 defendants apprehended, Chinna Palavaisataven and 3 others who appear to have beaten the prosecutor should be fined, and that the remaining 4 individuals consisting of Nynapillay and others, should be released as well as the Urzee No. 113, submitted by you together with documents after enquiring into the complaint preferred in case No. 60, by Paramasiven Chetty, of the above Veeramarthandanulloor, stating that while the villagers were performing Thiroomaly poojah in the pagoda of Mootharammen and Voochineemagaly situated in the said village on the night of the 1st Avaney accompanied by Villoo Moorasoo and other musics according to their religious habits, Pairinbum, the Cavilgar of the bungalow situated in the said village and others came by order of the Revd. Mr. Hobbs residing at the said bungalow prevented the beating of Villoo, Moorasoo and other musics, broke the Coombacodum (a pot containing sacred water) and fire chatty and beat him (Paramasiven Chetty,) and recommending that of the 9 defendants apprehended in the said matter, Parinbum and 4 others who appear to have beaten the prosecutor should be fined and the remaining 4 individuals released, as also the Urzee No. 122, &c., submitted by you in answer to the order No. 82, requiring you to furnish certain information in conection with the latter case. The prosecutor in case No. 59, states in his complaint that at 11 o'clock on the night

of the 15th August (the defendants) were making a great noise by beating Dummanum, Pary and other native drums in the Ummen pagoda adjoining the above bungalow; that Mr. Hobbs, on hearing it, sent him (prosecutor) to stop the noise caused by the beat of drum; that he accordingly went and told Palavasataven and others of the defendants and returned to the bungalow; that in consequence of their having subsequently raised greater noise, the Missionary went to stop it, and the prosecutor accompanied him; that the defendants then beat and robbed him of his vaisty cloth and handkerchief; and further threatened to murder him, holding a bill-hook; and that on the Missionary seeing this and preventing them, he effected his escape, and he and the Missionary came to the bungalow. The Missionary states in his letter that as the beating of tom-toms, &c., as stated above disturbed his sleep, and it was also very late, he sent word by the prosecutor to stop the beat of tom-toms; that he (Missionary) then hearing a noise there, peeped over the bungalow wall, that he saw certain persons seizing, dragging and beating the prosecutor and called out to them as to why they were beating him; that they thereupon left him, that after his return to the bungalow, tom-toms were beaten in the pagoda as before, that the Missionary thinking that they might perhaps listen to him if he should go and speak to them, went to the said pagoda, and while he was talking to certain individuals, the said people again seized and beat the prosecutor who followed him; that on seeing this, he, Missionary, interfered and told them not to beat; and they then left him; and that he does not at all know who the persons that beat the prosecutor were. The witnesses Pakianadanadan, Soodalamoottoo Nadan, Samuel, and Pakianadan state in their depositions in suppost of the complaint that at the 10th or 12th Indian hour (10 o'clock or 12 minutes to 11 P. M.,) of the night on which the crime is stated to have been committed, went to the Palmira jungle for the purpose of watching Pathiney or Chunam-toddy; that while they were going, they heard a noise in front of Moottarummen pagoda and went there and looked; that of the defendants, Pairyapalavasataven struck the prosecutor with a cudgel, and Vunnamoottoocaryalun and 10 others with their hands; that one of them Palanyandy stripped the prosecutor of his vaisty cloth and handkerchief; that Arasuppen lifted up a bill-hook to cut the prosecutor; that Nynapillay and two others stood abetting them saying, "lay on, lay on;" that upwards of about 100 persons consisting of males and females stood there; and that the above Missionary who then stood close by, prevented the said affray. The prosecutor, in his complaint, does not state that Nynapillay, Sedumberumpillay, Chinnapalavasataven and Siven Chetty among the defendants did any thing; whereas the witnesses have stated in addition to the complaint that Siven Chetty inflicted blows with his hands jointly with the other defendants, and that of the remaining 3 individuals Nyna Pillay and Shedumbarumpillay and another Chinnasamytaven stood saying "lay on, lay on." the complaint simply states that the prosecutor was beaten when he accompanied the Missionary; whereas the Missionary states in his letter that when the prosecutor went first by his order and told to stop the beat of tom-toms, the people beat him once; and that they also beat him afterwards when he accompanied him (Missionary) hence there is difference between the complaint and the letter. The Missionary who went just before a short time and was talking, and who separated the defendants that beat the prosecutor has stated that he does not at all know as to who the defendants were that beat the prosecutor, whereas the witnesses who came on hearing the alarm, have mentioned the names of the particular persons who inflicted the blows, and while it is usual for people to go to watch fields at an early hour, the witnesses state that they passed by that way at 11 o'clock on the night in question, in view to go and watch; these statements are altogether inadmissible, and the witnesses appear to have been got up. It has been fully proved by the witnesses to the prosecution in case No. 60, that while the Hindoos were offering sacrifice for the Cauly accompanied by tom-toms, &c., according to their religious habits, the prosecutor in case No. 59, and others interfered in it and broke Coombacodum and fire chatty, &c., and committed a disturbance as stated in the complaint in case No. 60. On considering this, it appears that if the prosecutor in case No. 59 had simply desired agreeably to the order of the Missionary that the beat of tom-toms should be stopped, disturbance would not have occurred in this manner; but that while all the villagers were performing ceremony according to their religious habits, the prosecutor went first and acted in opposition to it in such a manner as to commence a disturbance that the Coombacodum and fire chatty might have been broken in consequence; and that the villagers being thereby enraged, may have beaten the prosecutor through that anger, but their having thus acted, is also improper. I am not of opinion that the defendants in case No. 59 should be fined on that account as recommended by you. You are to dismiss the said complaint and release

the defendants after warning them, you recommend that punishment should be inflicted in case No. 60; it is stated in the said complaint that Paramanunda Voopadasy and others came with Pairimbum and committed a disturbance; and the witnesses have stated that of the said individuals, Pairimbum broke the fire chatty and Paramanunda Voopadasy the Coombacodum. As it appears that this occurred among a crowd, the statement of the witnesses that the above individuals did so among the crowd is unsatisfactory. But it is clearly manifest that this disturbance originated with Pairimbum, who is a mere private servant of the Missionary and not a public servant in consequence of his having gone and prevented the beat of tom-toms, &c., while the devil temple has existed since before the erection of the bungalow in question, and while tom-toms &c., are usually beaten on occasions of ceremonies in the said temple, and while no order &c., have been issued preventing the use of tom-toms. He is therefore wrong in having done so. I have therefore decided on the 24th Instant that he should be fined for the same in the sum of 5 Rupees commutable in default of payment to 15 days imprisonment under Section XXXII, Regulation IX of 1816, you are consequently to levy the fine of Rupees 5 forthwith and remit it as usual. If the fine be not paid, you are to imprison him for the above period and release him. You are also directed to release the other defendants with a warning. It appears that immediately after the affray, both parties reported the circumstance to the Mettoo peon, but it does not appear from any other document besides his deposition, that he went immediately and made any Bundobust. I have therefore fined the said peon Shunmoogum 1 Rupee. You are to levy and remit the said fine, and you are further to recall him from the said Mettoo and keep him in attendance, and send another clever peon to the Mettoo. You are directed to inform the Missionary of the purport of this order.

26th September 1850.

(Signed) V. H. LEVINGE,
Head Assistant Magistrate.

Judicial Department.

No. 101.

Extract from the Minutes of Consultation, under date the 18th February 1851.

Read the following papers.

Petitions from Veeracomara Pillay and 12 other inhabitants of Thutchamoolaveeramarthandanulloo of Punjamal talook in Tinnevelly.

(Here enter No. 1718 of 1850.)
(„ „ 1773 of „)
(„ „ 1774 of „)

From the Acting Magistrate of Tinnevelly.

(Here enter 12th November 1850 No. 141.)

Petition from Veeracomara Pillay and others of Tinnevelly.

(Here enter No. 2127 of 1850.)

Having considered the petitions of Veeracomara Pillay and others, and the report of the Acting Magistrate of Tinnevelly upon them, the Governor in Council observes that the chief matter of complaint against the Rev. Mr. Hobbs in regard to his interference with the petitioners to make them desist from the performance of certain religious ceremonies was duly investigated by the Head Assistant Magistrate by whose sentence the servant of that gentleman who took an active part against the petitioners was punished. There was no occasion therefore for an appeal to Government on this point and with respect to the other matters which are mentioned in these petitions, the Governor in Council remarks that for any encroachments or trespasses which may have been committed by Mr. Hobbs to the injury of the petitioners, it is open to them to seek redress in the Court of the District Moonsiff, and to this remedy to which they ought to have resorted in the first instance, he now resolves to refer them.

The petitioners will be protected by the authority of the Magistrate from the interference of any party to prevent them from proceeding according to mamool in the performance of their religious ceremonies, but they on their part must abstain from innovations to the annoyance of other parties.

Ordered that an answer to the above effect be given to the petitioners.

Referring to the report of the Acting Magistrate upon the above petitions, it is with much regret that the Right Honorable the Governor in Council feels himself obliged to animadvert upon Mr. Bird's application of the term "Heathen" to the complaining party. The Governor in Council trusts Mr. Bird has made use of this designation inadvertently without intending to attach opprobrium to the Hindoo community and unaware that the Honorable the Court of Directors have expressly prohibited its use in official correspondence of their officers. Considering however that the Acting Magistrate has committed a grave error in the employment of a term so objectionable on this occasion, the Governor in Council deems it proper to bring it to the notice of the Honorable Court for any instructions they may be pleased to give.

(A true Extract.)

(Signed) H. C. MONTGOMERY,
Chief Secretary.

(A True Copy.)

(Signed) J. SILVER,
Magistrate.

NOTE.—The Magistrate's order dated the 28th February 1851, simply communicates to the Police Ameen the contents of the foregoing Extract from the Minutes of Consultation.

(True translations and Copies.)

(Signed) E. STORY,
Commissioner.

Sentence in case No. 1 of 1857, on the file of the Commissioner of Tinnevelly.

1. The prisoners deny throughout.

2. The 3rd and 4th prisoners confine themselves to a simple denial; the others pleaded alibies which were subsequently given up by the 2nd, 5th, 6th, 7th, 8th and 9th prisoners.

3. Two witnesses were examined by the 1st prisoner, but their testimony is in some respects different from each other and that of the 1st prisoner; and is evidently the result of tuition.

*The prosecutor is the Rev. J. Thomas, a Missionary, and the witnesses are Native Christians, the prisoners belong to the old religion of the country.

4. The case is this; there is a mud wall which divides the Mission premises* from that of a certain pagoda. There have been some disputes about this wall, and the parties were on the 28th February 1851, referred by competent authority to the Civil Court, since which time it has not been used or meddled with by either party.

5. On the day mentioned in the charge, it is fully proved that the prisoners with some others came to the said wall: painted the whole of that part of it which faced the pagoda with alternate stripes of red and white and also a portion of that facing the Mission premises and then put on the top of the said wall idol images made of mud.

6. As already observed, this wall had been untouched by either party since the decision given in 1851; and it is in proof that there was no such custom of painting the wall &c., nor do the prisoners plead that there was.

7. It is fully proved that these prisoners used very seditious language to the effect that great disasters had happened to the English in the North-west; that there was no British Government here or elsewhere, and that they would do as they liked.

8. This language shows that the prisoners went and painted the wall, &c., with a seditious intention; and had the Native Christians forcibly resented this gross insult, there is every reason to suppose that the whole district would have been in a blaze.

9. Such doubtless was the result wished for by the prisoners; but the forbearance of the Native Christians who merely remonstrated, defeated their (prisoners) object.

10. The crime of the 7th, 8th and 9th prisoners is greatly aggravated from their being Government* officials; they are therefore sentenced to two years' imprisonment with hard labor in irons.

* 7th prisoner is a Village Moonsiff and Meerassidar, 8th prisoner, a No. Curnum 9th prisoner a Mettoo peon.

11. The 1st and 2nd prisoners being Cavilgars, their crime is also enhanced, (but in a less degree than the 7th, 8th and 9th prisoners) and are sentenced to one year's imprisonment with hard labor in irons.

12. The 3rd prisoner is a petty shopkeeper, the 5th a schoolmaster and the 4th and 6th cultivators.

13. A sentence of 6 months imprisonment with hard labor in irons, is considered sufficient for these prisoners.

14. All are sentenced under Section I, Act XVI of 1857.

10th November 1857.

(Signed) E. STORY,
Commissioner.

A list of Documents received from the Police, but not translated as being unnecessary.

No. 2. A Vakalut furnished by Rev. J. Thomas, to Soobramoneyapillay, authorizing him to prosecute the charge before the authorities.

No. 7. A Deposition given before the Police Ameen by Curpa Mooppen, a neighbour, stating that he was absent and did not witness or hear of the occurrence.

No. 8. A do. do. by Ramasamyahpillay, a do. denying all knowledge of the matter.

No. 9. A do. do. by Palavaisum, a do. stating that no disturbance was committed on the day in question: and that the charge was preferred through enmity.

No. 10. A do. do. by Palavasa Taven, a do. denying the occurrence, and stating that the charge is false.

No. 11. A do. do. by one Palany pundarom, a do. denying the occurrence.

No. 12. A do. do. by Erooluppen, a revenue peon of the Talook, stating that when he went with a Process for procuring the attendance of the parties, he made enquiries, but could obtain no information that any aspersion was used towards Government; and that the wall between the bungalow and the Ummen pagodah, has been painted on the west of it, but not on the east.

No. 13. A Process issued by the Police Ameen for the prisoners.

No. 14. An Attachee enclosed in do. stating that 4 of the accused parties are absent.

No. 15. A do. do. that one Olymootoopillay, a defendant is sick.

No. 16. A Summons for witnesses.

No. 17. An Attachee given by the No. Curnom, stating that 2 of the witnesses for prosecution are absent.

No. 18. A list of prisoners.

No. 19. A do. shewing the dates of the apprehension of the prisoners.

No. 20. A do. shewing that the prisoners have not been punished before.

No. 21. A do. stating that no batta was paid to prisoners as they did not require it.

No. 23. A Diary of the Police Ameen shewing the proceedings held by him in this case.

No. 24. An Arzee of do. forwarding the prisoners to the P. S. Ameen.

No. 34. An Arikay of do. forwarding do. do.

(Signed) E. STORY,
Commissioner.

No. 37. To the Right Honorable ROBERT FRANCIS LORD HARRIS, Governor in Council of Fort Saint George.

The humble petition of Palavasa Taven, the father-in-law of the 1st prisoner, Eanamootto Taven, the younger brother of the 2nd prisoner, Aureyengavoo, the younger brother of the 3rd prisoner, Soodalamoottoo Pillay, the son of the 4th prisoner, Palany Pundarum, the elder brother of the 5th prisoner, Auroomooga Taven, the son of the 6th prisoner, Easwaramoorty Carayalen, the younger brother of the 7th prisoner, Chedumbrom Pillay, father of the 8th prisoner, and Mootoosawmy Naick, younger brother of the 9th prisoner in case No. 1 of 1857, on the file of the Commissioner for the Zillah of Tinnevelly, by John Bruce Norton, Esquire, Barrister at Law, their Vakeel.

RESPECTFULLY SHEWETH,

That your petitioners heretofore presented a petition on this subject which was returned to them under para. 9 of the Petition Rules.

That your petitioners are at a loss* to understand how the said Section relates to the present case, inasmuch as there is no appeal to the regular Judicial tribunals of appeal against any decision of a Commissioner acting under Section I of Act XVI of 1857, and your petitioners have learnt that other petitions against the decisions of Commissioners have been received by your Lordship, and acted upon. Your petitioners therefore respectfully hope that the rejection of their former petition will not operate as a bar against the reception of their present petition, and a full consideration of their case upon its merits.

* "Petitions will not be received by Government regarding any matters in which a Subordinate authority is competent to pass a final decision."

That your petitioners submit they have been illegally convicted. The Commissioner expressly states that the prisoners were convicted under Section I of Act XVI of 1857. They must therefore have been guilty of a "heinous offence," and your petitioners submit that "heinous offences" under this Act must be restricted to those crimes which are specifically defined under Section II of that Act. Your petitioners submit that the offence, with which the prisoners are charged, assuming for the sake of argument, that it was fully proved, does not fall under any of the definitions in the 2nd Section of the said Act. Indeed they are charged with committing seditious acts; of which however there is not a tittle of proof as your petitioners will be prepared to show, and with using "highly seditious language;" but this class of offences your petitioners submit is clearly provided for by a separate Act (No. 14 of 1857), under which the prisoners were not tried. This, it is submitted, is a fatal objection to the entire proceedings in point of law.

"Heinous offences" must be crimes committed and complete in themselves. "*Seditious language*" or acts *intended* to produce rebellion, even if unsuccessful, are punishable it is true; but not under the Act on which the Commissioner professes to have acted.

Your petitioners will now turn to the merits. They submit that it never could have been in the contemplation of your Lordship's Government that such trumpery cases as the present should be tried by Commission instead of by the ordinary law tribunals of the land. In such a season of danger as the State has passed through, powers continuous to the law in ordinary times, have to be put forth; and the authorities may well be armed with excessive powers for the better maintenance of order; but it is submitted that the Government will anxiously and jealously watch the proceedings of its Commissioners in order that their immense power, against which there is no right of appeal, shall not beoppressively used to the detriment of the subject.

In this Presidency there has fortunately not occurred any occasion for proclaiming Martial Law, nay, there has not been, so far as your petitioners are aware, any breach of the public peace: and though Commissions have been issued to the authorities in the Mofussil under Acts

14 and 16 of 1857, the condition of the country is a standing rebuke of the exercise of the Commissioner's power except under circumstances of the most pressing emergency.

Tinnevelly is the chief seat of Missionary efforts. There the greatest numbers of native Christians dwell; there are the most constant bickerings between that class and those who like your petitioners profess "the old religion of the country." Your petitioners' accuser is a Missionary; the Reverend Mr. Thomas; the Vakeel who lays the charge before the Police is the Missionary's servant, the first witness is his Catechist, the rest are all Christians and connected with the Mission. *There was no complaint made for ten days* after the alleged seditious language, a fact conclusive, as your petitioners submit, against the truth of the charge. There was no violence used or attempted. There were no weapons, no sticks, no stones, no tumultuary assemblage and the circumstance that ten days were suffered to elapse before any complaint was thought of, shows how very little foundation there really is for that train of pure assumptions by which the Commissioner arrives at the dangerous character of your petitioners alleged act and language; for says he, if the Christians had not acted most forbearingly, "there is every reason to suppose the district would have been in a blaze;" and this was "doubtless the result wished for by the prisoners:" terrible consequences indeed to flow from the painting of a party wall.

When the occupants of a pagoda at Madura lately used threatening language to two European photographers, the offence was not thought worthy of trial under a Commission, but referred to the ordinary Sessions Court where it is now pending: here it is by the directions of the Session Judge, Mr. Story, that the case, originally committed as an ordinary petty offence, is converted into a "heinous offence" against the State. The prosecutor's Vakeel appeared before the Police Ameen on the 25th of September, charging that the offence had been committed on the 15th. The Police Ameen forwarded the case to the Principal Sudder Ameen who took bail, and entered upon the inquiry, but before this was complete the prosecutor's Vakeel appealed against bail being taken, to the Sessions Court, by order of which, and on the ground that the offence fell within Section II of Act XVI of 1857, the case was sent on to the Magistrate, and by him to the Sessions Court, whereupon the Sessions Judge investigated the case as Commissioner.

The Commissioner examined only two out of the witnesses in addition to the prosecutor's Vakeel. The cases of the five first prisoners, and the four last are essentially different; for the five first alone, according to the evidence, made use of any expressions which can be construed into seditious language: the gist of the offence of the 7th, 8th and 9th appear to have been that they being in Government employ, did not take an active part in opposing the painting of the wall, &c., and so have run the risk of bringing about that very collusion which the Commissioner apprehended, would set the district in a blaze.

Your petitioners would crave the attention of your Lordship to the complaint originally preferred to Mr. Levinge by the prosecutor's Vakeel. From that it is quite clear that at the outset, the case was regarded by the Reverend Mr. Thomas as a mere assertion of right by the prisoners over a disputed party wall; for Mr. Thomas does not appear to have heard a word of what took place, but simply to have inspected the wall but not until the 19th September, (see Soobramanyen's evidence before Commissioner) and furnished the complainants with a Vakalutnamah to complain to the Magistrate of the act. Again, the complainant himself states the charge in the vaguest way. He repeats only the hearsay statement of the persons whom he names as to what the prisoners had said; and it is remarkable that this account makes *all* the prisoners use the alleged seditious language, whereas it is abundantly clear from the whole of the evidence that the language of the 7th and 9th prisoners was of a totally different character; they took no part in the alleged expressions of the six first prisoners; while the 6th and 8th prisoners literally said nothing at all. It is worthy of note too that in this earliest statement, there is not an allusion made to the *Government*; though as the witnesses warm up, they add on bit by bit to the quality of the expressions used.

Examined before the Police Ameen on the 13th of October, this prosecuting witness makes only the *five* first prisoners "with one voice" say "where have you a bungalow or garden now that all the Europeans are running away; you are come, are you, to intercede."

What sedition there is in this your petitioners submit to your Lordship's consideration.

The evidence against the 9th prisoner is *not* that he joined the five first in seditious expressions; but that upon witness telling him what the five first had said, he replied, "rudely," "If

they have said so you might complain." A proper answer enough from this witness, who being a peon was not by the interference, so much deprecated by the Commissioner, to set the "whole District in a blaze," but correctly enough referred the complainant to the law.

The 9th prisoner on the witness asking him if this was proper on the part of the peon, said "you can complain against him" adding "jestingly," "the God of rain will wash the idols off the wall." These "idols" be it observed are found to have been mere round balls of mud, without "eyes, hands or feet."

The same witness examined before the Principal Sudder Ameen on the 26th of October, goes into a mass of hearsay, as a reference to his deposition will show. He tells all that was said to the Catechist, though he was not present; no evidence is given against the 6th prisoner. For the first time "the Government" appears upon the scene. "They" (the first *five* prisoners) abused the "Government." The 7th and 9th said, "This is known to every one; "go and complain." The Principal Sudder Ameen asks naturally, Is this abuse? The witness replies, "It is abuse; it is not abuse; it is obstinacy; impropriety!"

Examined before the Commissioner on the 29th of October, this complainant and witness again is permitted to give a mass of hearsay: towards the end of his deposition he repeats what he himself heard. There is certainly no sedition in that. The 1st and 2nd prisoners alone are now made to speak in the first instance. They say "we have already spoken rudely; are you come to speak in their favour?" and again the 1st, 2nd, 3rd, 4th and 5th prisoners spoke "very rudely," what they said is not reported.

The next witness is Basknaden. Examined before the Police Ameen on the 9th October, he makes the first prisoner first, and then two others afterwards (which two is not specified) say "you are saying European, European, have you not heard of the disgrace suffered by them?" The 9th prisoner said, "If you lodge your complaint, and I be summoned, I shall give my answer. It is true he makes some of the others among them the 8th prisoner, speak "so insultingly of the Europeans as not to admit of being expressed," but if the words used are not given, it is impossible to assume that they were seditious, and there is a wide interval between seditious and insulting expressions.

When the Vakeel (the 1st witness) came to, all the persons said "off off, what can you strike our heads off?" and thereupon witness and his friends went away. Independent of the obvious remark that this account is very different from that of the 1st witness, a man's asking another if he comes to cut his head off cannot by any stretch of ingenuity be twisted into sedition against the State!

Questioned by the Court, he explains the insulting expressions. They were as follows: "They *i. e.* the Europeans have been cut up and destroyed and sacrificed in battle: have you no shame to talk of Europeans even now. Orders have come for the Europeans here to go back." Now this might be highly improper: but it surely tasks ingenuity to discover how it was either seditious in itself; or calculated or intended to stir up those to whom it was addressed to sedition.

This witness is a gentleman who works as a cooly: has been employed to build walls for the Missionaries; and had been complained against to the Court by one of the prisoners on a former occasion. He was fined 3 Rupees for assaulting another prisoner, the 7th.

Examined before the Principal Sudder Ameen on the 26th of October, this witness makes the complainant (the Vakeel) present at the time the expressions were made use of by the 1st prisoner. He says that it was he (not the 1st witness) who asked the 9th prisoner if a low caste man could speak so before him. This witness also makes the 6*th* prisoner speak, for the first time, but he lumps him in with the 4th, 5th, 7th and 8th; and what he is stated to have said was not seditious. And he makes one and all say after each other, "I have said so 10,000 times, go, go!"

Examined before the Commissioner on the 20th October, he commences with hearsay, when he comes to what he himself saw and heard; the 1st and 2nd prisoners appear to have stated that the Europeans had suffered disgrace and were running away in the north-west, and that it was reported that orders had come (from whom is not specified) for them to leave Tinnevelly, very

improper perhaps, but how seditious, or calculated to cause sedition in others, unless by the round about way which the Commissioner suggests in his judgment. So far from this being the object of the language, the 3rd prisoner is himself made to say," "These men are assembled for a quarrel,". Whereupon *he* and the witnesses went to the bungalow!

He signally contradicts his evidence before the Principal Sudder Ameen; for whereas he then made the complainant present when the alleged seditious language was used, he now makes him come in long afterwards and address the prisoners, "can you do thus improperly to the priest's garden wall; and you have it *appears* been abusive to the Europeans." They said "go, go, is it not true that the Europeans have been destroyed by acts and threats (not mentioned by the 1st witness) are you come to strike our heads off, if complaints are preferred, we will answer."

Your Petitioners would respectfully ask how this last statement referring evidently to a legal interference by the tribunals, can possibly square with the intentions imputed to the prisoners by the Commissioner to excite the Christians by their language to reprisals and so to creating a disturbance, which should set the district in a blaze.

The only other witness examined by the Commissioner is Visvanaden. Examined before the Police Ameen on the 9th of October he makes all the people "with one voice" abuse the Europeans, a different account from that of the other witnesses who make first the first, and then the second prisoner speak. He appears to have causes of enmity against the 2nd, 5th, 7th and 9th witnesses. He repeats nearly the same story before the Commissioner.

Such is the whole of the evidence. Your petitioners have to apologize for the length at which they have entered upon it. They could not however have pointed out its nature with more brevity.

Yet it is on this that the Commissioner has visited the prisoners with such heavy sentences as imprisonment with hard labonr in irons for periods varying from six months to two years.

What seems scarcely intelligible is that the 7th, 8th and 9th prisoners, two of whom are not found to have done more than say they would answer complaints if preferred, and that the god of rain would wash the idols off the wall; while the third said nothing, have literally the heaviest punishments assigned them, because as the Commissioner says, their "crime is enhanced by their being Government officials." They have been sentenced each to imprisonment with hard labour in irons for 2 years.

As to the 6th prisoner there is literally no evidence of his having said any thing. With regard to these four prisoners, your petitioners confidently submit that no case whatever is made against them, and that they were all fully entitled to their acquittal merely on the ground that the evidence such as it was did not touch them.

As to the other prisoners, the 1st, 2nd, 3rd, 4th and 5th there certainly is evidence, such as it is, of their having made use of abusive language, with reference to the Europeans. But your petitioners submit that it is not entitled to credit, both on account of the discrepancies of the witnesses with each other and their evident exaggeration as the case proceeds through its various examinations; and from the all-important fact that no complaint at all was lodged for ten days after the offence was stated to have been committed. There is scarcely a case now in which "seditious language" is not lugged in: and the ill-feeling existing between the parties is quite sufficient to account for such a state of things in a district like Tinnevelly. And when such charges are preferred, especially if the Commissioner happens to entertain strong religious opinions himself, the parties complained against are literally defenceless. The people are frightened by the unknown and unlimited powers of the Commissioner. Witnesses shrink from coming forward. This has actually happened in the present case. The evidence of Eroolapen the peon before the Police Ameen on the 10th October is conclusive on this point, asked if he has made enquiries, he replies, "I did, according to the charge that the Company was abused, no body will come forward to give evidence."

And his testimony, he being the only disinterested witness, is also important as showing how false the story is that the wall was painted on the Missionaries' side. He says, "The western side of the wall" (the pagoda side) "was striped. The eastern side was *not* striped." The

Fort St. George, Judicial Consultation, 30*th March* 1858.

prisoners were unable to get evidence of this, which would have shown the falsehood of the whole story, and proved that the native Christians took advantage of the prisoners striping their own side of the wall to fix upon them an offence which would bring them within the scope of the Commissioner, before whom no witnesses would appear on the prisoners' behalf, and from the decision of whom there lay no appeal.

But assuming that the language was used, what does it amount to? A grave impropriety it might be. But your petitioners submit that it was not seditious, and could not have the effect of stirring up others to rebel, nor could it have been used with such intention. If it was; still it has not been tried under the right Act: and the proceedings under Act XVI instead of Act XIV are altogether illegal.

Independently of this, your Petitioners respectfully submit that the extraordinary powers vested in the Commissioners were never intended by the Government to be brought into play, except under circumstances of the gravest emergency, either where the district was rising in rebellion, or where parties who might have been aiding rebellion elsewhere had escaped into districts of this Presidency still peaceful. But that the Commission should try petty squabbles between natives in a district altogether in its normal state of peace, to the exclusion of the ordinary criminal tribunals of the land, your petitioners submit never was in the contemplation of the Government when it extended the Acts framed for the condition of the North-West to the peaceful undisturbed districts of this Presidency. And lastly they submit that even if the offence were proved as laid, the punishment is altogether disproportioned to the offence.

Your petitioners therefore humbly pray that the decision of the Commissioner may be reversed, and that the prisoners may be restored to their liberty.

Madras, 15th March 1858. (Signed) JOHN BRUCE NORTON.

No. 38. ORDER THEREON, No. 412; dated 29th March 1858.

1. In the above case nine persons were charged with having used highly seditious language. All were convicted and sentenced to imprisonment with hard labor in irons.

The 7th, 8th and 9th prisoners for two years.

The 1st and 2nd prisoners for one year.

The 3rd, 5th, 4th, 6th, for six months.

2. All are said to have been sentenced under Act XVI, 1857—but this is a mis-quotation. Act XVI, 1857, has not been put in force within this Presidency. The offence however is one clearly falling under the provisions of Act XIV, 1857, which has operation throughout the Madras Presidency.

3. The Government have attentively considered the record in this case. They see no reason to question the correctness of the conclusion at which the Commissioner has arrived in regard to the guilt of the parties, and the offence of which they have been convicted is one, which in the state of the country where the trial was held, required to be visited with severity. Under present circumstances, however, and in the hope that the punishment which the prisoners have already undergone may have a salutary effect on their future conduct, the Right Honorable the Governor in Council is disposed to mitigate the penalties awarded. He therefore under Act XVIII, 1855, Section I, directs that the 3rd, 5th, 4th and 6th prisoners be at once released on their finding good security for their good behaviour in future, and that the remaining five prisoners be released on the like condition after six months' imprisonment.

4. Resolved that the following endorsement be passed on Petition of Palavasa Taven, Eanamoottoo Taven and others, relatives of the prisoners in case No. 1 of 1857, on the file of the Commissioner of Tinnevelly:—"Petitioners are referred to the Commissioner of Tinnevelly to whom orders have been sent respecting their relatives."

(Signed) H. FORBES,
Acting Secretary to Govt.

Exd. F. Cartledge.

Indorsed Dispatch

No

Extract Min. of Cons. 29th March 1858 -

Dated 15th March 1858 -

For Orders

What must be done for the Care of Prisoners

Paul

The Governor General thinks Mr Cooper Captain Hall & Lieut Wilkes should be severely reprimanded for their conduct in this affair. Mr Cooper should be dismissed the service & Lieut Wilkes admonished. The Governor General will not approve of any further steps being taken in the matter

Pd

Jno Dy to Com. 30th March

Ind. 1858 Dept

No 442.

Extract from the Minutes of Consultation Dated 29th March 1858.

30 @ 38.

Judicial Separate

No 412.

Extract from the Minutes of Consultation
Dated 29th March 1858

Read letter from the Commissioner of Tirhoot dated 18 Nov 1857 forwarding an English translation of his record of a case tried by him under Act XVI. 1857 and submitted by him under the powers vested in him by Act XIV. 1857 together with the sentence passed thereon —

Read petition from the relations of the parties convicted in the above case presented thro' their Vakeel Mr J S Norton — Dated 15 March 58.

1. In the above case nine persons were charged with having used highly seditious language — the were convicted and sentenced to imprisonment with hard labor in irons —

The 7. 8 & 9th Prisoners for two years —

The 1 & 2d Prisoners for

one year —
The 3d. 5c. 4 & 6 for
life months —

2. Akbar said to have been sentenced to mut. Act XVI - 1857 - but this is a misquotation. Act XVI. 1857 has not been put in force within this Presidency - The offence however is one clearly falling under the provisions of Act XIV - 1857 which has operation throughout the Madras Presidency

3 - The Jock has considered the record in this case - They see no reason to question the correctness of the conclusion at which the Commissioners have arrived in regard to the guilt of the parties, and the offence of which they have been convicted as it is one, which within the limits of the country where the trial was held, appears to be visited with severity - Under peculiar circumstances however and in the hope that the punishment of the Prisoners has already undergone may have a salutary effect on their future conduct the R H the Jock is disposed to mitigate the penalties awarded - He therefore under Act XVIII. 1855. 51. directs that the 3. 5. 4 and 6 Prisoners be

al once released on their
finding good security
for their good behaviour
in future - and that
the remaining five
Prisoners be released on
the like condition after
they six months imprison-
-ment -

4 Resolved that the
following endorsement
be passed on Petition
of Edwards Jones Commissioners Town of
Pwllheli & others - Prisoners in Case 5th of 1857 on the
File of the Court of Summerly -

"Petitioners are referred
to the Commissioners
of Limerick to
whom orders have been
sent respecting their
Relatives."

Sept 30th

Sgd

Ed Story Esq
Commissioners under Act 8 & 9 Vict
Limerick

Ld Dy Hmo. 30th March.
Judicial 1858 Schedule 96

Judl. Lists Engd
30th June 1859 —
Para 8

No. 112

Schedule Mins. of Council

of 29 March 1858.

36 & 38.

38

C.22 Bundle
No 27.