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Judicial DEPARTMENT.

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Not to be folded or roughly handled

No. 33. Read the following letter from G. F. FULLERTON, Esq., Deputy Register to the Court of Foujdaree Udalut; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 16th May 1859, No. 8.

1. With reference to Extract from Minutes of Consultation, dated 19th October 1858, I have the honor, by direction of the Judges of the Court of Foujdaree Udalut, to submit the accompanying explanation of the Subordinate Judge of Mangalore on the subject of the robbery committed in the Jail of that station on the 9th December 1857.

2. The Judges, having been relieved from the duty of superintendence and control of the jail department, feel some hesitation in offering their remarks on this explanation; but they presume that, in directing that it should be submitted through this Court, it was the intention of Government that they should do so, and they therefore proceed to notice those points, on which it appears to them requisite that they should record their opinion for the information of Government.

3. The Subordinate Judge has far exceeded the limits of the subject upon which he was called on to report, and has loaded his communication with much irrelevant and ill arranged matter. The requisition of Government of the 19th October 1858, has not been met by him, until the 23rd April 1859, in spite of repeated demands upon him by this Court for a speedy reply. This delay is not sufficiently accounted for, and coupled with the confused manner in which the report has been drawn up, and the manifold irregularities in the administration under the Subordinate Judge, which so long escaped his detection, and with which he seems to have had so much difficulty in coping, impresses the Judges unfavorably in respect to his abilities as a man of business.

4. The Judges are unable to accept the Subordinate Judge's explanation for not enforcing the rule laid down by the Foujdaree Udalut for the safe custody of the prisoners' valuables. Whatever may have been the laxity of his predecessors, he was bound to have informed himself of this rule, and to put it in force. Common reason even might have indicated to him the danger of leaving such articles in the charge of a Subordinate, especially one so incompetent, as his Jailor appears to have been, and this without the check of any account. Looking to these circumstances, the Judges are of opinion that the Subordinate Judge should be held liable for the value of these articles, estimated, with the cash also missing, at Rupees 128-7-5.

5. The Judges consider the late Jailor should be made responsible for the subsistence money amounting to Rupees 207-13-6. This fund is one liable to daily calls on it, and was therefore necessarily left under the Jailor's custody. The Civil debtors were aware that they could thus require it, and if they left it to accumulate in the Jailor's hands it was at their own hazard. For any demands that these parties or the contractor may make on account of these funds the Judges think they should be referred to seek recovery from the Jailor. That the Government should defray the loss out of stoppages made from the Jailor's pay, while absent from duty, as proposed by the Subordinate Judge, appears to the Judges unreasonable.

6. The sum of 20 Rupees, realized by the sale of chunam, apparently the fruits of the prisoners' labor, was received by the Jailor on the 1st December or two days before the alleged theft, and was not brought to account by him. Having thus been retained in his own hands, the Judges consider he should be held responsible for the sum to Government.

No. 34. ORDER THEREON, 31st May 1859, No. 759.

Government decide that the Subordinate Judge of Mangalore should, on the grounds assigned by the Sudder Court, be held liable for the value of the missing articles and cash, aggregating Rupees 123-7-5 one hundred and twenty-eight Rupees, seven Annas and five Pice.

2. The Jailor will be held answerable for the subsistence money. As far as can be understood, this partly consists of arrears due to civil prisoners and contractors, and partly of money.

lodged by creditors for the subsistence of their debtors. For the former, the prisoners and contractors may look to the Jailor. The value of the chunam should be recovered from the Jailor if possible.

3. The Inspector General of Jails should take early measures for introducing a better system in the Mangalore Jail in respect to these deposits.

(Signed) T. PYCROFT,
Chief Secretary.

Lxd. F. Cartledge.

No 5 Mangalore 23d April 1859. 2-

From

J. G. Thompson Esqre
Subordinate Judge of
Mangalore.

To

C. F. Channer Esqre
Register to the Foujdari Adalat.
Fort St George.

Sir,

With reference to Extract Minutes of Consultation dated 19th October 1858, No 1467, I have the honor to submit a second report upon the robbery said to have been committed at this Jail on the night of 9 December 1857. And as it is of necessity a lengthy paper, I think it best to commence with an abstract of its contents.

2. The report of the robbery reached me on the morning of Dec. 10. I rode to the Jail at once, and sent to the Police Station all who had been on guard Paras near the place, and all who seemed likely to be able to furnish useful 3 . . . 9. information. The Inspector of Prisons thinks I should have taken the matter into my own hands; but I submit that the course I took was the only one which afforded a chance of tracing the property. Besides, I had reasons for wishing the matter to be investigated by a distinct department.

Paras 10 . . . 20. The Police Station having failed to trace any clue to the transaction, I reported the circumstances to the Inspector, and asked how to deal with the owners of the property said to have been stolen.

Paras. 34 . . . 38 40 41. 43 . . . 48. Several of the Peons who were examined by the P. A. expressed doubts whether any robbery had taken place & whether the property had been kept in the watch-tower. The P. A. did not allude to these doubts in his report: and as I had no valid grounds for the doubts I felt myself, I thought it would be unjust to express them; and contented myself with placing in a strong light the difficulty there was in committing a robbery in such a place. The marks of violence may be otherwise accounted for. I mentioned my doubts to the Inspector when he visited the Jail.

Para 42. At a later period I ascertained that the property was then kept in the place assigned to it; & that the Peon on guard had been warned that it was there. But this proves nothing as to the practice of Dec 1857. The Jailer kept things at his house which had no business there, and did work there which he had been ordered to do within the Jail alone. I do not believe that the bulk of the property was in the Jail at all.

Paras 49 . . 57. Nor do I believe there was so much money in the Jailer's possession as he says. Much of it should have been paid to the contractor for supplies already furnished to the debtors. & he generally advanced a further sum for supplies to be furnished in the current month.

From the depositions given by him & the contractor, it is evident there was a corrupt understanding between them. App. C & H
Para 51.

According to the practice of that time he should have had in his possession only the sum deposited for persons subsequent to Dec 9, i: e: instead of the sums shewn in lists 1 & 2, he should have had only — App. B. C.

98.	6	8.

Paras 53, 54.

Of the sums mentioned in appendix D, the Barber's money was an unauthorised deduction from the subsistence money of the debtors; and I am not aware that there is any thing to shew the amount of it. Some of it must be included in the sums shewn in lists 1 & 2.

Para 55.

The other item, the "chunam-money", had no basis. resp in the Jailer's hands. As he chose to keep it instead of paying it into Court, he alone is responsible for it.

Paras 56..59.

The value of the jewels &c shewn in list 2 seems to be greatly exaggerated. It probably was not more than — App. E

119.	12	•

The cash brought into jail by prisoners then still in custody amounted apparently to — App. E

8	11	5.

So that the whole value of the property lately in the Jailer's possession on Dec 9. 57. was probably — Para 60

226.	14	1.

No debtor could be released for want of batta' till the end of the period for which a deposit had been made. For the subsistence of those not released by Court before that time, the Jailer paid —

88	•	8

So that the sums now due to prisrs, debtors, & creditors amount to only. —

138	13	5

The Government is a creditor to the amount of Rs 1-15-8

The owners of many jewels & some cash are dead.

The value of many peoples' property was so small that no one would come to claim it.

Paras 61..64.

The subsistence-money for the debtors was supposed to be five to each man daily: so that it was of necessity deposited with the Jailer.

When the contract-system was introduced, it did not occur to any one, apparently, to apply it to the debtors. The then Judge may have intended as I did, to include the debtors under the general name "the prisoners" for whom supplies were to be furnished; but the Contractor professed not to have understood so. Till I interfered, they were supplied from a store kept by the Contractor at the Jailer's house, (to which they were taken daily!) — by handfuls, instead of by measure, — & at whatever rate the Contractor chose to ask. — Each debtor now receives from the Jail store the same rations as a convict not employed on hard labor. The subsistence-money is kept by the Nazir, who pays into Court the cost of their rice, and to the Contractor the cost of other things.

Paras 65..68. 70.

The jewels & cash were at one time deposited in the Court: but all which arrived after a certain date, were deposited in the jail, under an order (apparently misunderstood) of a previous Sub Judge.

As far as I am concerned, all that can be said is that I had not then

revived a forgotten practice, based upon one of a set of rules which had been superseded by competent authority. I reported that I meant still to keep them there, & took the Inspector's silence for a tacit sanction, till I saw what he had written to the Government. I then transferred them to the Nazir: and it is in some respects more convenient that he should keep them. But I still think the jail the safer place.

Para 69.

An Officer in charge of a jail is in an awkward position between these 2 sets of rules.

Paras 77..81.

The "negligence" on which the Inspector remarks extended to every department of the jail. The records were in a most wretched condition: — it was with the greatest difficulty that I could get reliable information upon any point: — & the accounts it was impossible to check.

Paras 82..88.

But for this the Sub Judges cannot be fairly held responsible, because scarcely one of them remained in charge long enough to make himself familiar with the working of the jail. This is an unusually difficult jail to manage: and there were 38 changes in 13½ years.

Paras 89..91.

Nor the Jailers can hardly be made responsible, because they also were often changed, & because of inexperience in themselves & the want of qualified assistants. Mr Horlock, however, got his work done by substitutes to an extent of which I had no idea — leaving one to take other writing for him.

Para 94.

A polyglott Native Jailer is wanted for a Babel like this jail. But no qualified native of any standing would accept so troublesome & responsible a post for the miserable pay allowed.

Paras 92, 93.

The value of the missing property may be made good with little or no loss to Government if they think it has been stolen from the sum forfeited by Mr Horlock through absence without leave.

Paras 95..100.

I much regret the delay which has occurred in the submission of this report. It has been caused by Mr B's illness & subsequent absence, — (but for which his defence would have accompanied this) — by the pressure of Court work, — & by the urgent necessity which existed for reforming every department of the jail while I had the assistance of the Acting Jailer, an intelligent Gumáshta of this Court. As a proof that I felt the urgency of this, I gave up the whole of my Christmas holidays to it, and have worked from morning to night at other times.

Paras 101..103.

Last month a female life-prisoner accused 2 other prisoners of the robbery. She afterwards retracted the story: and it was manifestly false.

I now proceed to details: —

3

Early in Dec 1857, on account of indisposition, the Jailer obtained leave to stay chiefly at his house, (which is a few yards from the jail), merely exercising a general superintendence over the jail, — for a few days.

4

On the morning of Dec 8, on my return from looking after roads, I received a note from him, stating that a robbery had been committed

in the night. I rode to the jail immediately, & after inspecting the place, and making a few enquiries, sent to the Police Thanna all persons who had been on guard near the place, or who seemed likely to give useful information. The Inspector has remarked that I was wrong in this; and that I should have dealt with the matter, under the authority vested in the officer in charge of a jail. But the first object was to trace the property. It was most improbable that it was then within the jail, and outside the jail I have no original jurisdiction, so that the time spent on a formal enquiry by me would have been so much time gained to the culprits, & lost to the police. And in a matter of this kind, time is invaluable.

5 Besides, I could not help doubting whether a robbery had occurred at all. It struck me that such an occurrence would be a very serious matter for the Jailer & other officers of the establishment; and yet not one of them seemed at all earnest or excited about it except the persons on whom suspicion chiefly rested. The Jailer indeed observed that it would be a heavy pull on his resources to be obliged to make good the value of the missing property: but neither his manner nor that of the Mutsaddi or any one else was that of a person on whose property, if I may so speak, an extensive robbery had just been committed. And that a robbery should be attempted in such a situation appeared to me almost incredible. I was therefore anxious that the whole matter should be investigated by an independent department.

6 This doubt was the real reason why I abstained from asking leave to offer a reward. I felt convinced that the property was not far off: and did not wish the guilty party to gain his end by getting the Government to make him a present of the value of it if restored.

7 It was from this doubt that I gave the persons so much grace. I did not much think that any of them had been guilty of even an attempt at robbery: but felt that they might easily bring the truth to light; & hoped that if I showed myself determined to punish every one who assisted the culprits by his silence, some one would betray the secret in self defence. I was therefore suspended & dismissed them slowly, a few at a time.

8. I have since questioned an old Rafidar & Naique in private; but each of them carefully avoided the least hint of an opinion.

9 At the same time I did not suspect the Jailer because I had no right to act on a vague suspicion, & because if innocent, he, as an ignorant foreigner, had no chance whatever of eluciating the truth.

10. The Police Thanna took all the evidence that was available, and visited the spot himself. but met with no success.

11 The pith of the evidence, omitting a quantity of hearsay is given below. But I am obliged to alter many words in all the depositions, to make them intelligible. The Jailer deposed in a language of his own, which passed for Hindustani, both he & the persons he used a number of slang terms: — and from a want of familiarity with the jail, the examinier inserted many terms which would convey no meaning, or an incorrect one to a person not familiar with it. Thus — the "watch-tower"

is generally termed "the upper room" — the "passage" is termed "the stand" — a "shutter" is called "a door" & in one case the door is styled "the large window" — the "table" is called "the cupboard" — and the papers in which the jewels were kept are termed "bundles."

12. By the "tower" is meant the "watch tower over b" in the Inspector's plan — (See his report for 1855.) — and the "passage" is that in which the persons of that guard sleep, between pearls 4 & 5.

13. The sentry on that guard has to pass between the tower and the east door of the passage. One flap of this door is generally kept shut, as a shelter from the wind: but both flaps of the west door are kept open: so that the sentry at the front gate can see in. The passage has a lamp in it. — There is no military sentry in sight of this beat. But the sentries pass & repass it in relieving guards every second hour.

14. A list of the witnesses examined is given as Appendix R; and their evidence is briefly as follows: —

15. The Jailer deposes that he has obtained leave on account of sickness, but has gone to the jail daily to see that every thing was right.

16 He & the Mutsaddi both say that about noon on Dec 6 he went to the tower, & examined the cash & packets of jewels in the table drawers, and that he locked them up again. He adds that he took away the keys with him. — Each of them states that according to the accounts there must have been in the drawers Rs 209-8-2 in cash, and 79 packets of jewels. Neither of them can give any details of the jewels, the Jailer stating that no account was kept, but that each packet was marked with a list of the contents & with the owner's name, in English & Canarese.

17. This visit of the Jailer is not mentioned by the Acting Jamadar, or by the Rafidar, and Ws 8 to 14. did not see him at the jail that day, although they were on guard. N 9 says the last time he saw him there was on the morning of Dec 7, when I visited the jail.

18 The Jailer, Mutsaddi, & Ag Jamadar agree that there was one shutter in the tower which could not be fastened for want of a staple. — The Mutsaddi states that at 6 P.M. he himself fastened all the shutters except this, and locked the door. The Jailer states that at 6½ the next morning he found both the table drawers open, & the cash & jewels gone — & the Mutsaddi & Ag Jamr say they observed this state of things when they arrived — the Mutsaddi adding that the locks had been broken open.

19. The Jailer deposes also that some tiles in the sloping roof below the unfastened shutter were found broken, & that it seemed that the thief had got upon them from the parapet by the side of the tower-stairs, & had made his way through the window from the tiles. He adds that no one from outside the jail could effect a robbery in such a place; and the Mutsaddi, Ag Jamr, & Rafidar agree that one could not be committed without the knowledge of the persons on guard.

20. The Ag Jamr deposes that he knew nothing of the matter, having left the jail at 6 P.M.; & that no one but the Jailer & Mutsaddi knew what was in the table drawers.

21. Each of the three states his suspicions against No 15, from what he has heard about the matter: & the Ag Jamr adds some other suspicious circumstances in his conduct. But these also were given from hearsay only.

The Dafedár & Peons deposit as follows.

22. All give the roster of the passage guard alike.

The Dafe says the peons of the front gate-guard should sleep outside the passage door, — not inside it. — (But there is not room for more than 2 out of the 3: and it does not appear what difference it can make in which of the 2 places they sleep.)

23. The peons who slept at the passage were

W 7 acc: W 7 & 13.	W 14 acc: W 10, 13, 14.
W 8 " " 8, 13.	W 15 " " 10, 13, 14, 15.
W 9 " " 9, 10, 13.	W 16 " " 4, 7, 10, 13.. 16.
W 12 & 13 " " 4, 10 13.	

24. The Dafedár says the cooks are taken to the kitchen a little before 4, so that people are then on the alert: & that the robbery must have been committed after 12 & before 4.

25. When the cooks were taken to the kitchen there remained at the passage

W 11 acc. W^os 9 to 14.	W 16 acc. W^os 9, 11, 16.
W 12 " " 11, 12.	
W 15 " " 9, 15,	though W 11 says W 15 came at a later time.

W. 9 adds that W 15 & 16 should have gone to the kitchen with the cooks.

26. W^os 7, 8, 10, 15 state that W 15 went to the kitchen after he had kept his watch; & W 15 says he went for a kamblí he had missed, & which was with one of the peons. W 10 also says that W 15 asked another peon "what news about the kamblí?"

27. W 12 deposes that at some time after 4 A.M. some one tripped against his foot: & that on his asking who it was, W 15 said "Dost."

28. W 13 states that W 15 went outside the jail at 5¼ A.M.; and that the peons are in the habit of going out about that time to answer the calls of nature.

29. W 8 deposes that on the night of Dec 9 he put his knife by him when he lay down to sleep; & that it was missing in the morning. And he & W 11 state that it was found after a time in the possession of W 15. — W 15 denies that he took it from W 8; but admits that he found it on the morning of Dec 10.

30. W 5 deposes that on that morning, at the back of the jail, W 15 asked him what the Jamádár was saying about him: & where the Lance Naique was. And W 6 states that on the same morning, near the tower, W 15 asked him to tell him if the Jamádár & Lance Naique said any thing about him.

31. W. 17, a Convict-Cook sleeping in Ward 1, deposes that on Dec 7. W 15 asked him how many jewels he had, & where the Jailer had put them; that on the night of Dec 9, when the prisoners were locked up, and were being counted, W 15 asked him for the knife with which he cut the fire-wood: but that he could not get it then. The same night, about an Indian hour after the moon rose [illegible] (W 17) got up to make water, & saw W 11 standing on the tower-stairs, W 16 on the parapet, & W 15 under the eaves of the tower: but as they were all peons, he did not call the other prisoners' attention to it, but lay down to sleep again. The next morning, when the talk was going on about the robbery, W 15 spoke to the Jamádár about the jewels. W 17 mentioned the knife-business: but the Jamádár said "What business is that of yours? You be quiet"; so he said no more.

32. W^os 7 to 15 depose that a convict named Rudraya - (the leader of a petty insurrection) — sits in the tower with the Muttaddi, writing: and W^os 8 & 9 say he has done so for 6 months. W^os 8, 10, 15 state that he sometimes is there till 6½; & W 8 & 14 that he sometimes stays till 7 o'clock. W 14 adds that he is sometimes allowed to close the door himself: but W 8 says the Muttaddi always gives the key to the Lance Naique when he goes home. W 12 observes that a Court Writer S. J. Vieyra, who was filling up [illegible] also sits there with the Muttaddi: the new General & Convict Registers.

33. W^os 7, 8, 9, 11 state that on Dec 9 Rudraya was there with the Mut^di till 6 P.M., — or till 6½, say W^os 7 & 8. R. went to the hospital (where he then slept) at 6 according to W 7, & at 6½ acc: W^os 8 & 9. W 9 says it was the Mut^di who put him there.

W^os 7 & 9 say that the hospital was locked at 6¾ by the Lance Naique [illegible] W 7, 8 state that the Mut^di left the jail at 6½ or 6¾; and W 7 adds that he left together with the Bresor.

34. W^os 7, 11, 16 doubt if a robbery was committed at all: & say that if so, it must have been by the Muttaddi & Rudraya.

35. W^os 7 & 8 state that the Jailer used to keep prisoners' jewels in the table-drawers: and W. 8 has seen him put odd cash there. But W 9 declares he never kept either cash or jewels there except those of prisoners of short sentences & of prisoners under trial. W^os 11 ... 16 never knew that he kept either there: and W^os 7, 8, 9, 10 did not know that he kept cash there. — W^os 7 .... 16 all agree that no robbery was ever given to the guard that there was cash there: and W 16 says they were not warned that any property was there.

36. W^os 9 & 14 depose that when subsistence-money was received from the Court, the Jailer used to take it to his house: & W 13 has seen him pay the Contractor from his house. W 9 declares that he kept all valuable jewels there, & all the jewels of prisoners with long sentences.

37. W^os 9, 13, 14 point out that even the oil for the jail-Lamps was kept at the Jailer's house.

38. W 9 remarks that many things are done in the jail as people fancy; & that he will detail them in the Court. (He must have expected the case to be committed).

39. Having no better evidence than this, & having searched the 15^a W^o's house in vain, the Police-Amín released him & W^os 7, 11, 13 & 14, and reported that he could find no clue to the transaction.

40. His proceedings were sent for my information: but being pressed for time, — (It was near the end of a quarter.) — I only read a translation of his report, made for the Inspector of Prisons. In this he did not refer to the doubts whether a robbery had taken place, and only observed that [illegible]

Wits 9 & 14 state that the Jailer was not in the habit of keeping money in the tower. — This statement he discredited, on account of the marks of violence he has observed. I doubted it further because the speakers were themselves under suspicion, and because I thought others would have made similar statements if there has been any ground for them. I has seen packets of jewels in the table-drawers — (only a few, so far as I remember) — and had not discovered the other mal-practices I have elsewhere remarked on. Having, therefore, no valid ground for my suspicions, I thought it would not be right to mention them.

41. In May 1888 for some reason or other I had an abstract made of all the depositions, like the abstracts made for the Sessions Court, & by the writer who prepares the latter. But these abstracts contained no notice of the doubts! — & it was not till August, when I was led to hear the depositions myself, that I learned what the prisoners has really said.

42. After this I took an opportunity of seeing for myself that the money & jewels which ought then to have been in the jail, were really there, & in a safe place: & after ascertaining this, I went to the jail unexpectedly one evening for the express purpose of finding out whether the men on guard had been warned that they were here. If no warning has been given, the circumstances would have negatived the inference drawn by so many persons that these things were not to be kept in the tower. The men has been warned: but that proves nothing as to the practice of Dec 1887. The Jailer may have taken warning from the defence set up.

43 But that the money & jewels were chiefly kept at the Jailer's house, I feel but little doubt. The oil for the jail I afterwards had brought from there myself: the firewood for the kitchen was kept there: & what is worse, the debtors were taken there daily to get their supplies from the contractor, though the latter has a store-room in the jail! The Jailer also persisted in taking the registers & other papers to his house; to get them written by all sorts of people, in spite of repeated orders against both these practices.

44. That the locks of the table-drawers were forced open is quite certain, from the state they were in when I reached the jail. But when this was done is not clear. It is perhaps possible that it was done in the night by persons tempted by the knowledge that an accessible window was unfastened. But it seems most unlikely that such a thing would be attempted, and almost impossible that the attempt could escape detection. It must have made some noise: and a noise made in the stillness of the night in the middle of a court surrounded by buildings, is almost sure to attract attention, especially where there are military & other sentries on each side.

45. It appears to me more probable that it was done by the Mutsaddi & Rudraya in the afternoon or evening of Dec 9, when the noise might not be observed & when hammering was probably going on at the forge & elsewhere. They may have done it on their own account, in the hope of plunder; or in collusion with the Jailer to make evidence in support of the intended charge. It may be the Jailer himself removed what property was there when he examined it that afternoon.

6

46 That Rudraya was employed in the tower is probably quite true. I have found his writing, & that of one or two other prisoners, in both Canarese and English records: and I found that he was in the habit of taking the meteorological observations which are supposed to be taken by the Medical department! — He is a man of some property, I believe, and seems always to have had very undue influence with the Jail-officers. It is only by repeated orders, & by looking after the matter myself, that I have been able to get him sent regularly to work like other convicts. And after I has completed the officers to send him out to work, I found that he was employed on the lightest possible of tasks, and in fact allowed to do exactly as he pleased. I think of assisting his removal to another Jail.

47 That some of the tiles below the window were broken, appears to me a matter of no consequence: for some must have been broken, I think, when the shutter was changed a few days before. The change was made without any particular necessity, and without my knowledge. The new shutter was a spare one.

48. I do not put much faith in the convicts' story, though it may be true. Others may have been concerned, & may have witnessed the person's visit to the tower: and W 17 may have said he did not know whether they did so from knowing that they would deny it if asked. It is very seldom that a prisoner will give evidence against a person, even in defence of a fellow prisoner. — I do not understand what induced this man to come forward, unless he was put up to it by some one of influence or authority.

49 I enclose* list of the property said to have been stolen.

App. B. & C. 50 App. B & C seem to be correct; —— except that no a sum of Rs 1-6-8 deposited for one Tennaya has been omitted from C.

51. But I do not believe that all this money was in the Jailer's possession.* From the depositions given by him & the Contractor it appears App. G. H. that he was in the habit of giving the latter an advance in each month; but that in Nov 1887, he did not give one. Neither of them can satisfactorily account for this. It is improbable: & I do not believe it. Each says he kept an account of their money-matters: but that the other party did. And though the Contractor's dealings with the jail were to the amount of Rs 400 odd a month, he declares he kept no account of them, but always trusted to the jail accounts. From each deposition it is clear that there was a corrupt understanding between them. Each of them says the Jailer still owes money on account of supplies for the debtors, though they differ as to the amount. And yet the Contractor allowed him to go away to Cananore, although he might have known that by going without leave he risked the loss of his appointment.

52 I consider that the Jailer alone is responsible for the sum nominally expended for the debtors from Nov 1 to Dec 9, viz Rs 109-6-10. It should not have been in his hands, whether it was or not: his accounts, which I saw frequently, showed a daily payment of R. 1-8 to each debtor. I understood that these payments were actually made: & that the debtors bought from the contractor's store within the jail: especially as the Jailer grumbled at the ease with which each of them exceeded the full value of the sum. But I learned afterwards

that no money was paid to them at all; & that their supplies were given to them at the Jailer's house, by the handful, instead of by the measure, — and at any rate the contractor chose to ask.

53 The first item in App. D requires explanation. — The debtors have long been shaved by one of the Convicts, & it seems to have occurred to some Judge or Jailer that they might fairly be required to pay for this. So a small sum was deducted from the money deposited for each, for the purchase, whetting, &c of razors for themselves & the prisoners jointly. — This being an unauthorised proceeding, the money could not be deposited in Court. It has now been stopped, with other practices like it: and the outlay for razors is charged in the Contingent bill.

54. This sum, Rs 6-12-6 was in fact the property of the debtors from whose allowances it has been stopped. I am not aware that any account was kept of it. It would be impossible to ascertain from whom this particular sum was stopped, or how much belongs to each: and no one would come to claim his share.

55 The money deposited for the purchase of Chunam had no business in the Jailer's hands. Even according to the practice of that time it should have been paid into Court at once. And as the Jailer chose to keep it, he alone is responsible for it.

56. The value assigned to the jewels in App. E is probably far too high. The Jailer avowed to me that it was given at a guess — as the highest that the owners could possibly put on them. If my orders had been obeyed a much better list would have been kept. After the alleged robbery I introduced a list showing both the value assigned by the prisoners themselves & that named by the Court Shroff. But as the prisoners valued articles at Rs 92½ which the Shroff declared not to be worth more than Rs 52½, and the exaggeration was uniform, I soon ceased to enter the valuations of the former.

57. App. F shows the No of articles of each kind in (a) App. E; and the value of an equal No of such things on the average of the Shroffs' estimates. It amounts to Rs 119-12-0.

58. The Jailer said he remembered 3 sets of valuable jewels - viz Rudrayá's for which he would have given Rs 30, Chikki Rámá's for which he would have given Rs 12, — & those of another prisoner whose name he could not remember which he thought worth Rs 5.

59. Deducting from App. F the jewels of Rudrayá & of Chikki Rámá, and adding the estimated values to the value of the remainder, the value of the whole may have been Rs 155-0-0. But from remarks the Jailer has made to me I do not think he knew much about the value of jewels; and consider the former computation more correct.

60 It appears therefore that the value of that part of the missing property for which the Jailer is not exclusively responsible is as follows:

						7	-
App B. C.	Total Subsistence-money	207	13	6			
	Deduct sums shewn in the accounts as paid from Nov 1 to Dec 9 -	109	6	10	98	6	8.
App. E & F {	Value of jewels	119	12	0			
	Cash brought into jail	8	11	5.	128	7	5.
	Total				226	14	1.

	And the claimants to this sum are	The Jailer			Other parties		
For subsistence-money.	Due to the creditors of debtors released by Courts within the period for which deposits has been made				10	6	0
	(Government is a debtor, & Rs 1-15-6 is entitled)						
	Due to the Contractor for supplies for the debtors not so released	88	0	8			
Jewels & Cash -	Due to prisoners & debtors in jail				37	5	0
					47	11	0
"	Due to prisoners & debtors since released				57	7	5
	" " heirs of " " deceased				33	11	0
		88	0	8	138	13	5.
					88	0	8.
	Total				226	14	1.

61. I now proceed to explain the practice of this Court in regard "to the item of subsistence-money"

62 There is nothing to shew how the debtors were supplied from /43 to /48: but it is said by a Gumáshtá who was then in the Názir's department that the subsistence-money was paid by the Názir to each debtor himself: & that the debtor purchased his supplies himself from the shop-keepers who attended the jail.

63 From 1848 till late in last year it was sent to the Jailer as it came in; & he obtained the supplies, - first from the shop-keepers, & then from the contractors. The details have been given in para 52.

64. It is now kept by the Názir himself. Each debtor receives daily from the jail stores the same rations, including fire-wood, as a prisoner on light-work: and at the end of the month the Názir pays each contractor the value of all the articles he has supplied, and pays into Court the value of things bought without a contract. He also supplies cloths & mats when they are wanted. — His receipts & disbursements for the debtors are entered in a simple account-book, which is balanced monthly, & which is the only book he has to keep in connection with the debtors. This seems to be the simplest system possible. — A specimen of this & of each of the other books in use will shortly be submitted to the Inspector-General.

65. With reference to the enquiry of Government "Why the order "of the J. G. relative to the custody of prisoners' jewels has not been observed", I beg to state: that before I became familiar with the Economy of a jail the

rules of the J. H. were superseded by a new set drawn up by the Inspector of Prisons, — so far as the latter went. In the letter which accompanied them the Inspector said "Pending the completion of a set of Jail rules, I have the honor "to request that those, of which I now send a copy, may, as far as they go, be "considered in force; ... 2 The sheet now sent contains only such orders "as have been already in force, modified under a change of circumstances, "with such trifling variations as it is the duty of the Inspector to make."

66. That sheet contains a set of "Rules for admission &c of prisoners", in which it is provided simply that their property shall "be laid up in store & restored to them at their release", — without a word about the Nazir or the Court. An Officer accustomed to the old rule would probably not consider this as superseding it: but I was not familiar with it, and the local practice seemed to me all that was required by the new one. So far as I am concerned, all that can be said is that I did not re-introduce a forgotten practice, based upon one of a set of rules which has been superseded by competent authority. It was not till after the alleged robbery that I heard of the old practice. I mentioned it in my report to the Inspector, together with the account given of its disuse: and stated that I had thought of adopting it again, but had determined not to do so, as it appeared as place could be more secure than the tower in which the property was supposed to be kept. (The rule did not even then seem to me; or I should not have written so.) The Inspector did not answer my letter, and I took his silence for a tacit sanction to my view, until I saw the letter which he wrote to Government in consequence of my second request for orders. Then transferred the whole property to the Nazir at once: and it is in some respects more convenient for him to keep them.

67 But I would still submit that the jail is a much safer place. There there is a Military guard, which is relieved every 2 hours: and these reliefs compel the peons to be on the alert, & ensure their being relieved at the same times. There are also officers appointed to go rounds at other times. There are sentries in all directions.

68. At the Court there is no Military guard, this having been discontinued when the 2 Rifle Companies of the 16th N. I. went to Bengal. There is therefore nothing to keep the peons on the alert: if they stay awake all night, it is a matter to be wondered at.

69. While speaking on this subject I beg to remark that an officer in charge of a jail is on an awkward position between these 2 sets of Rules, because after this rule has been quoted as in force it is impossible to say how far the "modifications" of the old rules extend. If a rule of which only half is quoted be not looked upon as modified, a rule which is passed over without notice may be supposed to continue in full force. And yet an officer may be blamed for acting on an old rule, on the ground that it is not given in the new set.

70. C.O. 48, to which the Inspector seems to allude in para 8 of his letter, does not contain the word "also". It was not understood here as an order for the keeping of 2 registers: but as a direct sanction of the practice of keeping prisoners' property in the jail itself.

Nothing is now kept there except the clothes which a prisoner will want to wear when he is released. Jewels &c do not reach the jail at all, except when a prisoner arrives only just before the closing of the Court. And in that case the Nazir takes possession of his jewels the next day, and produces them with him in the Court.

The Jailer has nothing to do with them: and I can hardly suppose that the Inspector wishes him merely to keep a copy of the Nazir's register. — It is of course his duty to keep a list of the prisoners' clothing in his charge.

C.O. 48 is as follows:

"The Inspector of Prisons finds that Registers of property taken from Prisoners on admission are not regularly kept in all Prisons, he directs therefore that such a "Register be at once prepared including all property already received or which may be received hereafter."

71. The Inspector remarks that "there has evidently been very great negligence for a series of years at Chingalpat in regard to deposits of jewels and cash, the property of prisoners". This is unfortunately true: and it would be well if the matter ended here. But I found the records of every description in the most wretched state. Those of past years were heaped up & mixed in such confusion that it took a man 2 whole months, I think, to arrange them. Of course no information could be obtained from them as they were. All previous to 1838 have disappeared. The Canarese Daily reports extend from that year to 1841, and from 1849 to 1857, when I stopped them. The English Daily Reports extend from 1846 to 1859, with the exception of a few months. The rough Diary (in Canarese) commences with 1852, and the fair copy with Oct/55. The memorandum book, sometimes English, sometimes Canarese, commences with 49, and the order book with 50. The jailer gave coolly told me that the earlier records had been torn up for book covers. — Such records as remain have now been roughly bound: but as the same sheet sometimes contains entries belonging to different series of volumes, the result is not very satisfactory. Registers, lists, & account books, seem to have been adopted and disused at the fancy of the Jailers, — & in some cases they contradict each other.

72. The current records were almost as bad. The Daily Reports contained much useless matter, and were wanting in necessary information. They were so arranged that one day's report did not check the next, and contained a statement of the value of the rice issued to the prisoners which the Jailer once told me he filled up with the first figures that came into his head.

73 I found it a matter of great difficulty to test the diet-accounts of the day preceding that on which I tried, and quite impossible to verify those of the previous day.

74 I could not on any given day find out to what work each person or prisoner had been sent: nor what prisoners were then in each person's charge. — And I could not ascertain without an hour's talk the number of persons that were actually employed. The entries in different books contradicted one another. To check the monthly pay book was quite impossible. There was no fixed rate of pay for substitutes. At one time each person chose his own substitute, and made his own arrangement: at another the Jailer made a settlement between them: and when I insisted on the substitutes being paid direct from the Court Treasury, I found continual questions as to the rate each man was to receive.

75

Some persons – including the diary & the meteorological returns! – were filled up by convicts as has been remarked in para 46. The statements supplied monthly to the Medical Department, of the nos of prisoners of each age & each term of imprisonment, were filled up with any nos that came first! And some were of course false to an important extent. And yet from statements such as these elaborate conclusions have been drawn! It was only by accident that I discovered the existence of these returns: and I saw at once that there were no materials from which they could be made, & was obliged to refuse to have them made. – I soon found means to make the one: but was obliged to introduce a new form of register to give the other.

76

And yet it was from no want of investigation that these returns remained unknown to me. After many enquiries, each bringing to light some new return, I had written an order for the simultaneous production before me of a specimen of every list, book, return, indent, or statement, used in the jail.

77

I had the greatest difficulty in ascertaining on what system the prisoners were supposed to be dieted: and practically, I found, they chose whatever articles they liked within the quantity which the Contractor chose to give them for their money. A table was drawn up some years ago shewing what proportion of each man's allowance was to be spent upon each article: but it was wholly disregarded. And the prisoners were allowed articles – not mentioned in it.

78

I had great difficulty in carrying out the Inspector's order that the prisoners' rations should be uniform, & independent of prices. I tried in vain for months to get a diet table drawn up in the Serishtadar's department on the contract prices for last year, though I shewed him how to do it. But he took great pains about it, and nearly succeeded. If he had known in what way the difficulty of distributing such small sums has been got over for years past, he would have produced a useful table. The problem was being practically solved daily at the jail by a few ignorant prisoners, aided by a very stupid peon, & a Contractor who "kept no accounts"!

79

At last on Dec 31, I drew up a hasty table myself, and insisted on its being adopted from the following day. But not being a cook, & having no notion how far a microscopic quantity of Condiments would go, I allowed far too much of some things, to the exclusion of others which might have been allowed.

80.

And finding that I should insist upon the use of that table till something better was suggested, 2 experienced prisoners came forward, & named the proportions which they wished to have. And as these cost as nearly as possible, – on the contract prices of last year, – the sums to which the prisoners were entitled, I made them the basis of the diet-table now in force. It then took more than 4 months to get this simple matter settled!

81.

And after all the diet-table is not so regular as could be wished; for I was anxious to relieve the prisoners of the inconvenience of any former table, and could not then attend to the details myself. The prisoners gave me the proportions they proposed for one & for 15, and I left the Serishtadar to fill in the intermediate quantities as best he could. A little modification would make the table uniform.

82.

All this detail seems irrelevant to the history of the robbery: & I have entered into it from its bearing on the question of "negligence" & consequent responsibility. The insertion of it may perhaps be justified by the demand for any "further explanation he may have to give".

83.

It will at first appear that the successive Sub Judges are exceedingly to blame for the state of things described above. But there are some things to be said in their defense.

84

This is probably the most difficult jail to manage in South-India – with the exception of the Central jail – on account of the no of languages spoken in it, – not one of which, except Canarese, is spoken on the other side of the Ghauts.

85.

And yet this difficult jail has been transferred from Judge to Judge no less than 38 times in the 13½ years from September 1843 to March 1857! The no of officers in charge was only 18; and some of the changes lasted for less than a month each. But during the whole 13½ years it only three occurred that an officer was in charge as much as a year continuously; & those 3 incumbencies were for 12, 13, & 15 months respectively. One officer was in charge as much as 4 yrs 7 m. – 10. altogether: but his incumbencies & the intervals between them were as shewn in the annexed table:

Incumbencies		Intervals	
y.	m.	y.	m.
	11		
			1.
1	1		
			1.
	11		
			1.
	8		
			11.
3 changes			3/4
			1½
	1		
			1
	1		
			1.
3 changes			
			1.
			1.
			½
	2.		

86.

And so long as there was no well-digested written system, every change afforded opportunities for many offences both of omission & commission.

87.

Only one or two of these officers, I believe, had been employed upon this coast before.

– I protested against being sent here, on the ground that I did not know any one of the languages in use; & others may have done the same. In any case they must have had as much difficulty as I had in obtaining reliable information. I could get none: every assertion made to me being contradicted by the next man I asked: and by my informant himself the next day. After a while I determined to postpone all further enquiries till I could communicate more freely with the prisoners & prisoners. For many months past I have devoted several hours a day to an endeavour to remove the jail: and yet there are one or two matters of which still require attention. On every question which has come before me an order has been written in the Memorandum-book, in the section devoted to such subjects, so that it is found at once. And almost every register, account-book, and return is now in a printed form, with a heading in both Canarese & English: so that not only are the present statements true, – (which is a novelty:) – but their truth may be tested in a moment by a person who is acquainted with one

only of those languages. They also check each other. The diary is arranged in the same way. I believe there is scarcely a question that could be asked about the economy of the jail which could not be answered in a moment.

The whole arrangement will shortly be submitted to the Inspector General of Jails.

88 In future, it will be a matter of little moment how often the Superintendent of the jail is changed.—

89 It will also appear that the succeeding Jailors have been very much to blame. But they were formerly changed almost as often as the Judges. — From 1845 to 1850 there were 6 of them, Native, English & East Indian, who held office for 5½, 8, 16, 9, 15½, & 3½ months respectively. The last of these was succeeded by Mr Woolger, who was in charge for 8 years. But it does not appear that there was any system in force when he arrived: & he was not the man to digest & introduce one.

90 An average English soldier is not the most intelligent of men at the outset: & a long course of barrack life has not much tendency to make him more acute. Mr Woolger knows no vernacular language: but communicates with peons & prisoners in a Hindustani of his own. Almost all the records were kept in Canarese; so that they were sealed documents to him. And as some of the most important of them were left to a very middle-headed peon, & some to prisoners, it is not to be wondered at that they are not in the best possible order. But this was not altogether his own fault. He could not do the work himself: and his only recognised assistant was a Mutsaddi upon a peon's pay. Still, he might & should have done the English work himself: & that would have left the Mutsaddi time for the Canarese records.

91 I confess I was not aware how little writing-work he did. He brought the English returns to me every day; & I took it for granted that they were in his own handwriting, — whereas they were in the Mutsaddi's, till the latter was dismissed. It is true that his signature on the returns to warrants &c was somewhat different; but a man's signature is generally worse than his ordinary hand. I now believe I have never seen any of his writing but his signature. When I desired him to write any thing at once he always got off it in some way: but as there was nothing to make me suspect the truth, it never occurred to me.

92. "I have just received orders from the Inspector General to dismiss him for absenting himself without leave. And the value of the missing property may be made good, with little or no loss to Government out of the stoppages from his salary. His leave expired on Dec 16, and a successor cannot be appointed till May 31, as I must give time for candidates to offer themselves.

93 Rs 20 of his salary have been paid to the Acting Jailor, a Native; and I have requested the Inspector General to obtain sanction for the payment of a further sum of Rs 10 a month to him. By May 31 there will remain to the credit of Government Rs 103-12-3 if this additional allowance be sanctioned, and Rs 164-8-3, if it be not; besides Rs 5-14-8, which must be deducted from the pay due to him from Dec 1 to 16, as having been overpaid before.

94 A Polyglott Native is required for a Babel like this jail: and I would gladly confirm the Acting Jailor. But he would not accept the post even for Rs 30, though his Court pay is only Rs 14; and he cannot expect Rs 30 for some years. The Jailor has work from 6 Am till 6½ Pm, and is liable to be disturbed at night. His duties require quickness, intelligence, & accuracy, as well as integrity & energy; and his responsibilities are great.

No respectable, well qualified Native would take the post for the present salary of Rs 20.

95. It only remains for me to express my regret for the delay which has occurred in the submission of this report.

96 When the E.M.C. reached me Mr Woolger was on leave, on Medical Certificate: and I was engaged in a careful examination of the jail accounts & returns, which I was anxious to complete while I had the assistance of the Acting Jailor, an intelligent Gumashta of my Court. However, I put a few notes together, and called upon Mr Woolger to supply me with detailed accounts &c as soon as he was equal to the work.

97 When the accounts came, the end of the quarter was drawing near: and I was pressed with Court work, as well as by the investigation that was going on every morning at the jail. I therefore deferred the completion of the business to the Christmas holidays.

98 Before these arrived, Mr Woolger obtained a certificate that he ought to leave the place for 2 months; and took himself off in spite of positive orders to stay a few days more. I was anxious to give him an opportunity of submitting a defence together with his letter: but he has never come near me again: though I heard some time ago that he had returned to Mangalore.

99. When he was once gone, there was no particular advantage to be gained by completing the enquiry at once, whereas it was of great importance that I should get the jail into order before his return. Judging from past experience, it was likely to be long before there were again in office at the same time a Judge able & willing to revise the system, and a Jailor alive to the inconveniences of the practices in use. I therefore gave up all my Christmas holidays to the task, & have devoted to it almost every morning since, and every moment that I could spare from the current business & reports going on in Court. It is not from neglect or idleness on my part that the report has been delayed so long, for during that last month of each of the last 2 quarters, I have been obliged to work from 5½ or 6 Am till 9 Pm, — and in the other months I have had but little leisure until 6½ Pm.

100 Hoping that this may be considered a satisfactory

explanation both of the transaction itself, and of the delay which has occurred, —

I have the honor to be
Sir,
Your most Obed.t Servant
J. Thomson
Sub: Judge -

101 I almost forgot to mention that in the course of last month a very troublesome woman under sentence of imprisonment for life came forward & stated that 2 prisoners, — one of whom is still in jail, — had brought her a bundle said to contain the articles stolen from the tower, & got her to bury it under the women's fire place by a promise that they would help her to make her escape. Of course she had since returned it.

102 When questioned as to details, she retracted the whole story, and said she had been put up to it by a peon, who had said that if she made it, she would surely get a pardon: & that if not, he would manage to let her go.

103. It is impossible that her story can be true. A prisoner could not escape from his ward without its being discovered in the morning. And he would not waste his time by committing a robbery in such a place, instead of effecting his escape.

Sub: Court,
Mangalore,
23d April 1859.

J. Thomson

Desp: 4th May.

Sub: Judge -

Encl

Judicial.

Proceedings of the Madras Govt.

Read letter from the Judges of the Sanjdaree Adalut — Enter 16th May 1859 No. 8.

Order thereon 31st May 59 & 7th 59.

Govt. decide that the Subordinate Judge of Mangalore should, on the ground assigned by the Sudder Court, be held liable for the value of the missing articles & Cash, aggregating Rs. 128.7.5 — One Hundred & Twenty-Eight Rupees Seven Annas, and Five Pice.

2. The Jailor will be held answerable for the subsistence money. As far as can be understood, this partly consists of arrears due

Enclosure in a letter from the Registrar of the Sanj. Adalut dated 16th May 1859 No 8.

Rep. 8 inc No 824.

to civil prisoners & contractors, & partly of money lodged by creditors for the subsistence of their debtors. For the former, the prisoners & contractors may look to the Jailor. ~~The latter will be secured from him by stopping from his salary as well as the value of the Cloathing.~~ The Inspector General of Jails should take early measures for introducing a better system in the Mangalore Jail in respect to these deposits

J P S

3

15 Oct 40
Paid into Public Treasury

This Court of Faujdaree Adalut.
" Inspector General of Jails.
" Civil Auditor.
" Acct. Genl.
" Sub Treasurer.

Dep'd 4th

should be accounted for the Jailor if possible