MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT

G.O. No. Press Mark

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Proceedings of the Madras Government, Judicial Department, from 11th to 17th June 1859.

No. 53 Read the following letter from C. F. CHAMIER, Esq., Register to the Court of Sudder Udalut; to T. PYCROFT, Esq., Chief Secretary to Government, dated 6th June 1859, No. 42,

1. With reference to the Proceedings of Government dated the 6th and 24th December last requiring the Court of Sudder Udalut to obtain the opinions of the Judicial Officers and of pleaders present practice pursuits, upon the best method of taking oral evidence in Courts of Justice, I am directed by the Judges to submit the following report upon the subject.

2. The Court have received opinions from the several Judicial functionaries, European and Native, and through them from various private individuals; some of the Pleaders at the Bar of the Sudder Udalut have also responded to the call made upon them to favour the Court with their observations upon the question.

3. A very large majority are in favor of restoring to the use of oaths, to be administered in the form prevailing before the introduction of Act V of 1840; and express their belief that false evidence has been on the increase since the abolition of oaths. An equally large majority are further in favor of endeavouring to suppress false evidence by empowering the tribunals to visit it with summary punishment. The opinion is nearly universal that the formulary prescribed by Act V of 1840 is of no utility.

4. The belief that false evidence has increased because of the abolition of the oath, rests, the Judges think, upon no certain foundation, as but few of those who express it have had experience of Judicial operations before the passing of the Act in question. That falsehood is on the increase the Judges are prepared to allow, but they attribute this to the form of examination prevalent, and to the difficulty of obtaining a conviction under the existing law for the trial of perjury, whereby the spectacle is afforded of crime daily committed without exposure or punishment.

5. In regard to oaths, the Judges are of opinion that it will be impossible, whatever the form of such, to secure solemnity for the administration of what will have to be gone through daily, and many times each day. The people, too, will become familiarized to the process, and the form will lose its power over them. To resuscitate such forms, under Hindoo superstitions, and work of creation of their duties, is a retrograde movement which it will be repulsive to many minds to take; and the Judges think it would ill become the British Government to excel their steps and invoke aid again from those superstitions of the people, nor do the Judges believe that such a course would be productive of the benefit expected of it, while they are confident that there are other reasonable and legitimate means, from which success in meeting the evil may fairly be anticipated.

6. The most effective remedy, in the opinion of the Judges, will be to introduce a better method of examining witnesses, than that which now prevails; and to provide the Judges with power to deal promptly with punishment any attempt to mislead him. Instead of the cumbrous form of depositions now taken down by the Recording Gomastah, the Judges would make the notes of the presiding Judge only the sole record of the evidence, which would necessitate a careful hearing of the examination of each witness.

7. The limit of the summary punishment the Judges would advocate, is six months' imprisonment, with or without hard labor as above, and fine to the amount of Rupees 200, or both. The superior Courts should judge this of cases as being satisfied that the evidence was wilfully untrue, by limiting an immediate report of the case to the Foujdaree Udalut; and the inferior ones after hearing the representations to the justice of the superior Courts and obtaining their sanction for the sentence. If in cases of atrocity, higher punishment were deemed necessary, the party might be committed to take his trial for perjury.

8. The Judges would abolish the solemn affirmation prescribed by Act V of 1840, and have the Judge simply call upon the deponent to be careful to state nothing but the truth; reminding him, if need be, of the punishment awaiting him, should he be guilty of wilful falsehood.

No. 31. Order passed, 17th June 1859, No. 837.

Resolved that a copy of the above letter, in which the Judges of the Sudder Dewanny Adawlut report the result of their enquiries from Judicial Officers and other persons not in the service of Government, on the subject of oaths and affirmations, be forwarded to the Clerk of the Legislative Council, with reference to his letter of the 20th November last, No. 165, with the intimation that a similar report has been required from the Revenue Board, a copy of which, when received, will also be forwarded.

(Signed) T. PYCROFT,
Chief Secretary.

No. 32. T. W. MORGAN, Esq., Clerk of the Legislative Council of India, Calcutta, dated Fort Saint George, 17th June 1859, No. 224.

With reference to your letter of the 20th November last, No. 165, I am directed to forward to you copy of a letter received from the Judges of the Sudder Dewanny Adawlut in which they report the result of their enquiries from Judicial Officers and other persons not in the service of Government, on the subject of Oaths and Affirmations. A similar report has been called for from the Board of Revenue, a copy of which also, when received, will be forwarded to you.

(Signed) T. PYCROFT,
Chief Secretary.

Forwarded for information and necessary action.

Fort Saint George, 17th June 1859.

Ed. T. Carnegie.

Judicial.

Proceedings of the Madras Govt.

Read letter from the Govt of Sudder Ad. dated 8th June 1859. No. 49.

Order thereon—17th proceedings No 837

Resolved that a copy of the above letter, in which the Judges of the Sudder Adawlut report the result of their enquiries from Judicial Officers & other persons not in the service of Govt, on the subject of Oaths & Affirmations, be forwarded to the Clerk of the Legislative Council with reference to his letter of the 20th November last No 165 — with the intimation that a similar report has been required from the Revenue Board

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worlds.

Judicial.

No. 38

W. Morgan Esqre.
Clerk of the Legislative Council

Sir.

With reference to your letter of the 20th Novr. Last No. 165, I am directed to forward to you for the use of the Legislative Council the letter received from the Judges of the Supreme Court, in which they report the result of their enquiries from the Judicial Officers Southward, respecting the tendency of Courts, on the subject of Petitions, or other Applications to the Legislature.

I have &c.

Colonial Secretary's Office
17th January 1843

Proceedings of Council
Printed by order.

Printed by Authority.

Ordered by Council

Endorsed
No 4

Judicial Department

No 838.

To

W. Morgan Esq^re

Clerk of the Supreme

Court

Natchez 17 June 1837