M.R.O. 1—39,000—16-10-20.

# MADRAS RECORD OFFICE.

## Government of Madras.

Judicial DEPARTMENT.

G.O. No. 717 Press
37-38 Mis.

Dated 24-12-1937

**Not to be folded or roughly handled**

## *Proceedings of the Madras Government, Judicial Department, for the month of December* 1859.

No. 37. Read the following letter from G. F. FULLERTON, Esq., Officiating Register to the Court of Foujdaree Udalut; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 20th December 1859, No. 31.

In forwarding the accompanying Minute by Mr. Strange on the Bill for simplifying the Procedure of the Courts of Criminal Judicature, as settled in Committee of the whole Council and published in the Government Gazette of the 14th September 1859, I have the honor by direction of the Judges of the Foujdaree Udalut to state that owing to the very limited time now remaining for remark on this Bill, Messrs. Frere and Beauchamp, who have only at a very recent date become members of the Court, have been unable to take up the very important question to which the above Minute has reference.

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*Bill for simplifying Criminal Procedure as settled in Committee of the whole Council on the 6th September* 1859.

When the Bill as presented by the Select Committee on the 30th April 1859 was before us, I went carefully through its provisions, and the observations I then made were incorporated with those of my colleagues, Messrs. Hooper and Phillips, in our communication to Government of the 20th August 1859.

To the above communication, I have now to refer for my sentiments on the Code with the following qualifications.

The alterations now made in the Bill render the remarks recorded in paragraphs 7, 13, 14 and 16 of our above communication no longer necessary.

As regards what appears in paragraph 11 of our communication, I observe that the rules for regulating the weight to be given to verdicts of juries are now clear and reasonable. I still however think that in the present moral and intellectual condition of the inhabitants of this Presidency, it will be hazardous to make the judgment of the Jury in any case final, and that the rule should be that in all cases the Judge shall have a voice in the decision, and that reference of the case shall be made to the superior Court should the Judge and the majority of the Jury differ.

As regards what appears in paragraph 19 of our communication, I have to observe that the propositions made by the majority of the Judicial Committee of which I have been a member render the remarks in that paragraph unnecessary to be pressed.

I object to the additional clause entered at the close of Section 277 of the Bill as now prepared. The object is to elicit the truth from the accused, the party best in position to communicate it, and the caution herein prescribed can have no other tendency than to induce him not to disclose it. I feel satisfied that the resort to such a caution is unadvisable any where, and particularly so as respects the people of this country. We have already done too much in the way of leading them to deny their obligations as well as their offences.

(Signed) T. L. STRANGE,
*Puisne Judge.*

19*th December* 1859.

(True Copy.)

(Signed) G. F. FULLERTON,
*Officiating Register.*

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No. 38. To the Member for Madras of the Legislative Council of India; dated Fort Saint George, 24th December 1859, No. 1717.

Referring to my letter, 20th August last, No. 1133, I have the honor, under the orders of the Governor in Council, to forward to you copy of a letter, 20th instant, No. 31, from the Register to the Court of Foujdári Adálat, together with copy of the Minute referred to therein.

(Signed) T. PYCROFT,
*Chief Secretary.*

Exd. F. Cartledge.

Dcsp. 24th -

No. 1717.

To

The Member for Madras of the
Legislative Council of India.

Sir -

Referring to ~~the two last~~
~~paras of~~ my letter, 20th Augt. last
No. 1133, I have the honor, under
the orders of the Governor in
Council, to forward to you copy
of a letter, 20th instant No. 31, from
the Register to the Court of Fouj-
dari Adalat, together with copy
of the Minute referred to therein.

Fort St. George
24th Decr. 1859.

I have the honor &c
J. P.

By this letter, you
receive to follow
[illegible]

