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Judicial DEPARTMENT.

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22/59

Read the following papers.

No. 24. Extract from the Proceedings of the Foujdaree Udalut, under date the 8th December 1858, No. 34.

1. The Court of Foujdaree Udalut having had frequent occasion to remark upon the unsatisfactory manner in which Mr. R. R. Cotton, the Acting Session Judge of Madura, has performed his judicial functions, have considered it their duty to review the whole of his proceedings in that capacity.

2. The conduct of Mr. R. R. Cotton, as Acting Civil and Session Judge, impresses the Court with a strong conviction of his unfitness for that high and important office. Unable as it appears, to appreciate evidence, to profit by instruction, to receive correction with submission, or to control the impetuosity of his temper within bounds of decorum, the Court cannot contemplate his remaining as the chief Judicial functionary of a large province, without grave forebodings of ill consequence.

3. The disqualifications enumerated above, are fully proved by the Records of the Court. When Mr. Cotton took his seat on the bench at Madura, he found awaiting him, a case of the gravest importance,* and one calling for careful exercise of judicial caution, temper and discrimination; and the mind of the Judge could not but have been warned of the necessity for their exertion. This case was eventually referred for the final sentence of the Foujdaree Udalut, which, after acquitting the prisoners, thought it necessary, in their proceedings of the 21st May 1858, to make some observations on its conduct before the lower tribunals, as well as the Acting Session Judge's part therein.

* Government versus Teekaram and others. Calendar No. XI of 1858. Vide page 203 of the Foujdaree Udalut Monthly Criminal Decisions for 1858.

Vide paras. 4 to 9.

4. But those were not the only errors of the Acting Session Judge in this matter. Although the prisoners were not convicted, though he admits that in his own mind he held them guilty of an "Assault" only, although they were under heavy bail to abide the judgment on their trial, which had been removed into the Foujdaree Udalut, Mr. Cotton, notwithstanding the urgent remonstrances of Counsel, cancelled their bail, and ordered them all into prison; thereby, as he ought to have known and felt, unwarrantably inflicting on men whose guilt had not been pronounced upon, a punishment little less dreaded by them than death itself, and constituting an irreparable injustice in the event of the trial resulting, as it did, in their acquittal. This grievous wrong was of course put an end to as soon as communication could be had with this Court.

5. Furthermore, under the pretext that the prisoners' Counsel had misrepresented facts, (which certainly they had no occasion to do,) in order, if possible, to prevent his illegal cancellation of their bail, he dismissed *two* of them from the bar. This act was of course also overruled; but the injury done in public opinion to the reputation of justice, cannot be thus repaired; and it must be further observed, as illustrating the want of temper and decorum which is imputed to Mr. Cotton, that one of the aforesaid Pleaders having alleged in his petition, that the Judge "had in open Court torn and flung down the Vakalutnamah, under which they prayed on behalf of their clients," the Foujdaree Udalut, unwilling to believe that a judicial functionary could so far have forgotten himself, refused to restore *that* petitioner to office until they had ascertained, by reference to the Judge himself, whether the petitioner had calumniated him. He replied, "that he might have torn the paper;" upon which of course, the Court reinstated the petitioner.

6. Although the Court consider these facts strongly indicative of judicial incapacity, they would not pronounce that sentence upon them, if they stood alone. Ignorance, passion, or other cause, not likely to affect other cases, might be supposed to have operated in this particular instance, and such excuse would derive strength, if similar faults were not discoverable in others.

7. Thus, in No. 61 of his Calendar for 1858, prisoners were convicted and sentenced to fourteen years' imprisonment upon evidence, which in releasing them, the Foujdaree Udalut found it necessary to comment on, in their Proceedings of the* 11th October 1858.

* Paras. 1 to 8.

† Government versus Marikee and others, see page 345 of the Foujdaree Udalut Monthly Criminal Decisions for 1858.

8. The Proceedings held by the Court in cases Nos. 38,† 51 and 52, and on Foujdaree Udalut petition, No. 181 of 1858, are further illustrative of Mr. Cotton's inability to appreciate evidence, and such instances occurring so frequently within a short range of time, appear to the Court to demonstrate Mr. Cotton's misjudgments to be of an habitual order.

9. Nor does Mr. Cotton display any sense of his deficiencies or desire to improve by correction and instruction. So far from this being the case, their records show that he not only remains unconvinced of error, but habitually maintains and vindicates his own proceedings, in a manner indicative of hopeless incorrigibility.

10. A striking specimen of this disposition is afforded by the correspondence between himself and the Court, relative to case No. 38, in which he failed to observe that a prisoner had made confession before the Acting Joint Magistrate. It might have been expected that a Judge having made such mistake, would have expressed regret for his negligence. Mr. Cotton, however, in reply to the Court's observation that he ought to have become acquainted with the fact of the confession, if not before, at least when he certified the accuracy of the translation thereof which he submitted to the Court, turned round upon the superior authority, for supposing him responsible for the discharge of so obvious a duty as that of perusing the records; and affecting to misunderstand their observations, gave rise to remarks conveyed to him in the Proceedings of the Court, under date the 10th Ultimo, and previous Proceedings.

11. This leads the Court to mention another case in which they consider Mr. Cotton's unfitness for his position to be strongly manifested, viz., that of Annasawmy Iyen, a Gomastah of the Civil and Session Court, upon whom he very unfairly sought to throw the blame of his own ignorance of the fact of the confession above mentioned, as if it were a part of *his* duty to point out to the Judge what prisoners had confessed or not, when he had the translations before him; or, as if Mr. Cotton had any more right to say that the Gomastah had corruptly forborne to do so, than the Gomastah to reply *on* him that he had designedly suppressed the fact. In conclusion, the Court would draw attention to the whole conduct of Mr. Cotton in regard to the said Annasawmy, as finally animadverted on in their Proceedings of the 23rd September last, as in itself a proof of inability to preside with fairness and discretion over a large office.

12. The Government will remember, that Mr. Cotton's qualifications for the bench have already been twice called in question, once by the Despatch of the Honorable the late Court of Directors, in the Judicial Department, of the 31st January, No. 1 of 1855, on the occasion of his dispute with the Reverend Mr. Lechler, and again by the Proceedings of the Foujdaree Udalut of the 2nd July 1857, which resulted in his removal, by the Government, from the situation held by him as Acting Civil and Session Judge of Rajahmundry. In commenting as they have done on Mr. Cotton's faults, the Court do not overlook merits and good qualities which they believe him to possess. They believe he wishes to do right, and is in his way zealous, and disposed to work; and that his defects are so a part of his mind and temper, that he may be held to a certain degree irresponsible. The Court would not therefore urge the Government to *punish* him, as though for acts done wilfully against better judgment; but simply to employ him in a capacity, where qualities absolutely indispensable to the judicial office, may not be so essential.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Register.

Extract from the Proceedings of the Foujdaree Udalut, under date the 21st May 1858.

Read letter dated 15th Ultimo, from the Acting Session Judge of Madura, submitting an English translation of the record of the trial of case No. XI of 1858.

* * *

4. Upon the Indictment so framed, the Session Court however proceeded to the trial of the prisoners, in the course of which the Foujdaree Udalut note as irregular,

1st. The examination of the 1st witness, Mr. Scott, upon affirmation, instead of oath.

2nd. The allowance of Mr. Fischer to intermeddle in the trial, in the capacity, as it would appear, of Counsel for the 1st witness!

3rd. The refusal to permit the Counsel for the prisoners to put, in cross-examination, various questions which were perfectly allowable and unobjectionable; such as to the 1st witness "have you written to the newspapers about this case?"

"When did you first see Mr. Fischer in this case?" and to 5th witness, "did not you abuse the crowd?" and to the 7th witness, "are you a Goomastah in the service of Mr. Fischer?"

"How often have you been to Mr. Fischer about this case?" To the 8th witness, "were you discharged from your situation?"

5. The proceedings of the Session Judge upon the close of the case for the prosecution appear to the Foujdaree Udalut to be still more irregular and objectionable. He states that the "prisoners' Counsel then addressed the Court and Jury for them;" this address it is presumed constituted their *defence*, and yet no notice whatever is taken by the Acting Session Judge, of its general nature, the points raised, the arguments adduced, &c., &c.

6. Upon hearing this the Jury are described as declaring that they "did not require any *defence*," meaning it is to be presumed any *further defence*; this seems to have been elicited from them by a question put by the Judge, which, from such officer, under such circumstances, is tantamount to an expression of opinion on his part that none is needed; and the Jury immediately delivered a verdict of "not guilty," specifying the general grounds on which their opinion was based. This verdict the Acting Session Judge did not take and record, as he was bound to do, but left the case open for two days, and then again questioned the Jurors, desiring them to state without observation whether the prisoners were guilty or not guilty; to which, making reference to their first verdict, they replied not guilty on all the counts.

7. It then became the duty of the Judge to declare whether he concurred in all or any part of that verdict, this he did not do, merely saying that he agreed in the acquittal of the 2nd and 6th prisoners, but as to the others, stated generally that he did not concur in the verdict, thereby leaving it in doubt whether he found the 1st prisoner guilty of "sedition," or "instigating a common assault," or both. His judgment on this point was not divulged till the 15th April or 20 days after the close of the trial, and how injurious this was to the 1st prisoner especially, is manifested by the step next taken by the Acting Session Judge: he refused to allow the prisoners to remain out on their bail, which it cannot be supposed he would have thought of doing, had he declared them *all* guilty in his opinion of an assault only, though by leaving it undecided whether the 1st prisoner was not convicted of the graver offence, he seems to have considered himself justified in throwing *all* into prison. In any case however, as the Foujdaree Udalut pointed out to him in their Proceedings of the 7th April 1858, they should have been left at large on their bail, pending the final result of the trial.

8. In his letter of the 15th April, the Acting Session Judge declared that he acquitted the 1st prisoner of sedition, but convicted the 1st, 3rd, 4th, 5th, 7th, 8th, 9th and 10th prisoners of a most unprovoked, premeditated and aggravated assault!

9. The Fonjdaree Udalut, in noting these facts as apparent on the record, purposely abstain from any extended remarks. Such cannot, they, think be necessary, as they trust that all to whom they apply, will, upon reflection, see the necessity of greater regularity, deliberation and order in the conduct of criminal procedure, and that the Acting Session Judge especially will perceive how greatly the want of such qualities is calculated to prejudice the reputation of his Court, and the administration of justice, throughout the province generally.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Register.

From R. R. COTTON, Esq., Acting Session Judge of Madura; to C. F. CHAMIER, Esq., Acting Register to the Court of Foujdaree Udalut, Fort Saint George, dated 14th June 1858, No. 252.

SIR,

1. I have the honor to submit for the consideration of the Judges, the following explanations with reference to the remark of the Court, entered in paras 4, 5, 6, 7, 8 and 9, from Extract Proceedings of the Foujdaree Udalut, dated 21st Ultimo.

2. With regard to the examination of Mr. Scott on solemn affirmation, I regret that I should have made the mistake. I have never to my knowledge, during my 18 years' experience, examined a witness otherwise than on solemn affirmation, having been so taught originally, by Mr. Walker, when I was Register of Cuddapah. It is evident however that I have erred.

3. As to Mr. Fischer being allowed to intermeddle in the trial, in the capacity it would appear of Counsel for the 1st witness, I would respectfully submit that I am not aware, that I have authority to prevent Mr. Fischer, any more than any one else, appearing as Counsel in Criminal cases before me, as to 1st witness being allowed Counsel. It is laid down (in Morley I think) that when the Government undertake a prosecution, and the aggrieved party is a witness, he can cross-examine witnesses *as a Prosecutor* and I opine therefore is entitled to entertain Counsel if he pleases. I cannot at this moment cite the page and case, but I have a distinct recollection of reading it. The case was one of forgery I think, wherein the Government prosecuted and the party whose name was forged, was a witness and as such ruled, entitled to cross-examine other witnesses.

4. As regards my refusal to allow certain questions, I would submit that my act can hardly be considered irregular, though the Judges may not concur with me in my opinion regarding their relevancy, whether Mr. Scott wrote to the papers, could not affect the facts of the case and as communications between Client and Counsel are privileged, I am of opinion that I was fully justified in refusing to allow such questions as were attempted to be put with the evident intention of ferreting out what passed between Mr. Scott and Mr. Fischer. If any objection to Mr. Fischer had been made on the score that he was *a party to the case*, I should of course have been bound to receive it, *but none was made*, and I therefore consider the questions put irrelevant.

5. As to the question put to the 8th witness, were you discharged from your situation, I would point out that the witness had just previously directly declared he never held the situation, and consequently could not have been discharged.

6. The strictures contained in paras. 5, 6, and 7, are all founded upon a presumption which is erroneous. After the case for the prosecution was closed, Mr. Branson claimed to address the Court and Jury *on the evidence for the prosecution*, no defence whatever was made in this, and at its conclusion, Mr. Branson desired to know if the Court after what he had urged, considered it necessary for him to enter into *a defence*. The Jurors on my asking them, stated they did not require a defence; this question I considered I was bound to put to the Jurors as Counsel desired to know if they required him to make a defence. Not considering however, with the evidence adduced, that I should be justified in concurring in the acquittal of the accused, (for the Jurors' reply was equivalent to their acquittal) I called upon Mr. Branson for his defence, to make this *he requested* a full day, from which it is evident that he did not consider that what he had said was the accused's defence, nor indeed could any one do so.

7. The arguments and objections made to the evidence for prosecution were all noted by me, and fully considered before I gave my opinion on the case. The Jurors having made up their mind to acquit the accused, it was quite unnecessary for me to detain them, to hear a defence, which they did not consider needed. I therefore on the Court's opening on the 2nd day, obtained from them their verdict in writing and dispensed with their services.

8. Mr. Branson, Counsel for the accused, then stated that under the circumstances (the Jurors having acquitted his clients) he would enter into *no defence*.

9. It is evident therefore that no defence *ever was made*. Mr. Branson I believe in addressing the Court and Jurors *on the evidence for prosecution*, previous to making a defence, only acted in accordance with the usual practice which I have myself witnessed in other Courts. Before

I had heard the defence, I could not give my verdict, but it was to be inferred by my calling for the defence that I did not concur with the Jurors in the acquittal of the accused.

10. As to the delay in divulging my opinion on the case, I can only state that it was written before the record of the trial was ready for transmission. I was never asked by the accused or their Counsel for it, and as I had so many other trials in hand, I could not spare the time required for transmitting my remarks to paper sooner than I did, nor did I consider that it was necessary to do so; it is true I might have in submitting my Calendar to the Court, have stated more explicitly the charge on which I convicted the accused, but it never struck me, and the remarks were made in the usual form.

11. As regards the refusal of bail, I would respectfully submit that I was induced to refuse it first, because having convicted the accused I could not consider them as any longer under trial, secondly, the matter having been referred to the Court of Foujdaree Udalut, I considered I could not accept bail without its sanction, I having no further concern with the case.

12. In having acted so contrary to what the Court consider regular, I can only again express my regret, I acted to the best of my ability and judgment and spared no time or trouble in endeavouring to conduct the case properly, and I cannot believe that the reputation of the Court has in any way suffered from the manner in which the trial was conducted.

13. The Court have been pleased to acquit the accused and thereby have overruled my decision, to this I can offer no kind of objection, but though differing in opinion with me, I had hoped the Court would have given me credit for endeavoring to act up to their orders and regulations instead of pronouncing my acts irregular, because not in accordance with their unrecorded views.

14. I have ever been most particular in adhering to the Regulations and Circular Orders of the Court, as far as I am acquinted with them, and in strictly enforcing them in others, and in confirmation of this, can confidently appeal to the Courts I have been in; and the Court will find in the Diary order passed by me in assuming charge of the Rajahmundry Court, these words "In conclusion he begs to notify that he is determined to act up *strictly* to the Regulations and Circular Orders of the Sudder and Foujdaree, in all matters."

15. While such is my avowed determination, and earnest endeavour, it is, and, cannot but be, disheartening to be constantly reprimanded for acting iregularly, especially when I find gross irregularities (that is acts done in direct opposition *to orders promulgated*) and such as I could find no difficulty in pointing out in this, and other Courts, committed and passed over.

(True Copy.)

(Signed) C. F. CHAMIER,
Acting Register.

Extract from the Proceedings of the Foujdaree Udalut, under date the 29th June 1858.

Read again letter dated the 15th April 1858, from the Acting Session Judge of Madura, submitting an English translation of the record of the trial of case No. XI of 1858.

Read also letter dated the 14th June 1858, from the Acting Session Judge of Madura, submitting explanation with reference to the remarks of the Court of Foujdaree Udalut, recorded in parahs 4, 5, 6, 7, 8 and 9, of their Proceedings, dated the 21st Ultimo.

1. The Court of Foujdaree Udalut see no reason for altering their recorded opinion as to the irregularity of allowing a witness to employ Counsel, or the impropriety of disallowing the prisoners' Counsel to put the questions to which they alluded.

2. Nor do the Judges consider that the explanations offered in the 6th, 7th, 8th and 9th paras. of this letter, relative to the procedure at the close of the trial, place it in any better light. It appears that the prisoners' Counsel, after addressing the Court on the evidence, asked, if defence—meaning of course further defence—was required. If the Judge himself was not satisfied of the innocence of the prisoners, but desired to hear any further matter they might have to allege, it was his duty to tell him to go on. By turning to the Jury, and asking them whether *they* wished to hear more, he implied, according to established usage, that he, for his part, was prepared to acquit the prisoners on the case as it stood; and, on the Jury replying that they were satisfied,

and found the prisoners "not guilty," the prisoners' Counsel declined to make a further defence before the Judge *alone, after he had dismissed the Jury as no longer required!* If the Acting Session Judge is unable to see that such procedure is out of course, the Judges feel that any attempt to convince him must be nugatory; and would confine themselves to directing that the like be not adopted in future.

3. In para. 10 of his letter, the Acting Session Judge states that the importance of *declaring* of what *he* considered the prisoners to be guilty, never struck him; and, in para. 11, he endeavours to defend his cancelment of their bail by saying "that being convicted, the trial was at an end, and that it lay with the Foujdaree Udalut only to authorize their continuance on bail." Now such ideas are exactly what the Court supposed could not have existed in the Judge's mind with due "*deliberation.*" Very brief reflection would, they consider, have sufficed to have taught him that the prisoners were *not* convicted at all; and that even *he* himself thought that they *ought to be convicted* of a bailable offence *only*; that only *one* was even indicted for an offence not bailable as of course; and that *all*, were in all respects, entitled to remain out on the bail given by them *to abide the issue of the trial.* A little consideration would surely have removed all doubt on this point; and if any remained in his mind, it was clearly the Acting Session Judge's duty, by his own showing, to make a reference to that Court, to which he considered alone belonged the power of making any order in the matter.

(True Extract.)

(Signed) C. F. CHAMIER.
Acting Register.

Extract from the Proceedings of the Foujdaree Udalut, under date the 11th October 1858.

Read again Calendar of cases Nos. 60 and 61 of 1858, on the file of the Session Court of Madura.

Read also Supplemental Return, dated 30th Ultimo, from the Acting Session Judge of Madura, to the Precept of the Foujdaree Udalut, dated 10th August 1858, calling for records in cases Nos. 60 and 61 of 1858.

No. 61. 1. The Court of Foujdaree Udalut, observe that there are circumstances in this case, calculated to beget doubt of the robbery having taken place in the manner alleged; but allowing that Palanyandy, (1st prosecutor,) Sendy, (2nd prosecutor,) Iyasawmy, (1st witness,) and Thoorasingum, (2nd witness,) and their companions were set upon and robbed near the village of Thootty Muttum, it remains to determine whether there is sufficient and satisfactory proof of the presence of these prisoners among the robbers.

2. It is to be remarked that no immediate complaint was made, 2nd prosecutor and the witnesses saying it did not occur to them to do so; that not till 7 days after the robbery, viz., on the 29th March, did Palanyandy give written authorization to his Vakeel, Arnachellum, to prosecute "the villagers of Mahvalingum, Kalootharoocan, Areyamungalum, Ponthumpooly, Thootty Muttum and other villages;" mentioning no names, but promising "to approve of all the acts his said Vakeel should do on his behalf in the matter as though done by himself in person.',

3. Armed with these large and extraordinary powers, Arnachellum went on the same day to the head of Police, and lodged a complaint against 17 individuals by NAME; and in order to leave himself ample margin for future accusations, added, "five other men of Thootty Muttum and 19 of Mahvalingum, 41 in all." His principal 1st prosecutor, and the 2nd prosecutor were then close at hand, and able it is to be supposed to give him this information though unable as he deposed to "appear before the Police or give answers;" but Warrant appears to have been issued on his statement alone.

4. From that time till the 22nd June, 3 months, nothing appears to have been done: the 6 prisoners were then placed before the 1st prosecutor's Vakeel, and declared by him to be some of the parties mentioned in his charge and whom he had been *informed* by Palanyandy and others had committed the robbery.

5. The only part of this Vakeel's statement, that even pretended to affect the prisoners was the circumstance of his having been told by Palanyandy, that certain men *whom he named*, had

robbed him. This, even if it were proved, which it is not, is mere hearsay. A statement intended to be supported by *evidence* may be made by a Vakeel, but evidence itself cannot be given by proxy.

6. The case therefore remains resting on the evidence of the 2nd prosecutor "Sendy," who if he did not intentionally perjure himself in declaring that the Vakeel "was present at the robbery," at all events betrayed such negligence of truth as to deprive him of all credit even had the circumstances to which he in common with the 1st and 2nd witnesses deposed, been in themselves credible, which they clearly are not.

7. It is *almost* impossible to believe that being, after an absence of 4 or 5 years from the country, suddenly attacked, at a considerable distance from their own village, by a large band belonging to various villages in that locality, they should under the circumstances described by them, have been able to recognize so many acquaintances known to them by name, or even to have taken such note of their features as would enable them, three months afterwards, to identify them; but it is *quite* impossible to credit that if they *had* done so; complaint would not have been made immediately in view to prompt search for property, it is but too evident that the interval between the 22nd and 29th March was employed in obtaining information as to the names of parties in the suspected villages, and that however true it may be that the robbery was effected by some of their inhabitants, there is not a particle of trustworthy evidence by which the actual commission of the crime can be brought home to these prisoners.

8. The Foujdaree Udalut therefore resolve to annul the sentence passed, and direct that all the prisoners be, in this case, acquitted and released.

No. 60. 9. The prisoners in this case have been fully and properly convicted of rescuing from the hands of the Police, two individuals who had been apprehended by them on the charge of highway robbery.

10. It would appear from the record in No. 61, that these parties had been accused under circumstances well calculated to excite indignation and provoke resistance, but this could not excuse their conduct on this occasion, and they have been rightly punished.

11. Upon three of these prisoners, 1st, 2nd and 16th, no *sentence* was passed by reason of another conviction against them in No. 61, which has now been set aside by the Foujdaree Udalut.

12. Upon their conviction in this case, the Foujdaree Udalut resolve to authorize the Acting Session Judge to issue his Warrant for their imprisonment for one year with hard labor in irons.

Ordered that Extract from these Proceedings be sent to the Acting Session Judge of Madura, by Precept returnable within V days from and after its receipt.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Register.

Extract from the Proceedings of the Foujdaree Udalut, under date the 30th June 1858.

Read letter dated the 23rd June 1858, from the Acting Session Judge of Madura, submitting an English translation of the Record of the trial of case No. 38 of 1858.

1. There are defects in the Acting Session Judge's proceedings in this case, which must be remedied before judgment can be given in it.

2. In his letter of reference, the Acting Session Judge states that the name of the 7th prisoner appears entered, as being one of the robbers, in the report of the village Police of the 18th February. In the translation of the said report appears the name of one "Chocken of *Casavanumputty*," but it is not certified on the translation that this is the 7th prisoner. That he is the individual indicated, is made doubtful by an examination held by the Acting Joint Magistrate, of one "Chokataven, son of Carooppa Taven of *Thedian Putty*" (in the translation of the said examination it not however being certified that this is the 7th prisoner, though it is to be inferred that such is the case); by the 7th prisoner being designated in the examination held before the Session Court, as "Chocka Taven, son of Carooppa Taven of *Oochaputty*;" and by there being two

of the name of "Sokan" in the number of persons originally brought before the Acting Joint Magistrate, namely, the 2nd and the 36th prisoners on his list.

3. Again, by the above examination held by the Acting Joint Magistrate of Chokataven of Thedian Putty," it would appear that the said individual made confession before the said officer of having taken part in the robbery charged, but the 7th prisoner was not called upon by the Acting Session Judge to acknowledge or disclaim any such confession, no witnesses were examined by him in attestation thereof, and the matter of such confession is not adverted to by him in his letter, referring the trial for the decision of the Foujdaree Udalut.

4. The Acting Session Judge is requested to clear up the difficulties above particularized, and should the confession in question purport to be that of the 7th prisoner, to take evidence thereto and the prisoners' defence thereon and send the same to the Foujdaree Udalut, without loss of time.

5. The Court regret to observe that the Acting Session Judge has betrayed great inattention in sending up the record in so defective a state.

Precept returnable in V days from and after its receipt.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Register.

In return to the foregoing Precept, accompanying Extract from the Proceedings of the Foujdaree Udalut, dated 30th June 1858, the Acting Session Judge has the honor to forward translate of depositions taken from two witnesses who depose to the confession made by the 7th prisoner Chocken before the Joint Magistrate, and his defence.

With regard to the omission to take this evidence, in the first instance the Acting Session Judge begs to explain that he was totally ignorant of the fact of the prisoner Chocken having confessed at all; the circumstance is not alluded to in the remarks by the Subordinate Judge in his Calendar, nor does he, the Acting Session Judge, recollect that it was in the Joint Magistrate's report, and the Criminal Javabneviss either intentionally or from carelessness failed to bring the fact to the Acting Session Judge's notice, this latter officer has been since dismissed for neglect of duty, and disobedience of orders, and as no reliance could be placed on him. Under these circumstances the Acting Session Judge trusts that the Court will be pleased to modify their censure of him expressed in para. 5, as it can hardly be expected that a Judge should himself peruse the entire Police record, to look for a prisoner's confession when no mention of one is made in the Calendar. As regards the identity of the said Chocken 7th prisoner, the Acting Session Judge is still of opinion that he is the party who was originally criminated, and whose name appears in the report of the 18th February. It is true from the manner in which that report is worded, that it may be inferred that the Chocken named belonged to Casavanemputty, but the report does not directly say he is a resident of that village. It states "Casavanemputty Aundy 1, Chocken 2, Chindelcoondoo Coottatooputty Cunjamootten 3, &c." The 1st witness Yellummaul, in her deposition before the Police on the 22nd Febuary, mentions "Casavanemputty Mara Aundy 9, the man who has a chain on his leg Chocken 10," then she states "of the above Villiage, Moudi Moottoo's son, name unknown, but known by sight," from which it may also be inferred, that Chocken was not of Casavanemputty, or she would have said so; her statements before the Police Magistrate, Subordinate and Session Courts, are from ignorance, or design, so contradictory that it is difficult to discover the truth; but she has all along deposed to "Chocken" having burnt her, and pointed out the 7th prisoner before the Court, as the man who had done so, she states she knew him before and mentioned his name on the morning following the robbery; that he is a resident of Ayemputty; this the prisoner admits *he was* till lately, when he went to reside at Oochamputty, a hamlet of Thedian. This Ayemputty she also states is only 2 fields east of her village, and she must therefore have seen the prisoner often, and very probably merely described him as "Chocken." In reply to the Acting Session Judge's letter, the Joint Magistrate states, that there is a man of this name, also resident at Casavanemputty; who was apprehended *on suspicion of having possession of some of the stolen property*, and released for want of proof; it does not appear that *he* was ever charged with having taken part in the robbery;

from the prisoner's confession before the Joint Magistrate, it would also appear that he was concerned in the robbery, and as he was known to the 1st witness, it was most likely *his name* that was given and reported on the 18th February. The Acting Session Judge in conclusion, would submit, that the reports and depositions submitted by the Police and even Courts, cannot be relied on as accurate. A habit unfortunately exists of writing down what the Gomastahs *think ought to be said*, to make statements tally, thus the Acting Session Judge has frequently detected his Criminal Javabneviss dictating for record what the *deponent has never stated*, and in some instances *the very reverse*, for no other reasons, than that he considered he ought to have said so, because in his previous statements, it is recorded he did so, though it is palpably evident he never did say so, and that the error is on the part of the Gomastah who originally inaccurately recorded his statement.

After repeated warnings, and being twice fined, and once dismissed, the Criminal Javabneviss, persisting in recording statements never made before the Court, was dismissed by the Acting Session Judge; but so inveterate appears this habit, that the very next day, the Royasom entered in the depositions of two attesting witnesses to confessions, before the Police, "I have heard the 5 depositions read, they are those given by the 1st, 2nd, 3rd, 4th and 5th prisoners before the Police," and was obtaining their signatures, when checked by the Acting Session Judge, the fact being that only 3 depositions had been read, and the witnesses had never deposed to having heard the others, or indeed, said any thing; while such is the state of things, under the Acting Session Judge's own eyes, it may be guessed what is done elsewhere; and what extra work is thrown upon the Acting Session Judge, in watching his Gomastahs and checking the irregularities of the lower tribunals. In this very case, by the Calendar submitted by the Subordinate Court, the numbers put opposite to the prisoners' names is the same; from which it would appear that before the Police Magistrate and Courts, the prisoners held the same positions, where as the present prisoner "Chocken" was only made the 7th when he came to Court; again, though he confessed, his confession was not attested, nor was his confession, as above stated, alluded to by the Subordinate Court; and the 9th witness is stated to have deposed to the finding of No. 1 in 6th prisoner's house, whereas, just above, it is said, it was so in 5th prisoner's.

The Acting Session Judge is endeavouring to introduce an improved state of things; but from the press of work that he has lately had, has been unable to notice many things which otherwise he would have done. Among other things, it appears to be the practice in the Subordinate Court for one of the ministerial officers to write the remarks in the Calendars, which the Acting Session Judge opines should equally with *sentences* be written by the Subordinate Judge himself, as laid down in Circular Order, Foujdaree Udalut, 16th November 1831.

Given under my hand and the Seal of the Session Court at Madura, this 17th day of July, A. D. 1858.

(Signed) R. R. COTTON,
Acting Session Judge.

(True Copy.)

(Signed) C. F. CHAMIER,
Acting Register.

Extract from the Proceedings of the Foujdaree Udalut, under date the 24th July 1858.

Read again letter dated the 23rd June 1858, from the Acting Session Judge of Madura, submitting an English translation of the record of the trial of case No. 38 of 1858.

Read also Return dated the 17th Ultimo, from the Acting Session Judge of Madura, to the Precept of the Foujdaree Udalut, under date the 30th June 1858, calling for certain explanations on the above case.

With reference to the above Return, the Court of Foujdaree Udalut regret that they cannot withdraw the censure they have passed upon the Acting Session Judge for inattention in sending up the record in a defective state. The declaration made by him that the 7th prisoner's name appeared in the village report was not justifiable in the face of the circumstances set forth in his Return which show the point to be a very dubious one. In his letter of reference he should

have pointed out those circumstances to the Foujdaree Udalut and not have left them to infer that no doubt attached to the important fact so declared by him. It appears further that the first information which the Acting Session Judge has received of one of the prisoners, namely, the 7th having confessed before the Acting Joint Magistrate, was obtained from the Foujdaree Udalut. The papers containing this information came from the Acting Session Judge, and it is obvious that the Acting Session Judge had equal opportunity with the Foujdaree Udalut of discovering the fact of the said confession. The Acting Session Judge's initials appear upon the English translation of the confession, as certifying the accuracy of the translation, but it would seem that they were affixed as a matter of form without his having perused the paper. The Court of Foujdaree Udalut cannot too strongly reprehend so serious a failure of duty, for it is upon the accuracy of these translations, as certified by the Session Judges, that judgments of the Foujdaree Udalut upon the very important cases submitted to them depend. Moreover it appears that the Acting Session Judge did not inform himself properly of the record of the case as sent up to him by the Subordinate Judge, before proceeding to trial though his proceedings set out with the formal declaration that such examination had been made; and it appears to the Court a most serious omission that the Acting Session Judge should have undertaken and concluded the trial without carefully ascertaining how the accused may have met the charge brought against them when examined by the authorities first having them before them.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Register.

From R. R. COTTON, Esq., Acting Session Judge of Madura; to C. F. CHAMIER, Esq., Acting Register to the Court of Foujdaree Udalut, Fort Saint George, dated 18th September 1858, No. 406.

SIR,

1. I have the honor to submit for the consideration and final judgment of the Court of Foujdaree Udalut, an English translation of the record of the trial of case No. 51 of 1858, on the file of the Session Court of Madura.

2. It appears from the evidence that on the night of the 21st May, the house of Palanyappa pillay, Curnom of Pullaputty, was attacked by a gang of robbers, armed and with torches, and that he, his 2nd wife, and sons having been cruelly beaten and otherwise ill-treated, were robbed of property to the value of 7,113 Rupees, 2 Annas, and that the said Palanyappa pillay died on the 9th day, from the injuries received, that certain property of the deceased was found in possession of the first prisoner, who though not recognized at the robbery, is charged with being concerned in it, other property was found in the 6th, 8th and 12th prisoners' possession.

3. Palanyappa pillay having died, and his sons being minors, his widow prosecuted through a Vakeel; he was not present at the robbery, but took an active part in the discovery of the perpetrators; he deposes merely to the fact of the robbery, and the injuries sustained by the decsased Palanyappa pillay, and his dying from the effects of these on the 9th day; that the 1st witness having among others, criminated the 12th prisoner, he and others went to him, and asked him about it; and he confessed to them, that he, with others, had committed the robbery, and that what he had got, viz., some gold rings, silver bangles, &c., he had given to one Moodooveerun Asary, 12th witness, from whom they obtained the two gold rings No. 1. On this information, he made his charge against all the prisoners; the 12th prisoner was examined and confessed; his confession before the Police officer is deposed to by the prosecutor, 7th and 8th witnesses; and is corroborated generally by the evidence of the 1st, 2nd, 3rd 4th and 5th witnesses.

4. The 1st witness states, he saw the 2nd, 3rd and 4th prisoners beat the deceased, that he also recognized one "Vaidy" who ill-treated deceased's wife, and the 7th prisoner, who was watching over 3rd witness, and the rest of the prisoners, save 1st; that early in the morning, after the robbery, he was sent off to deceased's brother-in-law, to tell him what had occurred, and did so, and on his return mentioned the above circumstances to the prosecutor. The 14th witness, deceased's brother-in-law, confirms this statement, and deposes 1st witness told him the

names of the 2nd, 3rd and 4th prisoners, as those who had beaten deceased; the first witness further deposes, that he was twice invited by "Vaidy" to join a gang to rob the deceased's house, once in the month of Thye, and again in Chittray; that he declined, and informed the deceased through the 10th and 11th witnesses of what had occurred. The 10th and 11th witnesses state they told the deceased what first witness had said, but that he took no notice of the matter.

5. The 2nd witness, the deceased's Cavulgar states he recognized at the robbery, the third, fourth, seventh, eight, tenth, twelfth and thirteenth prisoners, and that the articles Nos. 1, 4, 6, and 7, are portions of the property stolen; he also speaks to the injuries received by the deceased, and states his conviction, that he died from the effects of them; he also mentions other circumstances relating to an occurrence which occurred in the month of Thye, and the enmity which existed on the part of the 1st prisoner towards the deceased, which I will refer to hereafter.

6. The 3rd witness was engaged by the deceased to instruct his sons, and slept in the house on the night in question, and deposes to having been seized, and guarded by the 7th prisoner, he relates the cruel treatment of the robbers, and that the 2nd, 3rd and 4th prisoners are the parties who murdered the deceased; and that he also recognized the whole of the other prisoners save the 1st, at the robbery; that the articles Nos. 1 and 4 are similar to those worn and used by his pupil. the deceased's elder son, "Monicum;" that No. 6 was worn by the younger son, and that the stick No. 7 is one of two which deceased kept in his bed room, and which were stolen (they are of a pecular description and easily recognizable); further; that the deceased died from the effects of the wounds on the 9th day, he never having risen from his bed since he was attacked, and being more or less insensible the whole time, and that at the time of the robbery he heard deceased's wife address "Vaidy" by name when he tore her ears.

7. I would here remark that at the time these witnesses deposed, I could not help noting the manner in which they gave their evidence, which I consider thoroughly trustworthy; there was no attempt to tell a rehearsed story, and all questions were unhesitatingly and freely answered.

8. The 4th witness was originally one of the parties criminated by the 12th prisoner whose confession he corroborates in a great measure; he however did not go to the robbery, which is admitted by the 12th prisoner; he states, that he went to give medicine to the wife of one "Aroonachellum" at Canamungalaputty; that he there met 1st prisoner, 3 or 4 times, but after a time he did not come; that on the 9th of Vhygasee, one Friday at 4 P. M., while at Aroonachellum's house, several persons came there, among whom were one "Seeramen" and his four brothers, and also the 2nd prisoner Letchumanun; that he asked "Aroonachellum" the reason of their assembling and was told they were all going north, and he would tell him afterwards why; that when he left the house to return home "Aroonachellum" accompanied and took him to a "koil" in a Poonjah field, where there was a crowd of people, to whom Aroonachellum went, and asked "Seeramen" if the Umbalagar of Caridaputty had arrived? and was told he was coming behind; that he witness was then asked to join the gang, to rob deceased's house, but declined, and went home; that he recognized in the gang, the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 11th and 12th, prisoners, the 4th, 7th, 8th, 11th and 12th, of whom are residents of his village.

9. The 5th witness, a goldsmith, who worked for the deceased, deposed to No. 3 being very similar to a piece of alloyed silver which deceased had given him to make a bangle with, but which he returned as not pure silver; had he been a false witness he might have sworn to it, and all the jewels, but I believe adhered strictly to the truth, and I attribute the truthful character of the evidence given by all the above witnesses to the effect produced on them by hearing of the stripes inflicted in the Court compound on the parties convicted of perjury.

10. The 6th witness deposed to the articles before the Court being a portion of the stolen property, but I do not consider his evidence satisfactory as against the prisoners.

11. The 7th and 8th witnesses depose to the voluntary confession of the 12th prisoner and his giving up the gold rings No. 1.

12. The 9th witness deposes to finding the silver waistcord No. 6 in a pot in the 8th prisoner Allagoo's house, the prosecutor likewise deposed to this fact.

13. The evidence of the 10th and 11th witnesses has been referred to above ; they simply corroborate the testimony of the 1st witness and state that as desired by him, they reported to the deceased the intention of "Vaidy" and others to rob his house, and that the deceased did not take any notice, and here it will be as well to mention the circumstances referred to by the prosecutor and 1st witness, which throws some light upon the case, and may account for the deceased's apparent nonchalance.

14. It appears that the 1st, 2nd and 3rd prisoners were formerly residents in the deceased's village ; that deceased having been robbed of ready money, they were suspected, and left the village ; a Warrant was issued for their apprehension : whether it was withdrawn, does not appear, but one day in January, the said individuals returned to the village, and were preparing to remove all their goods and chattels, when the deceased, who was the Curnom remonstrated with them, and demanded, that before they left the village, they should pay the Circar balance of kist due by them. Upon this 1st prisoner calling his attention to a gang robbery that had occurred 10 days before, in the house of a rich Edian, in Veerunputty of Poodoocottah, abused him, and threatened to bring a gang and rob and murder him, and set fire to the village ; the deceased reported the circumstance to the subordinate Police officer, who investigated the case, and sent it up to the head of Police, before whom the charges were fully proved ; one Moottoocurpen then examined, moreover stated that he had been desired by the prisoners to go and collect a gang of men from the villages to rob the deceased, but that he refused ; that after this one Appavoo (Query 4th prisoner) asked him to join a gang to rob deceased, but he again refused and reported to deceased Appavoo's intentions and told him to be on his guard. Notwithstanding all this the deceased, when the case was closed, and ready to be reported to the Magistrate, presented a petition to the head of Police, stating that as the accused had admitted to him their fault, and craved forgiveness, he requested that the matter might be allowed to drop, without being forwarded to higher authority ; and the head of Police accepting the Rauzee dismissed the case ! ! It would appear from the deceased's conduct here, that he considered the threats of the prisoners, were merely ebullition of temper, and forgave them, and in like manner he may have viewed the reports that were made to him by the 10th and 11th witnesses.

15. That men should thus threaten, and afterwards carry their threats into execution, discloses a state of things scarcely credible, but the practice is by no means uncommon, I believe, in Madura; in a late case a party who was murdered, Calendar No. 18, was several times threatened and sought the protection of the Magistrate, and though he took the precaution to have people to sleep in his house with him at night, yet he was nevertheless cruelly murdered.

16. In Calendar No. 7 the murdered Curnom was warned beforehand of his fate as also was the prosecutor in Calendar No. 47.

17. The 12th witness Moottooverun Asary, who it is shewn gave the rings No. 1 to 12th prisoner, and admitted having done so, before the Police, denies both facts, before the Court, which is not to be wondered at, considering that there can be little doubt he knew they were stolen, and if he now admitted them, he would have to produce the other jewels, which would be probably difficult, and inconvenient for him to do.

18. The 13th witness, the widow of deceased, swears to having recognized the 2nd and 3rd prisoners who she knew as brothers of 1st prisoner her husband's Gomastah ; she also deposes she believes the articles Nos 1, 2, 3, 4, 6 and 7 to be the same that were stolen on the night in question.

19. The 14th witness as before noted, is the brother of the 13th ; and was sent for through 1st witness who told him that he had seen the 2nd, 3rd and 4th prisoners beat the deceased.

20. The 15th witness deposed that he was present, and saw the 12th witness with the gold rings No. 1 which he stated he received from 12th prisoner (which fact the 12th prisoner then himself admitted) and that some other jewels, which 12th prisoner had given him, he had given to another party, who had not returned them.

21. The 1st, 2nd, 4th, 5th and 6th prisoners through their Vakeel Shoroofoodheen Sahib put in a written defence, in the first 8 paras. of which they plead that the deceased did not criminate them, when examined, and that there are discrepancies in the evidence of the witnesses, regarding the number of wounds, and the manner in which they were inflicted, pleas I consider of no weight as I do not believe the deceased was ever in a perfectly sensible state, after he received the wounds ; the deposition said to have been given by him, on the 23rd, I look on with suspicion, believing it rather to be the statements of those about him than his own. It is to be regretted that no post-mortem examination was made, but I consider there can be no doubt that the deceased died from the injuries sustained at the hands of the 2nd, 3rd and 4th prisoners, those inflicted by the 2nd and 4th, being the mortal ones.

22. The subsequent pleas set forth are alibis, but before going into the evidence, I would remark that alibis are the usual pleas set up in defence by these gang robbers, and frequently are well sustained by evidence ; but it is a notorious fact that these men regularly calculate on this defence before committing a robbery. By a reference to the records of the Court, it will be seen that the usual practice, after a robbery has been committed, is, for the perpetrators to give the property to two or three of their gang, and then to disperse, as rapidly as possible, frequently travelling long distances in incredible short periods ; and cases are not unknown, where the perpetrators of a robbery, have presented themselves, the next forenoon, before the Magistrate 30 or 40 miles distant, from the scene of it, which of course is pleaded in defence, in support of an alibi ; distances of 30 or 40 miles are travelled over by these men frequently in a night.

23. With regard to the 1st prisoner no one recognized him at the robbery, and from the evidence of the 4th witness and confession of the 12th prisoner it does not appear he was with the gang *in the Poonjah field* and could not have been as it is clearly established that on the 9th Vhygasee or 21st May, the 1st prisoner was examined in the District Moonsiff's Court at Madura, as a witness for the deceased in original suit No. 967 of 1857. It is quite possible knowing that he would be suspected that he calculated on this defence before the robbery was committed, and his being in Madura the day before the robbery may have been designed or accidental ; the fact of his having threatened to rob the deceased and his possession of a portion of the stolen property have not been rebutted ; the 6th prisoner his brother-in-law, before the Police, stated that he got the stick No. 7 from him. Under all the circumstances of the case I consider there is strong presumptive evidence that the first prisoner was a prime mover of and accessory, before and after the robbery, and that he is proved guilty of the 2nd count of the charge.

24. The alibis set up by the 2nd, 3rd, 4th and 6th prisoners have not been substantiated by the evidence, the two witnesses examined in support of an alibi for the 5th prisoner certainly depose to his having been at Calootaputty on the 9th of Vhygasee, they had however from the 12th July to the 5th of August to get up their story which, though founded may be, on fact, is, I consider, insufficient to prove an alibi, in the face of the evidence for the prosecution ; his 2nd witness is his bandy-man, and was, with his master, among those tried by the head of Police in January, though he declares that he knows nothing about the case, and never heard of it.

25. The 7th, 8th, 9th, 10th, 11th and 13th prisoners made no defence and cited no witnesses, the 12th prisoner merely pleads that he has been unjustly accused, and that his Police deposition was extorted from him ; he cites however no witness on his behalf.

26. Under the above circumstances, I concur in the conviction of the 2nd to 13th prisoners inclusive on the 1st count and of the 1st, 6th, 8th and 12th, on the 2nd count. Entertaining no doubt that the deceased died of the injuries inflicted on him by the 2nd, 3rd and 4th prisoners. I would recommend that the 2nd and 4th suffer death ; the 3rd's life I would spare on account of his youth and because he was probably led away by his brother the 2nd prisoner to ill-treat the deceased. I would however transport him together with his elder brother the 1st prisoner and the 7th, 8th, 11th and 12th prisoners, who appear to have taken a conspicuous part in the robbery. The 5th, 6th, 9th, 10th and 13th prisoners, I would sentence to 14 years with hard labour in irons. I would further recommend that the whole of the prisoners with the exception of those recommended to suffer death, receive 100 lashes of a cat-o'nine-tails, and that the whole of the prisoners jointly and severally be fined 10,000 Rupees, 7,000 Rupees, or as much

as can be realized by the sale of their property, being made over to the deceased's heir, the balance, if any, being carried to the credit of Government.

(True Copy.)

(Signed) C. F. CHAMIER,
Acting Register.

No. 51 of 1858.

The crime charged occurred on the 21st May. There are on the record the statements of five spectators thereof, namely, the deceased and the 1st, 2nd, 3rd and 13th witnesses. Nevertheless, the names of none of the accused came out till the 5th June, when a declaration was taken down from the 12th prisoner in which he criminated himself and others. In the interval, namely, on the 23rd and 24th May, the deceased and the 2nd and 3rd witnesses were examined, but could indicate none of the criminals.

It appears that the 2nd and 3rd prisoners have been residents of the same village as the deceased, and the Vakeel for the prosecutor acknowledges that the deceased was acquainted with the 2nd, 4th, 5th and 6th prisoners. The 2nd and 4th are those who are alleged (with the 3rd) to have repeatedly assaulted the deceased, and it is most improbable, if this were true, that he should not have recognized them and given up their names.

The 1st witness owns that he had a previous knowledge of the 2nd, 3rd, 4th, 5th and 6th prisoners. He states that immediately after the robbery, he entered the deceased's house and remained there till near day-light, during which time other neighbours were also present, but his information does not appear upon the record until the 9th June. For several days he is said to have been at the deceased's father-in-law's house, but I consider the pretence a frivolous one introduced in order to account for his information not coming out before the head of Police when holding inquiry on the spot on the 23rd and 24th May.

The evidence respecting the property produced appears to me of an equally untrustworthy nature. Effects to the value of Rupees 7,000 are said to have been plundered, but only a few articles, six in number, are produced as recovered. The prosecutor's Vakeel and the 2nd, 3rd and 6th witnesses speak to the identity of these articles. I have already shown my distrust of the 2nd and 3rd witnesses. The 6th, the Session Judge does not himself rely on, and his statements manifestly expose his want of credibility. The 13th witness, the wife of the deceased and the party best qualified to speak to his property, cannot identify the articles in question as his. The most that she can say is that they resemble his, and it appears by the defence that the original list of property stolen contained no mention of any such articles, the allegation that such were lost being made in a second list not drawn up until after the items in question were obtained from the accused.

There is thus, in my opinion, every symptom that the evidence for the prosecution is the result of concoction. At first there is no information to be had affecting any one. Then a confession is got up. After this eye-witnesses are put in. A few articles are produced as recovered, and a supplemental list is made up to make them appear to have been stolen. I do not see in any direction a particle of reliable evidence adduced against the prisoners.

I would therefore acquit the prisoners and direct their release.

(Signed) T. L. STRANGE.

1st October 1858.

I entirely concur in the above view of the case, and would therefore order the immediate release of the prisoners.

(Signed) G. S. HOOPER.

(True Copies.)

(Signed) C. F. CHAMIER,
Acting Register.

From R. R. COTTON, Esq., Acting Session Judge of Madura; to C. F. CHAMIER, Esq., Acting Register to the Court of Foujdaree Udalut, Fort Saint George, dated 10th August 1858, No. 353.

SIR,

1. I have the honor to submit for the consideration and final judgment of the Court of Foujdaree Udalut, an English translation of the record of the trial of case No. LII of 1858, on the file of the Session Court of Madura.

Sunday, 9th May. 2. It appears that on the night entered in the charge, the prosecutor's house was attacked by a gang of robbers armed with weapons and with torches; that the prosecutor with his uncle Condama Naick, placed themselves against the door, and tried to prevent their ingress, but were overpowered; that Condama Naick faced the robbers and told them that he knew them as residents of Palaputty and Aracoorchy; that he was then attacked, bound and beaten with rice-beaters by two of the gang, and stabbed in the temple and stomach with a spear by a third, from which wounds he then and there died; that the prosecutor was likewise bound, knocked down, and rendered insensible; and that the gang then looted the premises and departed, leaving the prosecutor insensible, and his uncle dead. The prosecutor before the Court states that he distinctly recognized the second and sixth prisoners, as those who attacked and beat him; that he knew them before, and that he also recognizes the first, seventh and ninth prisoners as the parties who attacked and killed his uncle, the former being the man who stabbed him, and the two latter those who beat him, these statements are in accordance with those given by him before the Police, before whom, on the 12th May, he named the second and sixth prisoners as having beaten him; and that he recognized a Musselman with a beard who stabbed deceased, and some others. On the 17th, he pointed out the first prisoner, as the Musselman he alluded to, and the seventh and ninth prisoners as those he recognized when beating his uncle, and the second and sixth prisoners as those before named by him; he also avers that the property before the Court, numbered 1 to 19, form a portion of his property, which was stolen by the robbers, No. 20 being the cloth worn by his mother on the night in question, and which shews that she was set on fire.

3. First witness, prosecutor's nephew, was not present when the robbery took place, but heard of it and arrived on the spot only on Monday night, and found deceased dead, and prosecutor speechless, and swollen from the ill-treatment he had received; the following morning, Tuesday, second witness came to him, and told him the robbery had been committed by certain Pullers of Palaputty, Combaputty, and four Musselmen, the names of ten of whom he gave in writing and went away to Palaputty, promising to return after the body was disposed of; that the same day, as the corpse was decomposed, a Kayfeyut was taken as to its appearance and it was buried: he describes the wounds on deceased, as a stab four inches over the navel, and another on the left temple and a gaping wound of eight inches length, on the crown of his head, from which wounds he died; that previously he was quite well, having only arrived at the prosecutor's house on a visit that day, *i. e.*, Sunday; that the same night, (Tuesday,) the second witness again came to him with one Khader Meera Rowtten, stating that he had been sent by the Monegar of his village to fetch him, as they had traces of the robbers, and they could be seized at once; that he accordingly went with them to Palaputty; that just before dawn (Wednesday,) they, *i. e.*, the second witness, Khader Meera Rowtten and Rahimtollah, the Monegar, went to the Police Ameen, who was taking a deposition from him, when Khader Meera Rowtten informed them that two of the robbers had just come to eleventh prisoner's house, who is first prisoner's concubine; the Duffadar's son was sent, at once to watch, and the Police Ameen with the rest followed, and the eleventh prisoner was apprehended with a bag No. 8 in her hand, in which the articles Nos. 3, 4 and 5 were found; and on searching her house, No. 6, a Bombay Rupee, and No. 7 a three-pice bit, were also discovered, which she said had been given her to keep by the first prisoner; the first and thirteenth prisoners who were there, were then *seized;* and that they then all went to Palaputty to apprehend the criminated Pullers there. On account of its being late, and the heavy rain, nothing was done that day there, but next morning they, together with the head of Police, Huzzoor Zemindar, Talook Duffadar and others, who had arrived in the interim, proceeded to search first prisoner's house where the articles Nos. 1 and 2, tied in a piece of cloth in a chatty, and a small brass

plate No. 9 were found, also a house breaking instrument, "Kanakole" No. 23. In the thirteenth prisoner's house the articles Nos. 10, 11 and 12 were found. Afterwards the Pullers' houses were searched, and seven iron rings No. 17 were found in fourth prisoner's house; that they then went on to Aracourchy, where the Tahsildar produced a deposition given by prosecutor, criminating second and sixth prisoners who were siezed, and their houses searched; an iron chain No. 13 and a bag of 16 Rs. being discovered in that of the sixth prisoner; that afterwards the Tahsildar took a deposition from the first prisoner in which he confessed having gone with others, and committed the robbery, and that he gave the deceased one stab, and that the seventh and ninth prisoners beat him, deceased, with a rice-beater; on which they, the seventh and ninth prisoners, were at once apprehended, and the bag No. 18 was found in the former's possession; that he, witness, knows the articles 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 17 and 18 to be prosecutor's; that it was by acting on second witness's information, the prisoners and property were discovered.

4. The second witness states that having been fined by the Police on a complaint of assault made by the first prisoner he was detained in default of paying at the Cutcherry, two days, Friday and Saturday, that while there, seventh prisoner came and asked him where first prisoner was; that he told him he would be found in a certain house; that on the Sunday he noticed seventh and ninth prisoners, and others going to and fro from the houses of first prisoner, and one Appacooti Rowtten; that after sunset he further noticed Appacooti Rowtten with Mahomed Khader Rowtten in the common of the village, and the Pullers of the village with first and thirteenth prisoners, and others assembling round and talking to them; that at 8 P. M., they all went away, Appacooti Rowtten and Mahomed Khader Rowtten returning to their own houses in the village; that very early in the morning, Monday, going out to the common, for the calls of nature, he saw a crowd of people; that first and seventh prisoners went to the house of Appacooti Rowtten, who with Mahomed Khader Rowtten, shortly after came out, with first prisoner, and he heard the former say "you went for plenty of property, how is it you have got so little," on which first prisoner replied, "a murder was committed, so they all ran away," on this they all dispersed, and he (witness) also went home; that in the morning, Monday, he went to Aracoorchy, and seeing the talook Duffadar, mentioned what he had heard and asked him if he had heard where the robbery had been committed; that while speaking, a ryot mentioned that a robbery and murder had been committed on Sunday night, at Nursingapoorum; that he returned to his village and then heard the same, and that Oora Naick's (first witness) brother was the man who had been murdered; that he at once set out for Tippauputty, Oora Naick's village, but not finding him, followed him up to prosecutor's house, where he learnt the particulars of the robbery and murder, and telling him (first witness) that the gang had collected in his village and mentioning their names, said he would return to seize them, after the body was buried; that about 8 P. M., the Monegar of his village Palaputty, Rahimtoollah, sent for him and asked him if he had, as rumoured, acted as above stated, adding that as he (Moonsiff) was absent from the village, his character might suffer, and that he (deponent) should go at once and fetch Oora Naik, and he (Moonsiff) would apprehend the accused; that it being dark and late at night he took Khadar Meera Rowtten with him and brought Oora Naick, as deposed by him, to Palaputty: what occurred subsequently has already been stated. With reference to this witness, although from cross-examination, and the rest of the evidence in the case, I have no reason to doubt the truth of his statements generally, yet it must be borne in mind, that (although he denies it) a natural feeling of enmity must exist between him and the first prisoner as the seducer and paramour of his wife, the eleventh prisoner, and the party at whose instance also, he had been so lately punished. It does not appear however that he did more in this case, than give information; he did not take any part in searching the prisoners' houses, or apprehending them, nor does it appear that he had directly or indirectly any conversation *with the prosecutor* who first describing, afterwards pointed out the first prisoner (on being shewn him) as the murderer of deceased Condama Naik. The first prisoner's confession likewise, not only before the Police officer, but likewise the Acting Joint Magistrate, is altogether independent of what this witness may have stated against him, though confirmatory of it, in a great measure, a feeling of revenge may have greatly influenced the conduct of this witness *in bringing the matter to light*, but I do not think there are any valid grounds for discrediting his evidence.

7th and 8th May.

5. The third witness states that on the night of the robbery, he recognized the first, second, seventh, ninth and thirteenth prisoners, the second of whom only he knew before; he is however of a class too common in this district who will swear to any thing, and I totally discredit his evidence on these points, which is palpably false, for instance he states, "I know the Rupee No. 6, is the prosecutor's," and on being asked how? replied "*as it is a head Rupee*;" now the impudence of this lie regarding the identification of a Rupee is heightened by the reason assigned, the Rupee being a Bombay one and not a head Rupee; this witness further deposes, that when he went to the prosecutor's house after the robbery, he found prosecutor insensible, and Condama Naick dead, from the wounds inflicted by the robbers; also to the second witness coming and telling first witness the names of the robbers, his subsequently taking him away to Palaputty, and to the apprehension of certain prisoners and finding of property.

6. The fourth witness deposes he recognized on the night in question the seventh and ninth prisoners, who he knew before; that he mentioned having done so to one Viapoory Naick who was with him, who told Oora Naick, who consequently cited him as a witness; this witness was only examined on 21st May, but this is accounted for by his being a resident of another district, and only accidentally in the village, when the robbery took place, and which he left next morning, Monday.

7. The statements of the fifth witness, that he recognized the seventh, eighth and ninth prisoners at the robbery, cannot be credited.

8. The sixth witness corroborates the statement of the first, as to the apprehension of first, sixth, eleventh and thirteenth prisoners, and the finding of the property in their possession.

9. The seventh witness deposes to the finding of No. 19 in the house ofthe twelfth prisoner, who also admits the fact, but claims it as his own.

10. The eighth and ninth witnesses prove the first prisoner's voluntary confession before the Acting Joint Magistrate.

11. Tenth witness deposes that the arcticles Nos. 1 to 19 before the Court, belong to the prosecutor.

12. Eleventh witness, the Duffadar of Aracoorchy, corroborates, in a great measure, the former part of the second witness's evidence; he was in custody the two days, Friday and Saturday, and he came to Aracoorchy on Monday evening to the Cutcherry, and stated that a robbery attended with murder in a Vadoogun's house had been committed, which had already been reported; he did not however mention the names of the robbers, nor did he previously state he suspected a robbery would be committed; this witness further states that the seventh prisoner is an old offender, having *lately* been released from Trichinopoly Jail, at the expiration of a fourteen years' sentence, Coimbatore Court, for gang robbery; the prisoner admits he was formerly convicted at Salem as asserted, but affirms that he has been released upwards of ten years, and been cultivating in his village; this would appear the fact as second witness states he has known him ten years, before which he was in Jail; this eleventh witness also states that he saw the sixth prisoner in Aracoorchy on Sunday afternoon, and that he has not hitherto been concerned in robbery.

13. The first prisoner in defence declares the charge has been brought through enmity, denies his confession before the Acting Joint Magistrate, and claims the articles found on him and eleventh prisoner as his own, but is unable to produce any evidence in support of his assertions.

14. The first, second, third, fourth, fifth, sixth, seventh, eight, ninth, tenth, twelth and thirteenth prisoners simply deny the crime; the sixth alone cites one witness to prove the chain No. 13, his. The third alleges the sickle No. 15 is his own; fifth and ninth aver nothing was found in their houses, the cloth No. 21 taken from fifth prisoner's person being, he states, his own; the seventh admits his former conviction for gang robbery; eleventh states the property found on her was given her by first prisoner; twelfth claims the silver chain No. 19 as his own.

15. The Law Officer convicts the first, second, seventh and ninth prisoners of the first count of the charge, I concur, but I would also convict the sixth prisoner, who, from the first, pro-

secutor has named, and whose evidence, I see no reason to discredit: the law officer, from convicting him on the second count, appears to consider that the iron chain No. 13 found in his house to have been proved to be prosecutor's, but I cannot concur with him; the chain is a common one and was only claimed after it was found, and is not a likely article to have been carried off on the present occasion. The law officer also convicts the 1st, 4th, 6th, 7th, 12th and 13th prisoners on the second count. When I forwarded my Calendar in this case, I differed with him as regarded 4th, 7th, and 6th prisoners, but on further consideration of the evidence, I do so also as regards the 12th. The articles found in the 4th prisoner's house were 7 common iron rings such as are used for sticks; in the 6th the iron chain above alluded to, and in the 7th a dungery market bag, without any distinguishing mark, and of the description in common use. None of these articles appeared entered in the prosecutor's original list of stolen property; as regards the silver chain found in the 12th prisoner's house, it may be one of two entered in the prosecutor's list as stolen, and it has the appearance, being broken, of having been forcibly taken from some person: it is deposed to be the prosecutor's, and the prisoner, although he claims it, does not attempt to prove it to be his. I do not however consider the evidence to its identity, it being a common article and worn by persons of the prisoner's caste, sufficiently trustworthy to warrant the prisoner's conviction, and would therefore release him. There is no doubt about the articles found on the 1st, 11th and 13th prisoners; they are entered in the list of stolen property and are of a description easily recognizable; although the Rupee No. 6 could not be sworn to, the fact of its being found in the possession of the same party on whom the bag No. 8 was, and its being a Bombay Rupee, is strong presumptive evidence that it is the same that was stolen with the bag No. 8, I would convict the 11th prisoner on the 2nd count, as I cannot believe she was ignorant of the fact that the things given her to keep by the 1st prisoner were stolen property.

16. As the actual murder of the deceased by the 1st, 7th, and 9th prisoners is only deposed to by one eye-witness, I am loath to recommend that the extreme penalty of the law should be inflicted on them. I would however transport them for life, and sentence the 2nd, 6th, and 13th to 14 years' imprisonment with hard labor and 100 lashes each with a cat-o'nine tails, and the 11th prisoner 1 year's imprisonment with labor suitable to her sex. Should the Court concur with me in the opinion that the prisoners have been brought to justice mainly through the instrumentality of the second witness, I trust he may be rewarded as an encouragement to others, which is much required.

By the Court.

T. L. Strange.—The Session Court have acquitted and released the third, fifth, eighth and tenth prisoners. The reference of the case relates to the remaining prisoners.

The robbery and murder which form the subject of the charge, took place on the night of the 9th May. The report on the matter by the Village Moonsiff has not been sent up by the Acting Session Judge, as it should have been, but it may be gathered from that of the Nattamgar and the proceedings in the case that it contained no information affecting the prisoners. There is no inquest paper, and the Acting Session Judge affords no explanation on this head. It may be presumed however that no inquest was held. The lists of stolen property put in by the prosecutor have not been forwarded by the Acting Session Judge. These might have been of importance towards showing whether the prosecutor described as lost by him property such as was found with the prisoners before search was made of their houses.

The earliest information in the case was derived from the second witness. He was in detention for an assault upon the first prisoner, when he states that he observed certain suspicious gatherings of people, and overheard that a robbery and murder had been committed, naming before the Joint Magistrate the first, second, seventh, eighth, tenth and thirteenth prisoners as above concerned, and before the Subordinate Court, adding the name of the ninth prisoner. He appears to have communicated the fact of the robbery and murder to the eleventh witness, a Duffadar, but this individual's deposition does not show that he ascertained on what grounds the information rested, or took any steps to follow it out. Possibly it may be from defect of examination before the Acting Session Judge that these particulars were not drawn out.

The second witness furthermore carried his information to the first witness, brother of the deceased, who had arrived at the prosecutor's house. This was on the morning of the 11th, and

on the following day proceedings commenced by the examination of the prosecutor, and the first witness before the Police, and the arrest of some of the accused. The second witness himself was passed over by the Police and not examined till he came before the Joint Magistrate on the 18th.

The Session Judge should bring to the notice of the Magistrate the dilatory proceedings of the Police in this case. They appear to have been inactive from the night of the 9th until the 12th, and in the meanwhile allowed the body of the deceased to be buried without holding inquest over it. No evidence was elicited by them, the informant being the second witness, not one of their body; his information was not taken down or followed up; and the Duffadar, according to the examination held of him, appears to have been remarkably supine.

I place no reliance on the information of the second witness. The circumstances alleged by him as having come under his observation are of an improbable nature and were not communicated to the aforesaid Duffadar. This witness, besides being at enmity with the first prisoner, as shown by the matter of the assault committed on him, is the husband of the eleventh prisoner who has abandoned him and lives with the first prisoner as his concubine. It is clear therefore that this witness has been stimulated by ill-will towards the first prisoner, and his communications are to be received with much distrust.

As I have observed, it is not till the second witness appears upon the scene and makes his communications that any evidence affecting the prisoners comes out; after this the first, second, sixth, seventh and ninth prisoners are identified by the prosecutor; the first, second, seventh, ninth and thirteenth by the third witness; the seventh and ninth by the fourth witness; and the seventh, eight and ninth (at first doubtfully but in subsequent examinations with certainty) by the fifth witness.

There was thus a delay till the third day after the commission of the crime before the earliest of these identifications was proclaimed, namely, as deposed to by the prosecutor. The evidence of the third witness was not given till the 18th May, that of the 4th, till the 21st, and that of the 5th till the 19th.

It appears furthermore that the second and sixth prisoners were previously known to the prosecutor by name as well as person; that the second prisoner was in like manner previously known to third witness, and the seventh and ninth prisoners to the fourth witness. I do not think any reliance can be placed upon evidence thus non-apparent for so many days, and produced only after an enemy of one of the accused had been in the field with his criminations. That of the third witness is manifestly false from acknowledged suppressions on his part, and has been in consequence rejected by the Acting Session Judge.

The first prisoner has confessed before the Police and the Joint Magistrate, and the eleventh prisoner, his concubine, has given up part of the stolen property which she derived from him on the morning after the robbery, under circumstances indicating guilty knowledge on her part. I would therefore convict these prisoners, the first as a participator in the robbery and the eleventh as accessory after the fact. I observe that the first prisoner's confession does not involve admission (as certified to be the case by the Session Judge in his letter of reference) that he took part in the murder of the deceased. I would sentence this prisoner to fourteen years' imprisonment with hard labor in irons, and the eleventh prisoner to two years' imprisonment with labor suitable to her sex.

I do not place confidence in the identification of the articles found with the fourth, sixth, seventh, twelfth and thirteenth prisoners, these being of a common description, and the main evidence for the prosecution appearing to me, as above observed, of an untrustworthy nature.

The second and twelfth prisoners confessed before the Police, but these confessions, I cannot admit because not corroborated by other satisfactory evidence.

There is nothing against the ninth prisoner, but the evidence to his identification which I have rejected.

I would therefore acquit the second, fourth, sixth, seventh, ninth, twelfth and thirteenth prisoners, and direct their release.

2. The Court of Sudder Udalut are always ready to receive and give due weight to any considerations submitted in explanation of circumstances which may have attracted their unfavorable notice in the course of their supervisory duties, when adduced in a proper and candid spirit. In this category however they cannot place the present communication. Its entire tone the Judges consider objectionable, but would especially point to paras. 6 to 9. They cannot suppose that the Acting Judge believes that the Court of Foujdaree Udalut, expect from him a certificate of accurate translations in the sense he puts upon it, or that by the remarks they were lately compelled to make upon a case referred by him, they intended to make any alteration in the universally existing practice, or to require from him greater care and caution than, they trust, is now used by all Judges. They would remind the Acting Judge that in the case, which gave rise to their remarks, he had totally overlooked the fact of a prisoner having made a confession, and that the Court held this to be the less excusable as he must, or at least, ought to have read it when he certified it to be an accurate translation. The Court consider that careful perusal of a translation will ensure, not critical or verbal accuracy, but the absence of important or material variations from the original when it is performed by a Judge who has tried the case, and thus made himself familiar with its leading features, and who has the power, by reference to his own notes, to correct any serious errors or omissions without being compelled to have recourse to the original depositions.

3. The Court would further remark that the other reasons assigned by the Civil Judge in explanation of his having passed no Decrees during the quarter, are very unsatisfactory. He states that the pressure of Session work has prevented his according more time to civil duties than allowed of his disposing of the Miscellaneous Petitions before him, 95 in number ; but he does not enter into details to show what the amount of the Session work may have been, beyond noticing that there were 43 Session Appeals, or that it was greater than his predecessors had ordinarily to meet.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Register.

Extract from the Proccedings of the Foujdaree Udalut, under date the 10th November 1858.

Read again Supplemental Return, dated 30th September 1858, from the Acting Session Judge of Madura, to the Precept of the Foujdaree Udalut, under date the 10th August 1858, calling for records in Calendar cases Nos. 60 and 61 of 1858.

The Court of Foujdaree Udalut observe, that the Acting Session Judge has availed himself of the opportunity which he conceived the transmission of these cases presented, to illustrate the operation of their remarks of the 22nd September last, relative to the information derivable from the necessary act of perusing such translations when certifying their accuracy. In order to do this, the Acting Session Judge has in their opinion had recourse to a very unbecoming procedure, he has made a number of corrections with great seeming care under his initials, which he must have well known to be wholly unimportant, and which would not have fallen within the scope of a " requisition for *accuracy*," even had the term been intended to be understood as the Acting Session Judge at first said that he supposed it was, such instances as those noted in the margin, are scattered over the translations and their object could be only to place what he professed to consider the orders of the Foujdaree Udalut in a ridiculous light.

E. G.

Original translation	correction.
caught hold of	apprehended.
went near	approached.
what did I see?	I saw nothing.
in my behalf	in my defence.
I have nothing to say	what have I to say.
seeing	looking on.
right	correct.
I heard	I have heard.
got into a boat	embarked in a boat.
told	said.
were keeping	kept.
before Police	before the Police.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Register.

marriage, all these assert that they have been for years on bad terms with the prosecutor. The petitioner Santhamacherry states that he was witness against the prosecutor when charged by the aforesaid Venkatadry Naik as being a leader of robbers. These are allegations scarcely to have been made if untrue, and the relative position of the parties was such as to have called for the utmost caution in receiving an accusation by the one against the others.

4. The petitioners assert that the charge of theft is unfounded and was got up in order to give cover to proceedings against themselves, a perusal of the Calendar in No. 17, leads the Court to believe that such may very possibly have been the case. There is no evidence to the commission of a theft, but that to the discovery of certain property in the possession of the parties then accused, and the prosecutor's alleged ignorance that he had been robbed until told thereof by an informant, has not the appearance of a true circumstance. The Court resolve to direct the Acting Session Judge to send up the translation of the record of the said trial in order that they may judge of the propriety of his conviction of the prisoners in the case.

5. The evidence against the present petitioners is that just before the commission of the theft they were seen waiting for the 1st prisoner in the said case, who was to point out to them where the property was kept, and that they were afterwards seen with him in a field with the stolen property when he carried off two boxes thereof, and the petitioners three boxes and a bundle. The said two boxes were afterwards found with the said 1st prisoner, who, on his defence, has alleged that he received them from the petitioners.

6. The view which the Acting Session Judge has taken of this evidence is by no means clear or consistent. In one place he appears to accept it as true and records opinions thereon which justify the petitioners in their complaint that he has prejudged their case. He assumes that had immediate search been made " the stolen property would most probably have been discovered in the possession of Condama Naik and Chinnama Naik" (two of the petitioners.) He also holds the evidence of two of the witnesses to be " confirmed by the fact of two boxes having been found with Vettian (the 1st prisoner in No. 17,) who before the Court pleaded he received them from Condama Naik," and that " there is reason to believe" the evidence of two of the witnesses to be " true," because confirmed " by that of the other two witnesses, and the conviction of the prisoners Vettian and others," again in another part of his proceedings the Acting Session Judge records his belief that " there appears little likelihood now of recovering the property or convicting the accused," and goes on to show that the effect of the evidence, if confirmed before him, will be no more than to warrant the requisition of security from the accused, with the view to which he directs their committal.

7. The Court observe that if the evidence above adverted to is to be believed, it would call for the conviction of the accused, and that if not to be accepted, nothing would remain upon which to justify the requisition of security from them. The Acting Session Judge's injunction for the committal of the petitioners with the view of placing them under security is thus shown to be a step wholly unwarrantable, and it is to be regretted that he should have overruled the discharge of the accused by the Acting Assistant Magistrate upon grounds so insufficient and untenable.

8. The Court furthermore are of opinion that the evidence offered against the petitioners is on the face thereof of a very questionable nature. It is that of persons described by the Acting Session Judge as themselves accessories to the theft, a species of evidence always to be mistrusted, unless otherwise amply corroborated, but to this evidence no extraneous support appears.

9. The Court resolve under the circumstances of the case to overrule the Acting Session Judge's order, and direct that the petitioners, if arrested, be set at liberty.

Ordered that Extract from these Proceedings be sent to the Acting Session Judge of Madura, by Precept returnable within 11 days from and after its receipt.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Register.

C. R. Baynes.—I agree with Mr. Strange in considering the evidence legally sufficient for the conviction of the first and eleventh prisoners only, but would ask him to re-consider the sentences proposed to be passed on them.

It is true that the first prisoner does not expressly confess participation in the act of murder, but both before the Police and Joint Magistrate, he admitted being in the van of the battle, at the "doorway," and having struck one of its two defenders, of whom the deceased was one, convicting the prisoner as art and part, to this extent, in such a deliberate, daring and murderous outrage as the case before us presents, I think we ought not to pass on him a less sentence than of one of transportation for life.

In regard to the eleventh prisoner, a concubine of the first, whose actual offence consists in receiving and concealing property in obedience to his orders, instead of giving information to the Police, by which alone she could have kept herself harmless, but which can scarcely be expected of her under the circumstances, I would suggest that a period of one year's imprisonment, as recommended by the Acting Session Judge, would be a sufficient punishment for her.

T. L. Strange.—I agree to the sentences proposed by Mr. Baynes. The first prisoner, though not proved to have taken actual part in the murder, has certainly been concerned in a robbery perpetrated under very aggravating circumstances; and think it would be right to mark the offence with the highest punishment we can award. I do not object to reducing the punishment of the eleventh prisoner to one year.

Sentence.—The first prisoner, transportation for life; and the eleventh, one year's imprisonment, the second, fourth, sixth, seventh, ninth, twelfth and thirteenth prisoners, acquitted.

(True Copy.)

27th August 1858.

(Signed) C. F. CHAMIER,
Acting Register.

Extract from the Proceedings of the Foujdaree Udalut, under date the 29th November 1858.

Read again Miscellaneous Petition presented on the 27th September 1858, by J. W. Branson, Esq., Pleader, on behalf of Vencatadry Naick and other, of Zillah Madura.

Read also Return dated the 30th September 1858, from the Acting Session Judge of Madura, to the Precept of the Foujdaree Udalut, under date the 27th Idem; calling upon him to explain why he declined to furnish the petitioner Vencatareddy with a copy of the order passed on the petition of one Venkiah.

Read also Miscellaneous Petition presented on the 18th October 1858, by J. W. Branson, Esq., Pleader, on behalf of Vencatadry Naick and others of Zillah Madura.

1. The petitioners were charged by one Venkiah, prosecutor in No. 17 of 1858, on the file of the Session Court at Madura, with having been concerned in the theft which forms the subject of that case. The head of Police dismissed the charge, and his proceedings on appeal were confirmed by the Acting Assistant Magistrate. The prosecutor then took the matter before the Acting Session Judge, who has required the Acting Assistant Magistrate to re-apprehend and commit the petitioners.

2. The Court of Foujdaree Udalut observe that such an injunction as has been issued by the Acting Sesssion Judge can only be warranted by very clear grounds calculated to show that the ends of justice have not been met owing to manifest failure on the part of the committing authority. A Judge in taking such a step assumes for the time the position of public prosecutor, one scarcely compatible with that of Judge. His grounds for appearing in that capacity should not only be clear and weighty and called for imperatively by the interests of justice, but he cannot be too guarded in his estimate of the evidence upon which he acts, lest he may compromise himself in his character of Judge when the said evidence has to come before him and to be pronounced upon by him in that position.

3. The petitioners Condama Naik and Ramalinga Naik represent themselves to be cousins of the prosecutor Venkiah. The petitioners Venkatadry Naik, Sathooriapah Naik and Chennama Naik state that they are connected with the preceding petitioners and the prosecutor by

allow more than this to civil business; and I have found it impossible to devote even one whole day exclusively to civil business from the pressure of Session work.

6. In addition to my already pressing duties, the Court have now laid upon me that of a Translator, and as the Court insist on my certifying to the accuracy of all translations, submitted to them, I shall have still less time, for passing Civil Decrees, as I must now compare the translations with the originals, which will occupy me many hours, and I would submit, that after all, my certificate must be utterly worthless, unless the Judges are satisfied that I am competent to certify they are true translations.

7. The translations submitted to the Court of Foujdaree Udalut are usually prepared by the Foujdaree Translator, and under-writers, and even to make these *intelligible*, requires no little correction; but to assert that they are true translations, few would be bold enough to do. It is true that the Judges of the Foujdaree Udalut determine their cases on these translations, but, as evidence they are utterly worthless, and would not be accepted as such in any other Court; and to judge of a witness's statement by a wretched translation of an incorrectly recorded and often unintelligible deposition, is absurd. Even if the statements were truly recorded (which it requires but little experience to know they are not) the translation even if accurate, and made by a competent and sworn Interpreter, can give no idea of the deponent's manner, &c., by which his evidence, can often only be properly appreciated. It is I believe by no means an uncommon practice, *now* for accused persons to tamper with Javabneviss and Translators, who, by misrecording evidence, or incorrectly translating it, ensure the acquittal of the prisoners, before the Court of Foujdaree Udalut on appeal.

8. I will not enlarge on the effect on the public mind of making a Session Judge, after he has disposed of a case, send *translations* of his or the Police record to his superiors, in order that they may be able to judge of the *value* of the evidence adduced before him; when that taken before a *District Moonsiff* is not allowed to be questioned in Special Appeal; or on the fact, that there are presiding over various Courts in this Presidency, Judges, who are unable to conduct their duties in the vernacular, and are consequently altogether incompetent to certify to the accuracy of the translations forwarded to the Court of Foujdaree Udalut.

9. If the translations were restricted to cases wherein the accused are liable to suffer death, I might be able to compare the translations with the originals without (in ordinary times) much inconvenience; but when I am desired to certify to the accuracy to every translation, now called for in all referrible, and appealed cases, as also those called up for review, it is impossible I can do so without largely encroaching upon time which should be employed in more legitimate duties. In order that the Court may judge of the time occupied in comparing the translations with the originals, it will in future be noted on the translations, and entered in the Court Diary.

10. In conclusion, I would beg the indulgence of the Court, if I have been led to express myself too strongly. I have never restricted myself to office hours, or to passing the minimum number of Decrees, as the Judges must well know, or availed myself of native holidays. This is the first time during my twenty-one years' service that I have been told that I neglected my duties; the charge my conscience tells me is undeserved and I emphatically deny it; if the Court are dissatisfied with the amount of work performed, I cannot but regret it, but at the same time must confess that I am physically incapable of performing more.

(True Copy.)

(Signed) C. F. CHAMIER,
Acting Register.

Extract from the Proceedings of the Sudder Udalut, under date the 22nd September 1858.

Read letter from the Civil Judge of Madura, dated September 3rd, 1858.

1. In this letter, with reference to Extract from Proceedings of the Court of Sudder Udalut, of 11th Ultimo, the Civil Judge of Madura submits an explanation of the circumstances, including pressure of Criminal business &c., which interfered to prevent his passing any Civil Decrees during the second quarter of the current year.

Extract from the Proceedings of the Sudder Udalut, under date the 11th August 185

Read letter dated 31st Ultimo, from the Acting Civil Judge of Madura, submitting Reports of the Civil and Subordinate Courts for the 2nd quarter of 1858.

1. The Sudder Udalut cannot regard the excuse put forward by the Acting Civil for not passing even a single Decree during the quarter as satisfactory. If the work in the sion Court was heavier than usual, it must be recollected that he was entirely relieved fr ordinary civil business during the adjournment of the Civil Court for 6 weeks, from the May, which must have afforded much opportunity of getting through it.

2. The Judges observe that the Court sat but 17 days in April and 15 in June, an of those days not even one was exclusively devoted to civil business; so that it would that in three months, at all events, the pressure of criminal work could not have been very and they consider that the 13 wholly unemployed days in April and the 15 in June, 28 or 24 allowing for Sundays, must have afforded ample time for the preparation of some Civ crees; especially if the recess had been taken advantage of for the consideration of suits ri decision.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Regis

From R. R. COTTON, Esq., Acting Civil Judge of Madura; to C. F. CHAMIER, Acting Register to the Court of Sudder Udalut, Fort Saint George, dated 3rd tember 1858, No. 387.

SIR,

1. I have the honor to acknowledge the receipt of an Extract from the Proceedings o Sudder Udalut, dated the 11th Ultimo, from which it appears that, the Judges consider t the Court sat but 17 days in April, and 15 in June, there was ample time for the preparati some Civil Decrees, and I beg to point out that these facts are no criterion by which the m I have employed my time can be judged.

2. The Civil Court was adjourned on the 2nd May to the 13th June; every day in from 6 A. M. to 6 P. M., I was engaged in Session cases; having cleared my file on the 2nd I went for eleven days to the Pulney Hills; I there went through the proceedings of se suits pending before the Court, but for want of information was unable to draft any Dec on the 15th June I was engaged with the examination of Assistants at my own house; other day I attended the Court; of the 13 days in April in which no Court was held, 4 Sundays, and 8 feast days and holidays; one day I appear to have been absent for some or other I cannot now recollect.

3. Now, independent of the examination of Session cases, and miscellaneous bus Civil and Session, which must be done in Court, I would refer to the voluminous records that been forwarded from this Court in translation, which I have always read through and corre more or less attentively, as I could spare time, certifying to the general correctness of the t lations of evidence taken before me. The writing of letters, Session proceedings, sentences, have all been done by me also, when there was no Court, and out of office.

4. The Session cases this year have been unusually numerous, and heavy; besides th have of course had to review all the decisions of the lower Courts, and in some cases to rea records. I decided in the quarter no less than 43 Session Appeals, from the decisions Magistrates, many of which necessitated my perusing the entire record, which as I do perso (not by abstract translations) consume from 2 to 4 hours at least of my time. I disposed Miscellaneous Petitions on the civil side, the investigation into many of which occupied much time as would have sufficed for two or three Decrees.

5. There are 26 Vakeels attached to the Civil Court, who must gain a livelihood, a consequence is, that the common miscellaneous work of admitting Appeals, and disp of Miscellaneous Petitions, which in other Courts, ordinarily occupy from $\frac{1}{2}$ to $\frac{3}{4}$ of an here occupies me frequently 3 hours; with the heavy Session cases, there has been no ti

From R. R. COTTON, Esq., Acting Session Judge of Madura; to C. F. CHAMIER, Esq., Acting Register to the Court of Foujdaree Udalut, Fort Saint George, dated 13th November 1858, No. 484.

SIR,

I have the honor to acknowledge the receipt of Extract Proceedings, Foujdaree Udalut, under date 10th Instant, in which the Court have been pleased to impute certain motives to me, in correcting some translates submitted for their consideration, these I beg most respectfully to deny had any existence in me.

2. When I corrected the translates, I had no idea, that they would in *that state*, be forwarded to the Court, but was under the impression that they would be copied out fair; and only discovered my error when it was too late, and the re-copying of them would have delayed the Return, which I was averse to do.

3. I am free to confess, that I do not understand, for what I am responsible in placing my signature, to these translations. The Court have ruled that they do not expect accurate translations of the original, and now that the correction of the English is wholly unimportant; they have stated that any *serious errors* or *omissions* in the translations may be corrected by a reference to my notes; but I opine, that the Court would not hold me justified, in making alterations in the original deposition, without doing which, it would be impossible for me to certify that the translation was accurate; under this impression, I have in some cases of late, added extracts from my notes, *solely* with the view of assisting the Judges to understand the translation, and to point out, where I considered the evidence either imperfectly, or incorrectly recorded. I consider it necessary to make this explanation to prevent my acts being again misconstrued.

4. It is still, as it has ever been, my endeavour, to act up fully to the Court's orders *in every thing*, and to enforce obedience to them in others; and it is therefore doubly painful to me to find that such motives as those entered in the proceedings under notice, are attributed to me.

(True Copy.)

(Signed) C. F. CHAMIER,
Acting Register.

Extract from the Proceedings of the Foujdaree Udalut, under date 22nd November 1858.

Read letter dated the 13th Instant, from the Acting Session Judge of Madura, offering explanation on the remarks of the Foujdaree Udalut in their proceedings of the 10th Instant.

1. In reference to para. 3 of the above letter, the Court of Foujdaree Udalut observe that the Judge should pay close attention to the recorded evidence, when read out preparatory to taking the deponent's signature thereto, and if it appear to him that any error has been committed in taking it down, he should then have it remedied after making appeal to the deponent. After the deposition has been signed by the deponent, and he has been discharged from attendance, no alteration in the deposition can be made.

2. The Judge is bound to see that the translations convey a correct representation of the statements of the deponents. If read over by the Judge as soon as made, the facts of the case should be sufficiently fresh upon his mind to allow of his judging of the translation, without ordinarily having to refer for comparison to the original.

(True Extract.)

(Signed) C. F. CHAMIER.
Acting Register.

Extract from the Proceedings of the Sudder and Foujdaree Udalut, under date the 23rd September 1858.

Read Miscellaneous Petition presented on the 23rd August 1858, by Annasamien, late Criminal Jawabnavis of the Civil Court of Madura.

1. The petitioner appeals from the order of the Acting Civil Judge of Madura dated the 8th July, dismissing him from his situation.

2. The Judges of the Sudder and Foujdaree Udalut observe that the petitioner, after acting in various capacities, was permanently employed as a writer in November 1852, and in February 1858, promoted to Criminal Jawabnavis, having in the interim acted on four several occasions, in the latter office, and obtained satisfactory testimonials from his superiors. The present Acting Judge describes him as unable to dictate to a writer, the depositions coming from the mouth of the witnesses under examination, with that verbal accuracy, which he desires to have employed, and deems necessary; it is not even suggested that he has at any time wilfully done otherwise, and it is only fair to suppose that his failure to give satisfaction, has proceeded from inability increased probably by his anxiety to succeed. Under these circumstances, the Judges consider that the Acting Judge should not have entirely dismissed the petitioner from office, but have made such arrangement in the establishment as would replace him in no worse position than he was promoted from, and that he should now do so, replacing and bearing with him in his late situation until he can provide him with another, and therefore resolve to direct accordingly.

Ordered that Extract from these proceeding be forwarded to the Acting Civil and Session Judge of Madura, by Precept returnable within V days from and after its receipt.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Register.

In Return to the foregoing Precept accompanying Extract Proceedings Foujdaree Udalut, under date 23rd September 1858, ordering the re-employment of one Annasamy Iyen, the Acting Session Judge has the honor to report, that on Annasawmy Iyen presenting himself, he will in obedience to the Court's orders, be reinstated into his former position of 4th writer; but the Acting Session Judge begs most respectfully to decline being responsible for his conduct, he being in his opinion corrupt, and unfit for Government employ.

The Acting Session Judge would submit that he did not say that Annasawmy Iyen was *unable* to dictate the evidence of witnesses correctly; but that he *would not* (for reasons of his own apparently) *do so*, there could be no doubt, that he wilfully dictated incorrectly, the instances of his doing so are too many to recapitulate; but he was never fined, until he had been *repeatedly* warned; he was fined twice and once dismissed for the same offence; and though restored on a promise of amendment; was again dismissed. The first time he was fined, was when dictating the evidence of a witness, who had been called to identify a pair of ear-rings, which the prosecutor claimed, the witness distinctly stated "I know the prosecutor used to wear ear-rings, and I saw him do so; *but not of the description now before the Court*," the Jawabnaviss dictated "I have seen the earrings before the Court, they are the prosecutor's, I have seen him wear them." The offence for which he was dismissed, was similar; false dictation. The witness deposed, that certain property was given up by a prisoner he *named* and also pointed out, the
Calendar No. 56, 1858. 2nd. The Javabnaviss deliberately, though he had been *twice* warned before of having done the same thing, dictated that the property had been given up by the 8th prisoner; the Acting Session Judge had written down the statement from the man's mouth, and it was true and correct; the cause of the Javabnaviss's wilfully false dictation, was that in the Calendar submitted by the Subordinate Court, there was a clerical error, it was entered in it that the 8th prisoner gave up the property, and it was on this account that the Javabnaviss, insisted throughout the trial in dictating that 8th prisoner gave up the property, instead of what the witnesses really stated in a referred trial, or an appeal, this alone would in translation, have vitiated a conviction. In addition to the above, it should be remarked that the Javabnaviss was dismissed for similar *dishonesty*, by Mr. Phillips, when Acting Session Judge, a fact the Javabnaviss has taken care to keep from the Court, and the present Acting Session Judge only heard of it from Mr. Phillips. That the Court may have some idea, of the manner evidence has been recorded in the Madura Court, the Acting Session Judge would submit, that the very day after the Javabnaviss, was dismissed, and notwithstanding every effort on the part of the Acting Session Judge, to impress on the Court servants the absolute necessity of truthfully recording the evidence given: the Goomastah recorded, in two depositions that the deponents had heard 5 confessions read over to them, and that they were correct, and had been given before and attested by them, whereas but 2 of the confessions had been read, which the Goomastah knew full well as he only had read them.

Extract Proceedings Foujdaree Udalut, 10th August 1858, para. 2.

Extract Proceedings Foujdaree Udalut, 22nd Septr. 1858.

In a late case the Acting Session Judge shewed that the evidence recorded in the Subordinate Court was of a like character, and that taken before the Police he believes is even less trustworthy. It is from translations (the accuracy of which are not insisted on) of such recorded statements, that the Court dispose of cases, and frequently overrule the Judgment of officers, who have decided, or formed their opinions of them from evidence received from the deponents' mouths.

Given under my hand and the seal of the Session Court at Madura, this 27th day of September A. D. 1858.

(Signed) R. R. COTTON,
Acting Session Judge.

L. S

(True Copy.)

(Signed) C. F. CHAMIER,
Acting Register.

Extract from the Proceedings of the Foujdaree Udalut, under date the 18th November 1858.

Read again Miscellaneous Petition presented on the 23rd August 1858, by Annasamien, late Criminal Jawabnavis of the Civil Court of Madura.

Read again Return dated 27th September 1858, from the Acting Session Judge of Madura, to the Precept of the Foujdaree Udalut, under date the 23rd Idem, ordering the re-employment of one Annasamy Iyen.

1. The Court of Foujdaree Udalut cannot allow either the tone or substance of this "Return" to pass without an expression of their grave disapprobation. In making it the Acting Session Judge appears to have at once forgotten respect for superior authority, and that strict accuracy of statement which it behoves a Judge especially, to preserve when dealing with the characters and interests of those subject to his authority, and looking for justice at his hands.

2. On a careful re-perusal of all the orders passed in the case of

Order of the 8th April 1858.
Do. 17th do. "
Do. 8th May "
Do. 12th do. "
Do. 8th July "

Annasamy, the Judges can find no trace of the serious charge, which the Acting Session Judge has now ventured to put forth, without adducing any evidence to support it. The whole tenor of his orders shows that the individual in question was held to be, either from *negligence* or *incapacity*, *unfit* for the novel and peculiar duties of the situation to which he had been recently promoted; but nowhere is there the slightest imputation of "wilful corruption," so far from such being the case, the Acting Session Judge is at pains, in his Return of the 17th July 1858, to impress upon the Court his belief that the faulty dictation of which he complained was the result of *inveterate habit*, existing not in Annasamy alone, but in other Gomastahs, of making the depositions taken in the Session Court agree with those given in other places and of "no other reason."

3. The Court, moreover, cannot suppose that if the Acting Session Judge had seen grounds for believing that Annasamy's errors proceeded from corrupt motive, or in other words from bribed collusion with accused parties to defeat the ends of justice, for corruption in the case in question could have no other motive or end, he would have dealt with them as he did, "warned," "fined" "dismissed," "restored on promise of amendment," and eventually "dismissed" the culprit, without the slightest effort to bring to justice the perpetrator of so serious a crime of which however he now represents himself as having held him guilty, and for which he *punished* him without allowing him to know that *such* was the charge against him, or calling on him for any explanation or defence.

4. The Judges therefore are compelled to remark that they consider the charge now first made to be wholly undeserving of credit or attention, and to have been advanced in a manner and under circumstances not creditable to the Acting Session Judge.

5. Finally, the Judges must observe that the construction which the Acting Session Judge in the concluding para. of his Return, has placed on the Court's orders relative to the degree and nature of the accuracy required in the translations of criminal records, is not only a misunderstanding, but, in their opinion, a wilful mis-apprehension of those orders, and is, together with his remarks thereon, expressed in a highly disrespectful and indecorous manner.

(True Extract.)

(Signed) C. F. CHAMIER,
Acting Register.

No. 25. From R. R. COTTON, Esq., Acting Civil and Session Judge of Madura ; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 13th December 1858.

SIR,

I have the honor to state, I have been furnished by the Court of Foujdaree Udalut, with an Extract of their Proceedings under date the 8th Instant, animadverting in the strongest terms, on my conduct and proceedings as Session Judge ; and earnestly solicit His Lordship in Council will be pleased to refrain passing any final order, till I can submit my explanations, which I will do without delay.

No. 26. From R. R. COTTON, Esq., Acting Civil and Session Judge of Madura ; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 18th December 1858.

SIR,

I have the honor to state, that I have received an Extract from the Proceedings of the Foujdaree Udalut, under date the 8th Instant, animadverting in the strongest terms, on my proceedings and conduct as Session Judge of Madura, and expressing an opinion, that I am unfitted to hold that high and important office, and urging the Government, to employ me in a capacity, where qualities absolutely indispensable, to the Judicial office, and in which I am pronounced wanting, may not be so essential ; and most respectfully to solicit the consideration of His Lordship in Council, to the following explanations, which I have only time at present to submit.

2. The charges brought against me in the Proceedings in question by the Court of Foujdaree Udalut, are four, inability to appreciate evidence, to profit by instruction, to receive correction with submission, and to control the impetuosity of my temper within the bounds of decorum ; and the Court have brought forward certain circumstances, which they allege, fully prove these charges ; I can only leave it to the Government, on a consideration of them, in conjunction with the following remarks, to decide whether they are substantiated.

* Printed Report Foujdaree Udalut, for 1858, page 203. Extract Proceedings Foujdaree Udalut 21st May 1858. My letter to Register Foujdaree Udalut, 14th June 1858. Extract Proceedings Foujdaree Udalut, 29th June 1858.

3. In the case of Teekaram,* which I found on my arrival, awaiting trial, and to defend whom, Mr. Branson came down to Madura, armed with letters of introduction to me, and the Magistrate, from one of the Sudder Judges, which though to European eyes was nothing, yet to the Natives was not insignificant, the prisoners while under trial before me, were allowed, to be at large on bail, when however, owing to a difference of opinion between me and the assessors, the trial was removed from my Court to that of the Foujdaree Udalut I considered my jurisdiction in it ceased, and that bail could only be admitted by the Upper Court, and I therefore refused to accept bail, my error in Judgment, in so doing has been pointed out to me, and I cannot but regret it, the more so, from the disgrace it has undoubtedly inflicted upon the principal party, a man of substance, and high position here ; under the existing Regulations and orders of the Foujdaree Udalut however, irrevocable† disgrace is what all are liable to, and to which numbers are daily subjected and I opine, I am not at liberty, to take into consideration, when acting judicially, whether a party is rich or poor ; the motives which the Court would impute

† Circular Order Foujdaree Udalut, 16th October 1826.

to me from thus acting, I solemnly disclaim, and would in proof of my being incapable of entertaining such, refer to the Foujdaree Court records, which will shew, that I have twice been censured‡ for *not inflicting punishment, and irreparable disgrace,* on parties, by aiding one in his defence, and allowing the other time to appeal from my sentence. I do not wish to vindicate my conduct in any of these cases, but would appeal to them, in disproof of the imputations, that I would willingly inflict injury on any one ; and, that I have in this case acted, though erroneously, yet with perfect honesty of purpose, to adhere to what I then considered my duty.

* "Rolla Condiah," charge Forgery. My letter to the Court of Foujdaree Udalut, dated 16th March 1857. Extract Proceedings Foujdaree Udalut thereon, 15th April 1857. "Rednum Dhirmaroydoo," charge Forgery. Extract Proceedings Foujdaree Udalut, 28th January 1857. My Return to Proceedings, 3rd February 1857. Extract Proceedings Foujdaree Udalut, 24th February 1857.

4. With reference to para. 5, where it is stated, that "*under pretext* that the prisoners' Counsel, had misrepresented facts, which certainly they had no occasion to do," I dismissed two Pleaders ; I would solicit a perusal of the whole correspondence,§ *of the document presented to the Acting Subordinate Judge by the Pleaders,* and their depositions taken before me ; they represented a gross falsehood to the Acting Subordinate Judge, their object being to obtain from him, an order to receive bail ; which I had refused them ; and had the hardihood to adhere to it before me, they speak *positively* in their petition and statements, *that I gave the order.* Mr. Branson, the prisoners' Counsel, who pleaded for their release on bail before me, knows what answers I gave, and the reasons assigned by me for refusing to grant his petition, he was in the Court house, when the Pleaders gave the petition to the Subordinate Court, why did *he* not present it or sign it ? If he was aware of its contents, he knew as a gentleman he could not do so.

Diary Order Session Court of Madura, 26th March 1858. Extract Proceedings Sudder and Foujdaree Udalut, 1st June 1858. Return made to above Precept, 17th June 1858. Extract Proceedings Foujdaree Udalut, 26th June 1858. Vakeel's petition to the Subordinate Court, 26th March 1858. Depositions taken same day from the Vakeels, Criminal Javabneviss, and Court Sherishtadar.

5. The Court of Foujdaree Udalut then proceed to state in further illustration of my want of temper, decorum, and judicial incapacity "*that one of the aforesaid Pleaders* having alleged in his petition, that I had in open Court, torn, and flung down the Vakalutnamah, under which *they prayed on behalf of their clients.*" They called on me to explain, if this was the case, and I replied "that I might have torn the paper," to this I would plead, that, if the Vakeel alleged, as written in the inverted commas, he stated as great an untruth, as he did before me. The simple facts of the case are these ; after I dismissed the two Pleaders, for the above noted misconduct, they asked me for copies of their depositions, *and those of the Sheristadar and Criminal Javabneviss* who they had cited in support of their assertions. I gave them copies of their own depositions, but refused them the latter, for reasons given in my Return to the Court, they then put up another Vakeel Narama Row, to apply again, on their behalf, for the said copies, I refused to give them, and as the Vakeel says I tore up his Vakalut, I replied that I might have done so, as it was not on stampt paper, and invalid ; these circumstances are all related in the proceedings, which I request may be called for, and perused. I deny entirely any ill-feeling in the matter ; it has been the custom in the Madura Court, for years past, totally to disregard the Stamp Regulations and Circular Order Sudder Udalut,‖ by which thousands of Rupees have, I believe, been lost to Government ; on my discovering the fact, I interrogated the Sheristadar, (who has a large number of most excellent testimonials,) how he failed in this his‡ first duty, to examine the stamps, and his reply was, that for years past it has not been the custom ; and on my pointing out the Regulation and Circular Order, he pleaded ignorance of them. In tearing up the Vakalut, I disclaim any motive, beyond that of impressing on the Vakeel, a fact, he ought to have known, the worthlessness of the document, and my determination to enforce the Regulations.

Section XX Regulation XIII, of 1816.

‖ See 15th February 1836, No. 25.

‡ C. O. S. U. 28th June 1828, A. B.

6. With reference to Calendar No. 61, it is true, that the Court of Foujdaree Udalut differing with me, in my appreciation of the evidence, have reversed my sentence on appeal.

7. As regards the Court's proceedings in Calendar Nos. 38, 51 and 52, which are referred to, I imagine the support of the first charge, "inability to appreciate evidence ;" and possibly also, the 2nd, "to profit by instruction," I would briefly remark, *that I have never seen them,*

nor have I, since I have presided over the Session Court at Madura, been furnished with copy of the Proceedings of the Court of Foujdaree Udalut *in a single referred case*; their Warrants have been received, but no clue whatever, has been given, to the grounds on which their convictions, or acquittals have been based, or regarding their wishes to the disposal of the property in those cases; and though I have frequently been applied to, for the above information, I have of course been unable to furnish it. The effect of this system, has been to unsettle the district, and greatly impair the authority of the local Courts, as the Natives cannot understand, the return among them of parties who have been convicted by the Courts, of the most serious offences, without any reason being assigned, while the Courts and Magistracy, are bound by law to furnish *their* reasons, whenever they differ in opinion with *their* subordinates. If it should be urged, that the Proceedings of the Court, are printed, and circulated, I would submit, that these printed reports are supplied so late, that the observations of the Court lose much of their weight, the latest number received by me as yet, has been for June, the May 27th‖ number was received in the latter‖ part of September.

Act XXXIII of 1837.

8. It cannot but be a subject of regret to me, that while my only anxiety, has been to do substantial justice to the thousands over whom I have been placed, that my endeavours, since I have presided over the Madura Court, have met with so little approbation. I have passed I think about 80 decisions as Session Judge, the number and seriousness of Session cases, having this year been unprecedented, and I would submit, that the result of Appeals, from my decisions, Civil and Criminal, since I have been in the Judicial branch of the Service, shew that my ability to appreciate evidence, *hitherto*, has not been questioned by the superior Courts, I do not remember, as Subordinate Judge, a single Criminal sentence of mine, having been reversed; in Civil cases, the printed Decrees shew that there were fifty-two Appeals, from my decisions, in Original Suits; in four of which my Judgment was overruled; as regards my Decrees in Appeal cases, I can only discover, that out of above a hundred which I believe I have passed, *two* have been appealed from, in one, no opinion was given on merits,† by the Sudder Court, in the other my ruling of the law was decided erroneous‡. As Session Judge of Rajahmundry, the printed reports will shew that though the sentences recommended by me, in referred cases, have been modified, yet, that not a single conviction of mine, has been overruled, and, I do not hesitate to avow my belief, that my sentences as Session Judge of Madura, will not suffer by comparison, with an equal number passed by any Judge in the Service; that I have not taken the same view of the evidence adduced, as the Judges of the Foujdaree Udalut, I readily admit, but I am not exceptional in this, and the printed reports of the Foujdaree trials, abundantly prove, that the Judges themselves, frequently appreciate evidence differently. The Court of Foujdaree Udalut in a letter to Government, dated 17th March 1856, thus bear testimony regarding my judicial qnalifications. "A reference to the records of this Court enable the Judges to report satisfactorily on the efficiency of Mr. R. R. Cotton as a Judicial officer, as also on the zeal and assiduity with which he has performed his duties," how it is, that I have all of a sudden failed, I am utterly at a loss to discover.

Decisions of the Sudr Udalut.
† No. 88, 1853, 6th October 1853.
‡ No. 24, 1858, May 5th, 1858.

6. With regard to para. 10, I would submit, that it has ever been my desire, to act up to the orders of my superiors, and to carry them out *at once* when received, and to my strictness, in this respect, I cannot but attribute the fact of my "règime" not meeting with favor from the Ministerial officers of the Court. On assuming charge of the Court, I discovered gross laxity throughout the establishment, most of the work being done by volunteers, under the title of "Licensed Copyists," of whom, contrary to the orders* of Government, there were no less than (19) nineteen in the Civil Court, and a proportionate number in every Subordinate Court. My dismissal of the greater number of these, and making the Ministerial officers perform their own duties, and my issuing orders having the same effect, to the Subordinate Courts, of course deprived many of a livelihood, obtained chiefly by abstracting Records, and giving information; and imposed on others the necessity of working for their pay. As regards the Vakeels, of whom there were 26, my determination to adhere to the Regulations (of which they as a body are grossly ignorant, four of them only having passed the prescribed examination,) involved their taking some trouble to prepare their pleadings and petitions, and their being fined if they neglected to do so. These, together with other orders, passed in accordance with what I considered my duty, for the

* Extract Minutes Consultation, 5th May 1857, para. 5.

preservation of the Records (several of which are missing; a leaf, in one instance, *and I believe lately*, having been cut out of the book on which deeds were registered), the interests of Government, and the welfare of the community, have, I have no doubt, led to my conduct being misinterpreted and misrepresented, by a certain class of interested parties.

10. I should, I consider, be unworthy of my position, if I did not entertain independent views, and I confess I have been led to differ with the Judges, as regards, who is better able to appreciate the evidence of a witness, the party who receives it, from his mouth; or he, who only reads a bad translation, of an imperfectly recorded, and often an unintelligible deposition, so long as I obey the orders of my superiors, I opine I have a perfect right to adhere to my own opinions, and, that my doing so, cannot be held as disqualifying me for my present office.

11. In Calendar No. 38, one of the prisoners confessed before the Joint Magistrate, the fact however, was not, I believe, noted in *his* remarks, nor was it in the Calendar submitted by the Subordinate Court, and my Javabneviss, also failed to bring it to my notice, during the trial, which I consider he ought to have done when as usual interrogated regarding any difference existing between a Session and Police statement; under these circumstances, I entirely overlooked it, nor did it strike me, *when some time after*, I read the translate of the record, previous to forwarding it to the Foujdaree Udalut; its not having one so, I can only attribute, to my having forgot the particulars of the case; my time being then constantly engaged, from morning to night, in Session cases; which left me only my hours at home to peruse and correct translates. I candidly, on its being pointed out, avowed my error. Such being the case, I leave it with the Government, after a consideration of the papers connected with the case, to say whether the remarks and imputations contained in paras. 10 and 11 were called for.

12. In no spirit of retaliation, but as illustrating that an error, similar to that which has called for such censure on me, by the Court of Foujdaree Udalut, may be committed, by even the Court of Foujdaree Udalut themselves. I would beg a perusal of the papers appended,* by which it is apparent and admitted that the Court, not only overlooked their own proceedings passed two months previous, but could not possibly have read the record of the trial submitted for their consideration, or they would not have pronounced, the lengthened English correspondence as not affecting the prisoners and its submission unnecessary.

*A.

Diary Order, Session Court, 8th April 1858.
Extract Proceedings Session Court 17th April.
Do. do. 8th May.
Diary Order 12th, May.
Extract Proceedings Session Court, 8th July.
E tract Proceedings Foujdaree Udalut, 23rd September 1858.
Return to above. 27th do.
Extract Proceedings, Foujdaree Udalut, 18th November 1858.

13. The Judges have several times of late, declared that I have wilfully misinterpreted their observations, and imputed to me falsehood and dishonesty; having denied having done so, and the truth of their charges, it is no necessary to say more.

14. Regarding the case of Annasawmy Iyer, appointed by the late Judge a few years ago, I solicit a perusal of the *whole* of the orders, &c., passed in it, both by myself, and the Court of Foujdaree Udalut. I had fully intended (having* been urged by others to do so) to have myself brought the matter before Government, but refrained, being averse to bring my name again to notice, in antagonism with my superiors. *I did not dismiss the man for corruption*; but for the reasons assigned in my orders, but as *subsequently*, I was led to believe, his repeated disobedience of orders, was owing to corrupt motives, I objected to *re*-employ him on my own responsibility. It is quite possible to entertain doubts of a man's honesty and fitness for Government employ, without being able to obtain evidence, that would justify a Criminal prosecution, or even dismissal from office.

* My letter written nearly three months ago is now beside me.

15. With respect to the Court's observations, made in para. 12, I would likewise respectfully leave it with the Government, to determine, what weight they should have, in disposing of the present case; and how far after the testimony of the Court, *(subsequent to the Despatch of the Court of Directors noted)* to my efficiency, as a judicial officer, and, my re-employment by the Government in the judicial line, notwithstanding the Court's Proceedings of the 2nd July 1857, they can with fairness be received to my detriment.

16. Since the Judges of the Court of Foujdaree Udalut, have expressed such opinions, regarding my conduct, and believe me capable of entertaining feelings, so contrary to my nature, and moreover, have imputed a want of truth to me, it would not be for my comfort, to remain in the judicial line any longer than I can help, I trust however, the Government will not endorse

the proceedings of the Court, by refusing to confirm me Judge of Madura, if it is only on the understanding that I am to be transferred to the revenue line, an opportunity to do which, will occur in May, when Mr. J. Bird vacates Trichinopoly.

17. I cannot refrain from expressing my belief, that the unfavorable opinion, the Judges have been led to form of my temper, has been derived from exparte statements and hearings, and the misrepresentations of interested parties, which it is quite impossible I can defend myself against; unless I have an opportunity of seeing the petition, &c., I am convinced the Judges cannot have formed it from personal observations.

18. I now beg submissively, to leave myself in the hands of the Government, who I feel assured, will render justice; though I have been but nine months at Madura, I believe I have given general satisfaction to the inhabitants of the district, and the Government and Revenue Board have likewise, I believe, expressed themselves satisfied with the manner I conducted my duties, the short time I acted Collector of Guntoor; the opinion of the inhabitants of Rajahmundry, regarding my qualifications, and the manner I performed my duties, as Session Judge among *them* is likewise, I believe, known to the Government;‡ the presentation of an address to me, through Mr. Young, of Arbuthnot's House, expressive of the same, was only prevented by my sudden departure, to take up my acting appointment at Guntoor.

‡ Vide also Appendix B.

No. 27. ORDER THEREON, No. 22; dated 8th January 1859.

In these Proceedings the Foujdaree Udalut record their conviction of the unfitness for high Judicial employment of Mr. R. R. Cotton, who is at present officiating as Civil and Sessions Judge of the Zillah of Madura. A voluminous correspondence, extending from the month of May to December, and embracing 124 sides of large paper, has been submitted with the foregoing Extract, in illustration of the charges now preferred by the Higher Court. As summed up by the Foujdaree Udalut these charges are, that, "he is unable to appreciate evidence, to profit by instruction, to receive correction with submission, or to control the impetuosity of his temper within bounds of decorum," and after admitting his integrity, zeal, and disposition to do his best, they conclude by strongly recommending Government to "employ him in a capacity, where qualities absolutely indispensable to the Judicial office may not be so essential" as in his present position.

2. The first case referred to by the Court is that of "Government versus Teekaram and others." The nature of the charge against the prisoners, and the complexion of the case need not here be noted, inasmuch as the whole trial will be found at length in the Foujdaree Udalut's monthly criminal decisions for 1858, pp. 203. It is instanced however as exhibiting on the part of the presiding Judge, a want of that "Judicial caution, temper and discrimination" which a case of its importance pre-eminently called for. The correspondence regarding this trial is contained in enclosures 1, 2, and 3, and reviewed in paras. 3 to 6 of the Extract above recorded. It has been considered by Government with attention, and admitting that there were errors in form committed, and that it was ill-judged and indiscreet in Mr. Cotton summarily to dismiss the two Pleaders referred to, they must do him the justice to say that his investigation was made with great labour and completeness, and that every attention appears to have been paid by him to the conduct of the trial. His tearing up the Vakalutnamah mentioned at para. 5 of the Foujdaree Udalut's Extract doubtless betrayed much impetuosity of temper. It would appear however from Mr. Cotton's* explanation that some extenuating circumstances may here be urged on his behalf.

* Para. 5 letter of 13th December 1858, to Government.

3. The instances next given—paras 7 & 8—are numbered as Nos. 61, 38, 51 and 52 and Foujdaree Udalut Petition, No. 181 of 1858. No. 38 being connected with another charge against the Acting Session Judge will be separately considered. The remaining four are instanced as "further illustrative of Mr. Cotton's inability to appreciate evidence."

† nclosure No. 4. No. 61.† Here the lower Court had convicted a number of prisoners on a charge of highway robbery, but the Foujdaree Udalut mistrusting the evidence, directed their acquittal and release.

‡ nclosures 8 and 9. No. 51.‡ The prisoners in this case were charged with having perpetrated a daring dacoity, in the course of which one of the inmates of the house plundered, met his death at their hands. The Lower Court recommended two for the sentence of death, five for that

of transportation for life, and several others for various terms of imprisonment. The Foujdaree Udalut saw reason to deem "the evidence for the prosecution the result of concoction" and ordered the release of all.

|| Enclosure No. 10. No. 52|| is a case precisely of the same nature as No. 51. Of the nine prisoners convicted and sentenced by the Acting Session Judge, the Higher Court acquitted seven, leaving two only for punishment.

§ Enclosure 11. No. 181.§ This was a simple theft, and the Foujdaree Udalut are found instructing the Acting Session Judge that "it is to be regretted that he should have overruled the discharge of the accused by the Assistant Magistrate upon grounds so insufficient and so untenable."

The Government have carefully perused the whole of the papers connected with these four cases, and, assuming that Mr. Cotton in all and each of them, arrived at faulty conclusions, they still do not find that the extent of his error exceeds that which will prove to have been committed in cases where the Higher Court differs with any of the Lower Courts, as to the value to be attached to any particular evidence; and, as this is an event of no unfrequent occurrence, they fail to see why in respect to the present instances, Mr Cotton should be considered amenable to peculiar animadversion.

* Enclosures 5, 6, 7 and 12 to 17. 4. It is far otherwise however with Case No. 38* (para. 10.) The circumstance not having been noted in the Calendar prepared by the Subordinate Judge to be laid before him, Mr. Cotton had omitted to notice that one of the numerous prisoners in a certain case had 'confessed' before the Joint Magistrate. On the translation of the Record reaching the Foujdaree Udalut, this omission was discovered and in pointing it out to him, the Higher Court adverted to the necessity of strict attention to such matters. Mr. Cotton, not only most pertinaciously defended himself, but took occasion on a subsequent occasion, when called upon to explain how it was that his *Civil* returns for the quarter were blank, to excuse himself on the ground that the duty of rigidly comparing the translations with the original Records of his *Session* Cases—a duty which he conceived the tenor of the Foujdaree Udalut's remarks in the case above adverted to had cast upon him—took up the whole of his spare time.

5. The Government cannot suppose that Mr. Cotton was serious in laying this interpretation on the remarks of the Higher Court. He must be well aware that all that the Court meant was, that he is responsible for the general accuracy of all Records sent up by him to them. In lieu however of receiving the rebuke in a proper spirit, he is found not only inditing an unbecoming reply, but attempting by his subsequent proceedings to show, that the result of the orders in question has been to paralyze his efforts towards the fulfilment of the proper duties of his Court. He places himself deliberately in direct antagonism with superior authority, and every rebuke however mildly conveyed, every error however mildly pointed out elicits from him verbose and contentious vindications, highly objectionable both in tone and matter.

** Enclosures 18, 19, 20. 6. The foregoing observations apply equally to the last** case—para. 11—mentioned by the Foujdaree Udalut, the dismissal of one of the Gomastas of his Court, who was reinstated by the Foujdaree Udalut. Mr. Cotton will be informed that the Government consider his conduct in these instances as most reprehensible, and will be given most clearly to understand that unless he shows for the future more submission to control and a general amendment in the performance of his Judicial duties, they will be compelled to act in a manner which will effectually preclude him from offending as he has now done.

7. Mr. Cotton, it is remarked, is at present holding the substantive appointment of Sub Judge of Bellary, and is officiating as Civil and Session Judge of Madura, which post is now vacant by the death of Mr. D. Mayne. As the promotion of his juniors cannot with fairness be impeded owing to his misconduct, Mr. Cotton's substantive appointment will now be conferred on another, and he himself will continue to *act* in his post at Madura for a further period of six months, at the expiration of which time the Government will consider whether his behaviour has been such as to justify them in nominating him to the permanent position of a Civil and Session Judge. In the meantime, as the post is actually vacant, Mr. Cotton will, while officiating in it, draw the full allowances, in accordance with the the Resolution of the Government of India, providing for such cases.

Financial Department, No. 2386, dated 30th August 1853.

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

Judicial Dep.t

No 22

Extract dated 8th January 1859.

Read the following Extract from the Proc.s of the F. C. } Vide entry No 34 dated 22nd Dec.r 58

Read also the following letters from the Sessions J. of Madura } Vide entry dated 18th and 18th idem.

In these Proceedings the F. C. record their conviction of the unfitness for high judicial employment of Mr R. Cotton, who is at present officiating as Civil & Sessions Judge of the Zillah of Madura. A voluminous correspondence, extending from the month of May to Dec.r, and embracing 124 sides of large paper, has been submitted with the foregoing Extract; in illustration of the charges now preferred by the Higher Court against him. As summed up by the F. C, these charges are, that "he "is unable to appreciate evidence, "to profit by instruction, to receive "correction with submission, or to "control the impetuosity of his tem- "per within bounds of decorum"; & as being deficient in administrative ability, zeal, & disposition to do his best, they conclude by strongly recom-

-mending Govt to "employ him in
"a capacity, where qualities absolutely
"indispensable to the judicial office
"may not be so essential" as in his
present position -

2. The first case referred to by the Ct
is that of "Govt versus Teekaram & others".
The nature of the charge agst the Prison-
-ers, & the complexion of the case
need not here be noted, inasmuch
as the whole trial will be found at
length in the F. C. monthly criminal
decisions for 1858. pp. 203. It is unfor-
-tunate however as exhibiting on the part
of the presiding Judge, a want of that
"judicial caution, temper & discri-
"mination" which a case of its im-
-portance preeminently called for -
The correspondence regarding this trial
is contained in Encl. 1, 2, and 3, &
referred in Paras 3 & 6 of the Extract
above recorded - It has been considered
by Govt with attention, and, ad-
-mitting that there were errors in
form committed, & that it was ill-
-judged & indiscreet in Mr Colvin
summarily to dismiss the two Plea-
-ders referred to, they must do him
the justice to say that his investi-
-gation was made with great patience
& completeness, & that every attention
appears to have been paid by him
to the conduct of the trial - This bearing
up the Vakeelutnamah, mentioned at

† Para 6. Letter of
13th Dec 58
to Govt

Para 5 of the F. C. Extract doubtless
betrayed much impetuosity of
temper. It will appear however
from Mr Colvin's explanation that
some extenuating circumstances
among few be urged on his behalf -

3. The instances next given - Paras 7
& 8 - are numbered as Nos 61, 38,
51 and 52, and for[illegible] Calcutt
Petition No 181 of 1858. No 38 being
connected with another charge agst
the Act. S. J, will be separately con-
-sidered - The remaining four are
instanced as "further illustrative
"of Mr C's inability to appreciate evi-
-dence"

× Encl. No 4

No 61. Here the lower Ct had convic-
-ted a number of prisoners on a charge
of highway robbery, but the F. C.
mistrusting the evidence, directed
their acquittal & release —

× Encl. 8 & 9.

No 51. The Prisoners in this case were
charged with having perpetrated a
daring dacoity, in the course of which
one of the inmates of the house plun-
-dered, met his death at their hands.
The lower Ct recommended two
for the sentence of death, five for
that of transportation for life, &
several others for various terms of im-
-prisonment. The F. C. saw reason
to deem "the evidence for the prosecu-
"tion the result of conception" &
ordered the release of all -

× Encl No 10.

No 52 is a case precisely of the same na-
-ture as No 51. Of the nine prisoners

convicted & sentenced by the Act. S.J., the Higher Court acquitted seven, leaving two only for punishment.

x Encl-11. No 181. This was a simple theft, & the F.M. are found instructing the Act. S.J. that "it is to be regretted that they "have overruled the discharge of the ac- "cused by the Asst Magte upon "grounds so insufficient & so unte- "nable."

The Govt have carefully perused the whole of the papers connected with these four cases, and, assuming that Mr Cobbon in all & each of them arrived at faulty conclusions, they still do not find that the extent of his error has committed by him exceeds that which must happen when cases where the Higher Cts differs with any of the Lower Courts, as to the value to be attached to any particular evidence; and, as this is an event of no frequent occurrence, they fail to see why in respect to the present instances, Mr Cobbon shd be considered amenable to peculiar animadversion.

x Encl-5-6-7 and 12 @ 17. 4- It is for otherwise however with Case No x 38 (Para 10.) The circumstance not having been noted in the Calendar prepared by the Subordinate Judge to be laid before him, Mr Cobbon had omitted to notice that one of the numerous prisoners in a certain case had 'confessed' before the Joint Magt. On the transfer of the Record reaching the F.M., this omission was discovered & in pointing it out to him, the Higher Ct adverted to the necessity of strict attention to such matters. Mr C. not only most pertinaciously defended himself, but took occasion on a subsequent occasion, when called upon to explain how it was that his Civil returns for the quarter were blank, to excuse himself on the ground that the duty of rigidly comparing the translations with the original Records of his Session Cases, a duty which conceived the tenor of the F.M. remarks in the case above adverted to had cast upon him — took up the whole of his spare time.

5- The Govt cannot for a moment suppose that Mr Cobbon was serious in basing his interpretation on the remarks of the Higher Ct. He must be well aware that all that the Ct meant was, that he is responsible for the general accuracy of all records sent up by him to them. On their having received the rebuke in a proper spirit, he is found not only indicting an unbecoming reply, but attempting by his subsequent proceedings to show, that the result of the orders in question has

seen to paralyze his efforts to-
-wards the fulfilment of the proper
duties of his Court. He places
himself deliberately in direct antago-
-nism with superior authority, and
every rebuke however mildly con-
-veyed, every error however mildly
pointed out elicits from him
verbose & contentious vindications,
highly objectionable both in tone &
matter.

6. The foregoing observations applying
equally to the last case — Para 11 —
mentioned by the F. G., the dismissal
of one of the Connectas of his Ct,
who was reinstated by the F. G.
Mr Cotton will be informed that
the Govt consider his conduct in
these instances as most reprehensi-
-ble, & will be given most clearly to
understand that unless he shows
for the future more submission to
control & a general amendment
in the performance of his judicial
duties, they will be compelled to
act in a manner which will effectu-
-ally preclude him from offending
as he has now done.

7. Mr Cotton, it is remarked, is at
present holding the substantive appt
of Sub Judge of Bellary, & is officiating
as Civil & Sessions J. of Madura; which
post is now vacant by the death of
Mr H. Maguire. As the promotion of

*Dual. 18, 19, 20.

his juniors cannot with fairness be
impeded owing to his misconduct,
Mr Cotton's substantive appt will
now be confined on another, and
he himself will continue to act
in his post at Madura for a fur-
-ther period of six months, at the
expiration of which time the Govt
will consider whether his behav-
-iour has been such as to justify
them in nominating him to the per-
-manent position of a Civil & Sessions Judge.
In the meantime, as the post is
actually vacant, Mr Cotton will,
while officiating in it, draw
the full allowances, in accor-
-dance with the Resolution of
the Govt of India, providing for
such cases.

8. In returning the original
enclosures (20) to the F. G., the Govt
will impress upon them the expediency
of framing their correspondence with
Govt on the same system which they
themselves have suggested to all lower
Cts & authorities in correspondence
with them. The present Ext. of the F. G.
certainly does not "explain itself"
& the nature of it "consequently came
"to be understood without reference to
"other documents" which have been here
to be extremely voluminous & of
some intricacy.

D. F. C. - 29/12/58

Fin. Dept.
No 2886.
d/30th Aug/58.
commund by the Home Dept
No 704 - d/6th Sept/58.

Thos. Holme
Printer to Govt.
Gen. & F. D.
17th Feb/59

Fin. Dept. No. 2886. d/30th Aug/58. To the Govt. of Madras. Dept. 10th Para. 7. To the Civil Auditor — 12th.

In Dy. to Cons: 11 Janr. 1859.

Judicial 1859. Depart.

No. 22.

Extract Mins: of Cons.

28 January 1859.

Passing orders on the Papers submitted by the Court of Foujdaree Udalat, reporting the unfitness of Mr. R. K. Cotton for the high and important office of Civil and Sessions Judge, and recommending his employment in a capacity where qualities absolutely indispensable to the Judicial office may not be so essential

24 @ 27

Ans. Desp. 3 Jany.