M.R.O. 1—30/28—16-10-28

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 767-68 Press Mis.

9-13

Dated 3. 6. 1859

Not to be folded or roughly handled

Madras 7th May 1859

(No 7) IV

From

G. H. Fullerton Esquire
Deputy Registrar to the Court
of Foujdaree Udalut

To

T. Pycroft Esquire
Chief Secretary to Government

Sir

1 I have the honor to acknowledge by direction of the Judges of the Court of Foujdaree Udalut copy of paras 6 to 10 of the Advocate General's letter to Government dated 19th April 1859 with the Minutes thereon dated 2nd May 1859, requesting the Judges of the Court of Foujdaree Udalut to give their opinion on the suggestion of Mr. H. L. Smyth that cases, where an Englishman may be charged with the homicide of a native, be tried by juries composed chiefly of Europeans and Natives, half the number at least being natives or else that there should be in each case a special jury

of English gentlemen.

2 That the Judges, confining themselves strictly to the questions placed before them in this Bill, and refraining from giving any opinion and the jury shall not proceed in operation, and which they think will in all probability be much modified by the forthcoming Penal Code, direct us to state, that of the two plans suggested by Mr Temple they would prefer the first, namely of having in the Queens Bench a special jury of English gentlemen who would afford a respectable certainty of an impartial hearing of the case, and would not produce on the other plan mentioned an effect of interest and inconvenience which would be most prejudicial to the ends of justice.

All which we humbly submit to your most dutiful consideration.

Registrar's Office 4th May 1839.

George F Hollcombe
Deputy Registrar.

3 V

not-Less than one Third shall be natives and not Less than one Third of that Class of persons who have hitherto been designated in the Statutes relating to India by the term British Subjects

The effect of this will be Completely to increase the number of Natives summoned; and we believe that this will be found to be justly a remedy for the evil to which our attention has been called.

If it should be found efficient, we consider it decidedly preferable to the other alternative proposed, viz. the introduction of a specific provision as to the constitution of the Jury for the trial of a particular Class of causes.

We have the honor to be,
Honorable Sir,
Your most obedient Humble Servants

Henry Bourdin

A. Pottinger

Sir Fox Maule I wish to add that with respect to the case of Rogers Smith tried before me at the last Sessions, I certainly do not concur in the verdict of the Jury - as Rogers Smith should have been subjected by the Evidence that the prisoner was Guilty of the offence with which he was charged but I was saying that I should wish to impute to the Jury any unconscientiousness of their duty - In case I suspect the evidence was open to observations which might lead to a conscientious jury man (unaffected by any prejudices of Race) to think that he might with a conscientious

A. Pottinger

by the exercise of this power of
peremptory challenges the
alteration of the Jury Rules of
the Supreme Court will be ne-
cessary for this purpose, and
they therefore recommend for
existing Rule 15 under which
the Sheriff summons for each
Session not less than Eighteen
persons qualified and liable
to serve as Petit Jurors, from
at least one third must be
of the class designated in the
Statutes relating to Cities by
the term Ratable Inhabitants
a rule by which the number
of persons summoned shall
be increased to Eighty
of whom not less than one-
third shall be ratable, and
not less than one third of that
class of persons who have
been designated in the
Statutes relating to Cities by
the term Ratable Inhabitants.
The effect of this will be largely
to increase the number of
persons summoned, and they
believe that this will be
found to sufficiently remedy
for the evil to which their
attention has been called.

5. They consider that if
this be found practicable it
is decidedly preferable to
the other alternative proposed,
viz: the introduction of a Spe-
cial Session as to the con-
duction of the Jury for the
trial of a particular class
of Cases.

6. The Jury desire to express
to their Honor the Judge the
acquiescence of Counsel in the
course of proceeding which
they have recommended,
and to request that the
necessary alteration may
be made in the Jury Rules.

A. Richard Hall Foreman
of the Jury

[illegible]
[illegible]

this that there should be
in each cause a special
Jury of English gentlemen.
2 We have to express
our acquiescence in the
course of proceedings
which you have pursu-
-ued today, and to request
that you will be so good
as to cause the necessary,
arrangements to be made for
the Jury today.

Sir G. McGregor &
Sir James Alderson

[illegible]

No. 788.

To
The Honble the Judges
of the Supreme Court.
Madras

Dated 3rd June
Filed 5th July 1859 [illegible]

[illegible]
Replied to [illegible] 1859.
[illegible] 1860

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[illegible]