

MADRAS RECORD OFFICE.

Government of Madras.

Journal DEPARTMENT.

G.O. No. 64	Press ~~Mis.~~
55 57	
Dated 18-1-1968	

Not to be folded or roughly handled

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Fort St. George, Judicial Consultation, 18th January 1859.

Read the following letters.

No. 55. From G. A. BALLARD, Esq., Special Commissioner, North Canara; to T. PYCROFT, Esq., Chief Secretary to Government, dated Hullial, 14th December 1858, No. 115.

SIR,

I have the honor to submit a statement of cases disposed of in this Court, since my report, under date 20th September 1858.

Prisoners remaining on the 20th September 1858.....	2
Received since.....	15
	— 17
Sentenced to 14 years' imprisonment.....	1
" 10 years " 	2
" 7 years " 	1
" find security.....	1
Unconditionally released.....	11
	— 17

* Special Commissioner, to the Chief Secretary to Government, 20th September 1858, No. 74, para. 6. 2. As already mentioned,* there are not a few others against whom suspicion existed, and doubtless evidence might have been obtained, that they had had more or less, to do with the Bund; but since September last, I have discouraged all attempts at interference with any, save such as were known, or suspected to have been concerned in specific crimes, or who had acted as leaders or instigators of disturbances.

3. Three days ago I received Extract Minutes Consultation, under date the 1st December 1858, No. 1696, covering a letter from the Secretary to the Government of India, calling attention to the Royal Act of amnesty, pardon, and oblivion promulgated to the people of India by command of Her Majesty.

4. Had I received this communication before, I should not have issued the offers of reward for the apprehension of certain individuals mentioned in my letter to you, of the 1st Instant. As the period for which the offers hold good, will have expired before any retraction can be made generally public, I have not issued any counter orders on the subject, as they might cause confusion, and could only have an appearance of vacillation. The offers need not be continued beyond the month to which they are limited at present, and should any parties be brought in under them, it will remain for the officer adjudicating to decide whether they are fit subjects for leniency. In my humble opinion, those for whom rewards above Rs. 25 have been offered, certainly are not.

5. I have issued an order to the Tashildar of Soopah, communicating the views and directions contained in the letter from the Government of India just alluded to.

6. The statement in para. first of this letter, shows that only four sentences of imprisonment have been passed in this Court, since the 1st November last. The English proceedings in each of these cases are enclosed. The letter from the Government of India, does not expressly say that sentences passed after the 1st November are to be annulled; but it lays down that sentences before that date will hold good, which raises some doubt on the former point. The convicts in cases 38, 39 and 41, were directly or indirectly concerned in acts of private wrong. The convict in No. 40, was currently said to have been guilty of murder; though no evidence was procurable on this point, and the record only shows that he was some time with the Bund. I cannot say that it appears to me desirable, that any of these sentences should be interfered with.

7. But the spirit of Her Majesty's Proclamation, and yet more the final treatment of the Sawanths, induces me to submit a proposition, which, save on a combined consideration of these points, I should neither desire, nor consider expedient, to lay before Government.

8. I must observe that from the commencement of my service as Special Commissioner, I have endeavoured anxiously to impress on the people about that the punishments dealt out in the Courts, were dictated neither by vengeance nor fear, but were decreed on broad principles of justice with the object of deterring evil-doers, and securing the peace of the well-disposed. These may appear stale truisms to the more enlightened, but require to be told and told again to the classes with whom I have been dealing.

9. I believe that until lately the people of North Canara, generally considered that the punishments in the Commission Courts, though severe, were as a rule, just equal, and necessary;

*anyone with a sense of the
preceding letter, seems to make it*

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and that the effect, as that naturally following punishments understood by them to be just, equal and necessary; was beneficial on the mass.

10. But I, when adjudicating, and the people, when witnessing these punishments, never contemplated that the prime instigators, leaders and supporters of the late disturbances were to be admitted, after months of prolonged insurrection, to conditional surrender to a foreign State, and were to be allowed to escape entirely direct contact with British justice. I do not here discuss the policy of the measures lately adopted with regard to the Sawanths. I merely assert that they have caused a great change of feeling; and that (whether rightly or wrongly,) the prevalent impression in North Canara, now is, that the punishments meted out in the Commission Courts, were unduly severe and quite inconsistent with the termination of the disturbances.

11. After anxiously weighing the foregoing considerations, it appears to me that the mitigation of many of the sentences passed in this Court, would be a merciful, and as matters have turned out, impolitic, measure; quite in accordance with the spirit of Her Majesty's Proclamation; and that the late publication of that document furnishes at once an inducement, and an opportunity for adopting it. I have accordingly carefully reviewed all the sentences passed in this Court; and I beg respectfully to submit a list of the mitigations I would propose.

12. It will be seen that as a general rule in the cases specified, I would modify sentences of transportation for life, to one of imprisonment for 14 years; sentence of imprisonment for 14 years to one of imprisonment for 8 years; and sentence of imprisonment for 7 years to one of imprisonment for 3 years.

13. Cases have been selected and submitted where political circumstances invested the acts of the Convicts, with an importance which in ordinary times would hardly have attached to them, and where a season of anarchy, as it has passed may (under one view) be considered as having given temptation, and occasion for license and be admitted as a certain palliation. Thus though some of the cases against which the higher punishments stand, embrace besides the general charge of having been a member of one of the insurgents' gangs, a farther charge of house-breaking or robbery; the crimes in these instances have been unaccompanied by particular violence to persons, or aggravating circumstances of a non political nature or the criminals have not appeared to have been leaders. In the cases against which the smaller punishments are entered, the prisoners have generally been convicted of having been seen, armed, with the insurgents and of having levied trifling exactions as frontier dues in the name of the Sawunths from passing merchants or committed some overt act of a similar nature.

14. The considerations detailed in paras. 9 and 10 of this letter, lead me respectfully to advocate the adoption of this course; and if Government are pleased to approve of it, I would recommend that a Proclamation be issued in the district giving it every publicity, of course in that document it would not be necessary to allude to any argument in support of the measure drawn from the final treatment of the Sawunths. It would merely be announced that Government had been pleased to mitigate the sentences as an act of grace, in accordance with the tone of Her Majesty's Proclamation. I am respectfully of opinion that the measure so announced would be understood and appreciated, that the people would receive it as a token of the kindly spirit in which Government is desirous to treat them; and that it would invest the Royal Proclamation in this province with an interest and significance, which nothing else is likely to give it. A stern lesson has been read and impressed on the minds of the many, I do not fear that some modification of it now will weaken its effect.

15. To prevent misconception, I beg to remark that no misgiving in my own mind of the abstract justice of the sentences passed by me has had any share whatever in the considerations that have led me to lay this proposition before Government. The sentences I believe to be just in themselves. The considerations which have induced me to advocate the mitigation have been frankly, and I hope intelligibly explained. I have only farther to add that whilst I recommend a bold and liberal mitigation of the punishments, I would sincerely deprecate a half measure. I respectfully trust that the sentences will be modified to the extent I have suggested or left intact.

16. From a conversation I had with Mr. Robinson a few days ago, I know that he is inclined to advocate the modification of some of the sentences passed in his Court. I am sending copy of this letter to him and to the Magistrate and I trust that the views expressed in it will meet with their concurrence.

Vide Special Commissioner, to Chief Secretary, under date 20th September 1858, especially para. 9.

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List of Prisoners in whose cases mitigation of punishment is proposed. Vide Special Commissioner North Canara, to Chief Secretary to Government, December 14th 1858, No. 115.

Number.	Names of Prisoners.	Charge.	Sentence.	Mitigation proposed.
Of Spl. Comr.'s file, 4 & 7 of 1858.	Godseith Rayu.			
6 of 1858.	Timrajee.....	Aiding and abetting rebellion and house-breaking and rebellion.	Transportation for life.	14 years' imprisonment with hard labour.
	Coondul Jhoolpo Desai..... (2)		Transportation for life.	14 years
	Coondul Doelba Desai..... (9)		Transportation for life.	14 years
	Ragoba Desai..... (3)		Transportation for life.	14 years
	Caupa Desai..... (4)	Aiding and abetting rebellion.	14 years' imprisonment with hard labor.	8 years
	Santulunga Desai..... (5)		7 years	3 years
	Jhalavuly Appa Desai..... (7)		7 years	3 years
	Jhalavuly Ram Sawunth..... (8)		7 years	3 years
8 of 1858.	Kherdo Valeef..... (1)		Transportation for life.	14 years
	Hathkhambey Vittoba Desai..... (3)	do.	14 years' imprisonment with hard labor.	8 years
9 of 1858.	Dongervadey Anandrow Desai..... (4)	do.	14 years	3 years
10 of 1858.	Godseith Naraina Desai..... (1)	Heinous crime	14 years	8 years
	Devuly Pancho..... (2)		14 years	8 years
11 of 1858.	Bikkar Malik.....	Aiding and abetting rebellion.	Transportation for life.	14 years
13 of 1858.	Shingergav Gunuba Desai.....	do.	7 years' imprisonment with hard labor.	3 years
15 of 1858.	Dongervadey Nilaba Desai.....	do.	Transportation for life.	14 years
16 of 1858.	Jucly Pandu Maleek.....	do.	10 years' imprisonment with hard labor.	4 years
19 of 1858.	Kesurecar Mahadeva Gavuda (1)	do.	14 years	8 years
	Mandu..... (2)	do.	7 years	3 years
20 & 28 of 1858.	Devuly Vittoo.....	do.	Transportation for life.	14 years
21 of 1858.	Vimoly Sukudia.....	do.	14 years' imprisonment with hard labor.	3 years
24 & 25 of 1858.	Gomajee.....	Aiding & abetting rebellion & arson.	12 years' imprisonment with hard labor.	8 years
24 of 1858.	Kanetecar Kesaru.....	Aiding and abetting rebellion.	12 years	7 years
26 & 28 of 1858.	Kesrekar Bikkoe.....	do.	8 years	4 years
29 of 1858.	Lingo..... (2)		Transportation for life.	14 years
	Malloo..... (3)		Transportation for life.	14 years
	Vitto..... (4)		Transportation for life.	14 years
	Bapu..... (7)		Transportation for life.	14 years
	Rana..... (5)	do.	Transportation for life.	14 years
	Bhikko..... (6)		Transportation for life.	14 years
	Puno..... (8)		8 years' imprisonment with hard labor.	4 years
30 of 1858.	Shabudeen.....	do.	8 years	3 years
			Transportation for life.	14 years

Note.—The figures in brackets after the names refer to the numbers by which the prisoners are designated in the records of the cases. Hulial, North Canara, 14th December 1858. (Signed) G. A. BALLARD, Special Commissioner.

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No. 56. From J. D. ROBINSON, Esq., Joint Magistrate of Canara; to T. PYCROFT, Esq., Chief Secretary to Government, Madras, dated Sircy, 22nd December 1858, No. 493.

SIR,

Mr. Ballard has I find, anticipated me in submitting to Government a proposition for giving to a certain class of political offenders, tried and convicted under the provisions of Act XIV of 1857, the benefit of Her Majesty's gracious Proclamation.

2. The question has, it seems to me, been placed so fully before Government, by Mr. Ballard, that in doing myself the honor to address you thereon, little remains for me to add beyond the expression of my general concurrence in that gentleman's views and in the principles on which he suggests this mitigation should be based.

3. The submission of a similar proposition has been uppermost in my thoughts from the time the Act of amnesty first met my eye, and it was known that a more lenient policy had been adopted with respect to the treatment of the ring-leaders and originators of this outbreak, and I was glad to find during a brief interview I had with Mr. Ballard, previous to his departure, that his views and my own so nearly coincided on this point.

4. Mr. Fisher's recent visit to this part of the district afforded me also the opportunity of talking over the matter with him. When he appeared to me to be generally favorable to such a proposition, although in the absence of the records and some other necessary information, I was not then in a position to suggest any definite guiding principle.

5. On this Mr. Ballard's letter and a perusal of the more recent official correspondence, now help me to an opinion and satisfy me that the proposition submitted by Mr. Ballard for the consideration and orders of Government, is as fair and intelligible in principle as any that could have been advocated.

* Dated 14th December 1858, No. 115. 6. To the change of feeling alluded to by Mr. Ballard in the 10th para. of his letter,* I cannot of course bear direct testimony, not having visited the disturbed regions since my return from leave, but the result appears to me so natural that I should not hesitate for a moment to endorse the accuracy of the assertion.

7. In submitting my list of sentences modified on Mr. Ballard's proposition, I would merely observe that in respect of a very few of the earlier ones, a still larger leniency is recommended for the purpose of giving consistency to the whole scheme.

8. The sentences to which I allude are Nos. 1, 2, on the list, and were passed when the outbreak was at its crisis and political necessity justified the sternest measures for its suppression. This disproportion need now no longer be maintained and I therefore beg respectfully to recommend that mitigations to the extent indicated in the list, be allowed, should the proposition generally have the support of Government.

9. In Mr. Ballard's remarks (para. 14) I most thoroughly coincide and believe that a Proclamation announcing that Government had been pleased to mitigate these sentences purely as an act of grace in accordance with the spirit of Her Majesty's manifesto, would be understood and appreciated by the masses in the kindly and conciliating tone in which it is offered.

10. Stopping short of a recommendation to free pardon under any circumstances, and concurring with Mr. Ballard in opinion, that a few petty remissions would do more harm than good, I beg respectfully to unite with him in suggesting that should the present proposition receive in any degree the countenance of Government, the modifications sanctioned be on the most liberal scale expediency permits.

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No.	Names of Prisoners.	No. of Prisoners.	Charge.	Sentence.	Mitigation proposed.	Remarks.
Of Spl. Commr.'s file, 3 of 1858.	1 Anagoe.....	1	Aiding and abetting rebellion....	Transportation for life.	7 years' imprisonment with hard labor.	Convicted of being a member of the Bund, and caught in the act of carrying them supplies.
	2 Kallor.....	2	do.	10 years' imprisonment with hard labor.	4 years do	Tried on same charge, but only convicted of the latter part of it under extenuating circumstances.
6	3 Jeevakar Tippa.....	1	Aiding and abetting rebellion at- tended with robbery.	Transportation for life..	14 years do	
	4 Naraya.....	2	do.	10 years' imprisonment with hard labor.	5 years do	
	5 Vettabah.....	2	Aiding and abetting rebellion with robbery and violence.	8 years do	4 years do	
10	6 Birjee Davoo.....	3	do.	8 years do	4 years do	
	7 Gowly Vitoo.....	4	Aiding and abetting rebellion at- tended with murder and robbery	8 years do	5 years do	
12			Aiding and abetting rebellion and robbery.	14 years do	8 years do	
17	8 Narayana Meracy.....	4	do.	10 years do	7 years do	
	9 Vettoobava Gavagally.....	5	do.	5 years do	3 years do	
	10 Goonagowdah.....	7	Aiding and abetting rebellion....	14 years do	8 years do	
25	11 Vanjally Pockoe.....	1	do.	14 years do	8 years do	
	12 Vanjally Moojkar Vittoba	2	do.	5 years do	3 years do	
29	13 Vedro.....	1	Aiding and abetting rebellion at- tended with murder and robbery	8 years do	4 years do	
30	14 Noojkar Shabah.....	2	do.	6 years do	3 years do	
	15 Soroee Mudwal.....	3	do.	5 years do	3 years do	
	16 Apachowdry.....	4	do.	8 years do	4 years do	
	17 Gunagally Sookoor.....	5	do.	7 years do	3 years do	
	18 Bomenoya Somagowda.....	6	do.	7 years do	3 years do	
	19 Furdoo Davelly.....	7	do.	7 years do	3 years do	
	20 Pooresog.....	8	Aiding and abetting rebellion....	5 years do	3 years do	
32	21 Punsoly Koondlica.....	2	do.	5 years do	3 years do	
	22 Punsoly Jonegoe Goddy	3	do.	7 years do	4 years do	
33	23 Pator Dhoory.....	1	do.	7 years do	4 years do	

Note.—Total No. of persons convicted and sentenced by me under Act XIV of 1857..... 40
No. of persons whose sentences are recommended for mitigation..... 23
No. of persons whose original sentences remain in tact..... 17—40
(Signed) J. D. ROBINSON, Joint Magistrate.

Joint Magistrate's Cutcherry, Sircy, 22nd December 1858.

Fort St. George, Judicial Consultation, 18th January 1859.

No. 57. ORDER THEREON, No. 64; dated 18th January 1859.

With the first of these letters, Mr. Ballard, Special Commissioner, North Canara, submits the record of the cases in which sentence has been passed by him under Act XIV of 1857, since the date of the assumption of the Government of India by Her Majesty the Queen, viz., the 1st November last. Referring to the Circular* letter of the Secretary to the Supreme Government with the Governor General, dated the 8th November, No. 521, Mr. Ballard observes that he is in doubt whether these sentences should be annulled or not. It is remarked that the Resolution of the Governor General here adverted to has been elucidated by a subsequent Circular† letter, dated 13th December, No. 520; para. 17, of which, taken in conjunction with para. 5 of the preceding letter, seems to make it clear that, except in the case of sentences passed before the 1st November, all offenders, not being participators in murder, or leading rebels, or instigators of revolt, or persons who continue in arms against the Government after the Proclamation shall have reached them, shall be admitted to the benefit of Her Majesty's Act of pardon, amnesty and oblivion. The four prisoners therefore should be released; their offences being of a more venial description.

2. In regard to Mr. Ballard's proposal to remit portions of the sentences of the several Convicts whose names are given in the tabular statement he has enclosed, the Governor in Council is pleased to concur in the recommendations he has made. It is observed that by the scale suggested, sentences of transportation for life are modified to a term of 14 years; sentences of 14 years duration to 8 years, and sentences of 7 years to 3 years. Effect will be given accordingly to these modifications; and where the sentence proposed is 4 years, it will be reduced to three, so that the prisoners may not be subjected to transportation to the Andamans, whither they would otherwise have to undergo their imprisonment, under the terms of the letter of the Supreme Government, Home Department, No. 1461, dated 21st September last.

3. The second letter above recorded is from the Joint Magistrate of Canara, who proposes certain modifications in the sentences on his file. They are, generally, of the same nature as Mr. Ballard's, and are sanctioned; the sentences now standing for four years being reduced to three years, as above ordered.

4. Mr. Ballard's proposal to issue a Proclamation, notifying the mind of Government in making these remissions, is approved. Such a notice will be published by the Magistrate of the District.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Judicial Department

N^o 2245

From G. A. Ballard Esq^r

Special Commissioner North Canara

Dated 14th December 1858

For Orders

*I think Mr B's letter is
very sensible - & his sugges-
tions worthy of adoption -*

*At
J. M.*

Pol^d Sept.

No 114

5

Emg. 27.10 January 1859.

Read following letter from
G. A. Ballard, Esq., Special
Comfr. in N. Canada, under
Act XIV of 57.

} 27.14th Dec^r 58
No 115.

Read also letter from the
Joint M^{rs} of Canada

} 27.22nd Dec^r 58
No 493.

With the first of these letters, Mr
Ballard, Special Comfr., N. Canada,
submits the record of the cases in
which sentence has been passed by him
under Act XIV of 57, since the
date of the assumption of the Govt
of India by Her Majesty the Queen,
viz, the 1st November last. Refer-
ring to the Circular letter of the
Secy to the Supreme Govt into
the Govt Gen^l dated the 8th Nov.,
No 521, Mr Ballard observes that
he is in doubt whether these sen-
tences sh^d be annulled or not.

It is remarked that the Resolution
of the Govt Gen^l here adverted to
has been elucidated by a subsequent
Circular letter, dated 13th Dec^r,
No 520; para 17 of wh^{ch}, taken in
conjunction with Para 5 of the
preceding letter, seems to make it

* Emg. No 1696
27.1st Dec^r 58.

* Emg. No 19.
27.7th January 59.

clear hat, except in the case
of sentences passed before the 1st
Novr., all offenders, not being
participants in murders, or be-
coming rebels, or in the act of revolt,
or persons who continue in arms
after the 1st of Sept. after the Proclama-
tion shall have reached them,
shall be admitted to the benefits
of H. M.'s Act of pardon, amnesty
& oblivion. The four prisoners
before shall be released; their offen-
ces being of a more venial descrip-
tion.

In regard to Mr. Ballant's propo-
sal to remit portions of the senten-
ces of the several convicts whose
names are given in the tabular
statement he has enclosed, the
G. in C. is pleased to concur
in the recommendations he has
made. It is observed that by the
scale suggested, sentences of
transportation for life are modified
to a term of 14 years; sentences of
14 years duration to 8 years, &
sentences of 7 years to 3 years.
Effect will be given accordingly to
these modifications; & where the
sentence proposed is 4 years, it
will be reduced to three, so that
the prisoners may not be subjected

to transportation to the And-
mans, whither they will otherwise
have to undergo their imprison-
ment, under the terms of the
Act of the Sup. Govt. of the 1st
Sept. 1861. d/21st Sept. last.

3. The second letter a bone needed
is from the Joint Secy of Canada,
who proposes certain modifica-
tions in the sentences on his file.
They are, generally, of the same
nature as Mr. Ballant's, & are
sanctioned; the sentences now
standing for 4 years being re-
duced to 3 years, as above orde-
red.

4. Mr. Ballant's proposal to issue
a Proclamation, notifying the
mind of Govt. in making these
remissions, is approved. He will
publish such a notice, after
the British Govt. has
been notified by the Secy of the

Copies to the Secy of Canada
" Joint Secy of Canada
" Mr. Ballant Esq. - St. C. M. Canada
Copy to Comdr. Police.

district.

Dispt. Secy

L.H.-10/1-59.

Memo.

A list should be drawn out showing the parties whose
sentences have been mitigated and the extent of
mitigation - and they should be informed of the money
shown them.

The Sup. of Marine should be directed to procure
passage to the Andamans for those who are still to go
there -

Madison 26th to 29th May 1859

Recommendations made by
the Joint Magistrates of
Indiana and direct the
Attorney General to
a declaration. nothing
the mind of Govt. in making
these provisions.

55057

In Case: 18 January
Judicial 1859 de pit

No 6/4

March 28th 1859

Dated 18 January 1859

6th 18th 28th 31st March 1859

Ordering the release of the
four persons named under
Act of 1859- according
to the provisions of
the Indiana and
Tennessee. Indiana and
Tennessee with the terms
of H. 119 Act of Indiana, Maryland
and others. Approving of it
the 18th of January of the following
year by the 18th of January and
several other countries and
other things in 1859.

20 80