T [illegible]

~~Wire immediately~~

Submit report immediately as to cause disturbance at Centralia with copy of joint inspection proposal covering [illegible] defendants

~~Also State~~ Have these defendants appealed and be admitted bail - Wire on this point —

Under what authority did you issue order

+ Also wire
your reasons for
issuing order to
Village Munsiff
of Tirukasi —

returning natives of
Indian Power battery
before 10 - a M. and
What grounds had you for doing so
X Has any assault
been made upon
native lady - Has
What has become of
the Charge of Assault
of a native lady
by an Englishman
Wire about this also

CURRENT No. 3348

[0] Judicial DEPARTMENT.

From

Mr K. Seshadri Iyer
Courtallam

No.

Dated 17 } 8. 90.
Received 20 }
Enclosures -

SUBJECT.

Regarding the conviction of his servants for bathing in the Courtallam Falls.

Refer Order.

Despd 2018

Ordered that the following telegram be despatched to the

District Magistrate
Tinnevelly.

Submit report immediately as to cause of disturbance at Courtallam with copy of Taluk Magistrate's judgment convicting Dewan's servants.

Have the servants appealed and been admitted to bail. Wire on this point.

Under what authority did you issue order restraining natives of India from bathing before 10. A.M. and what grounds had you for doing so.

What has become of the charge of assault of a native lady by a European. Wire about this also.

Also wire your reasons for issuing order to Village Munsiff of Tenkasi

(Signed by Chief Secy)

F C²

Class. S	INDIAN TELEGRAPH.		Local No 783
To (Station) Ootacamund		From (Station) Ambasamudram	
Words. 163/3	Day. 21	Hour. 19	Minute. 25
To (Person) Madras		From (Person) Collector	

22.8.90

Report and judgment will follow x persons convicted of rioting ~~action for bite~~ have appealed x preliminary application for bail, without producing judgment, said to have been rejected by sessions court x authority for my order was section 144 procedure x it is I believe, before high court x grounds were probability of breach of peace if native men should bathe with european ladies or vice versa, or natives exclude europeans contrary to immemorial custom x the meeting attended

immemorial ?

Recd. from		L. N.	Sent to		L. N.
At	Hrs.	Mts., By	At	Hrs.	Mts., By

Date OOTACAMUND 22-8-90

Telegraph Master

F C²

Class.	INDIAN TELEGRAPH.	Local No

To (Station)

From (Station)

Words.	Day.	Hour.	Minute.	Official Instruction.

To (Person)

From (Person)

2

by munsiff thinly veiled resolution to exclud exclude european by concerte action of members, which under circums was most rash and improper x for bearance of europeans pending reference to me alone averted something troublesome x besides on crowd evidence shewed ten persons armed with sticks, violence used to police, and refusal to magistrate to disperse x complaint against mr Clarke was withdrawn, so also his complaint for assault on mrs Clarke x all profoundly quiet since my order

Recd. from L. N.
At Hrs. Mts., By

Sent to L. N.
At Hrs. Mts., By

Date
OOTACAMUND 22-8-90

Telegraph Master.

F C²

Class.	INDIAN TELEGRAPH.	Local No

To (Station)

From (Station)

Words.	Day.	Hour.	Minute.	Official Instruction.

To (Person)

From (Person)

.3

which merely confirmed custom,
and satisfies all moderate hindus
X Hour since changed to nine thirty

27

Recd. from L. N. At Hrs. Mts., By

Sent to L. N. At Hrs. Mts., By

Date

Telegraph Master

~~Submit report forthwith.~~

Govt. anxiously awaits
your report which should
be sent in ~~without delay~~
as soon as possible. As
regards your telegram to Galton asking
~~Dept~~
you are not to
~~should~~
consider your app~~lication~~
~~for leave [illegible] in~~ for
leave at all certain pending
disposal of your report
on Costallum "

[illegible]

As to your Telegram
to Dalton of yesterday
Do not consider
your leave shall
certain pending
~~impair [illegible]~~
disposal of F. deportation
Constitution question
of government

CURRENT No. 3369

[9] Judicial DEPARTMENT.

(8)

(8)

Despd 22/8

From

The Collector of Tinnevelly

~~Ref~~

The following telegram will be sent to the Collector of Tinnevelly

No. 353." Your telegram re: Courtallum Govt anxiously awaits your report which should be sent in as soon as possible x As regards your telegram yesterday to Galton you are not to consider your leave at all certain pending disposal of your report on Courtallum x

(Fair Sequestg. Chief Secretary)

No.

Dated 21st }
Received 22 } Augt 1890
Enclosures

SUBJECT.

Re: Courtallum waterfall

With Telegram

nrg
Joint Magte

Calendar Case No. 41 of 1890 on the file of the Joint Magistrate of Tinnevelly.

Offence Being members of an unlawful assembly and rioting. section 143 & 147, I.P.C.

Finding Guilty

Sentence Four months imprisonment of which the first to be simple and the remaining three rigorous and each of the accused further is under section 106, C.P.C. ordered to give a bond personally for Rs 50 with one surety of Rs 50 to keep the peace for two months.

Judgment.

Serial Number.	Description of accused. Name.	Father's Name.	Caste or Race.	Occupation.	Residence.	Age.	Date of Occurrence.	Complaint.	Apprehension.	Commencement of trial.	Close of trial.	Explanation of delay.
1	2						3					
1	Papa	Subbaya	Naick	Chowkidar	Courtallam	32	27—7—90	27—7—90	31—7—90	2—8—90	16—8—90	Prosecution was closed on 4-8-90. Charge received 5-8-90 and Defts. made statement the same day. Defence witnesses were summoned for 12th. 11 of them were examined on 12th and the case was adjourned to 15th to enable the accused to produce the absent witnesses but they were dispensed with on 15th. On 16th the case was disposed of.
2.	Lingama Naik	Lingama Naik	— Do —	Servant	— Do —	27						
3	Hussainkhan	Hussainkhan	Mussalman	Peon	— Do —	27						
4	Sami Sastri	Vencatara mana Aiyar	Brahmin	Cultivator	— Do —	20						

(Signed) C. E. Henry
Ag. Joint Magte.

been refuted by the evidence for the prosecution. It was for the defence to prove this plea, but the defence evidence on the point is unreliable when it is not vague, useless and irrelevent. The witnesses are persons who are either interested in accused's behalf or were ~~even~~ present indirectly aiding and abetting the accused's acts or who came to the scene of the disturbance after it had nearly all subsided.

17. The first, second and third accused in their statements partially admit the case for the prosecution that the Police were at the "Falls" and warned them not to enter the bath, but that they seeing others bathe insisted on bathing also.

18. It was argued that if the accused and the other Mysoreans had come armed, the sticks would have been seen by the Magistrate and seized by the Police, but first accused admits himself that he had a stick (a very unusual appurtenance of a peon going to perform his morning ablutions) yet it was not seen by the Magistrate nor seized by the Police. The argument

is deprived therefore of its force. The sticks were in the bathing huts. First defendant admits his was on the bank near the huts.

19. Comments were also made on the omission of the Police to arrest the other Mysore people if any others had been present assisting the accused, but that others were present is admitted even by the defence and the Police state that they could not see the others amongst the Dewan's or the Deputy Commissioner's servants, at the time of the arrest. As the identification of those concerned was not effected till some four days after the offence, it is not impossible that, though the report A says the identification of the offenders could be effected, the Police may, through lapse of time, have experienced some difficulty in identifying them.

20. The delay in the prosecution of the case which was much relied on by the defence as a point in favour of the accused is also accounted for. The Police and Sub Magistrate made a reference to superior authorities for orders before taking steps against the offenders.

21. Discrepancies stated to exist in the evidence of the station House officer and the two Constables in regard to the use of force are pointed out by the defence as belying the story of the use of force. In cases of disturbance and rioting, it cannot be expected that the evidence of the witnesses will exactly tally. On the contrary, some variance in the statements is natural. But the station House officer and the two Constables have sworn to the use of force towards third prosecution witness and the first report A mentions the fact.

Constable No 874

22. I find the four accused guilty of the offences charged.

23. Though the riot was only little more than a technical one, I consider that the conduct of the accused should be visited with a severe punishment, in having wantonly broken through a rule or custom which had hitherto worked harmoniously and which had reconciled to the satisfaction of all parties the contending rights and privileges of the Europeans and the natives in regard to the use of the waterfall, in having set an example likely to lead to constant difficulties and likely to imperil the future maintenance of the public peace in the locality.

24. I accordingly sentence each of the accused to four months imprisonment

and direct that for the first month it be simple and for the remaining three, rigorous. I further direct under section 106 C. C. P. that each of the accused do execute a bond personally for Rs. 50. with one surety each in the same sum to keep the peace for two months.

(Signed) C. E. Henry
Ag. Joint Magistrate

| True Copy |

Tremenheere
Ag. District Magistrate

In the court of the Joint Magistrate of Tinnevelly

The [illegible]th day of August 1890.

Calendar Case No. 41 of 1890.

Complainant V. Defendants.

Queen Empress.

Witnesses

1. Subramania Pillai Station House Officer of Tenkasi
2. Subramania Pillai Constable No. 646.
3. Sankaralingam Pillai Constable No. 874.
4. B. Narasimalu Aiyer Tahsildar and 2nd Class Magistrate of Tenkasi
5. Sankaralingam Pillai.
6. Mr. V. B. Madhava Rao Dy Commissioner of Mysore

Defendants.

1. Papa
2. Linganaick
3. Hussein Khan
4. Rama Sastri

Witnesses

1. Mr. J. H. A. Tremenheere Esq. Collector and District Magistrate of Tinnevelly
2. H. Taylor, Inspector of Tenkasi
3. Madappan
4. Subbu Tevan
5. Appadurai Aiyer
6. Narayana Aiyer
7. Srinivasa Aiyer
8. Krishna Aiyer
9. Krishnasami Aiyer
10. Senia Pillai
11. Madaswami

Offence. — Being members of an unlawful assembly and rioting under sections 143 and 147 I. P. C.

Finding — Guilty

Sentence — Four months' imprisonment the first month to be simple and the remaining three ~~to be~~ rigorous.

Judgment

The four accused are charged with having in conjunction with others not arrested, on the 27th July last formed members of an unlawful assembly and committed rioting sections 143 and 147 I.P.C.

2. The facts of the case are briefly these: At the water fall at Courtalum Europeans as well as natives, are wont to bathe – the Europeans till 9.30 A.M. and the natives during the remainder of the day. On the morning of the 26th July, a disturbance occurred at the "Falls" in which Mr. Clarke, a local planter, is alleged to have assaulted the wife of one Krishnaiyer. On the same evening a meeting was convened, at which resolutions (Ex. B) were passed expressing indignation at Mr. Clarke's conduct and discussing the rights of the Europeans and

natives

natives to resort to the water fall before 9.30 A.M.

In consequence of these resolutions and the excitement which prevailed, the Tahseldar Magistrate thought it advisable to despatch Constables to water fall as he apprehended a breach of the peace in case the Europeans insisted on their right of bathing. The Station House Officer and two Constables, Prosecution witnesses (1), (2) & (3) were detailed on this duty and proceeded to the water fall at 6 A.M. on the morning of the 27th July. Mr Clarke also apprehended some disturbance that morning and requested the presence of the Police. Shortly after the arrival of the Police, the four accused with 6 other Mysoreans adherents or employes of the Dewan of Mysore who was at the time making a stay at Courtallam, came to the "Falls" with a view to bathing. Some of

them

them with sticks in their hands. The Police fearing that, if Mr. Clarke or any of the Europeans should come to bathe, a riot might ensue, ordered the Mysoreans not to enter the bath till after 9.30 A.M., but the words of the Police were not heeded. Constable No. 874 prosecution 3rd witness was pushed aside, the four accused with the other Mysoreans entered the enclosure erected around the bathing place and proceeded to bathe. The Station House Officer at once despatched the report (Exhibit A) to the Sub Magistrate who had also arrived at Courtallam to concert measures for the preservation of the peace. The Sub Magistrate received the report (A) before 8 A.M. and proceeded to the water fall at once. He found that the bathing place was in the possession of the four accused and other Mysoreans while other strangers and people of the neighbourhood were pouring in numbers into the enclosure. Mr Clarke and other Europeans had in the meanwhile arrived to bathe. The Sub Magistrate apprehended a breach of the peace, if the Europeans insisted on their right to bathe and ordered the accused and the others in the bath to disperse, but they refused to listen to him. From their attitude and general behaviour, the Sub Magistrate concluded that they had come to the bath with the determination to use force and commit rioting in case the Europeans maintained their right of bathing before 9.30 A.M. He advised the Europeans therefore not to enter the bath but to retire and thus avoid any breach of the peace; promising at the same time to lay the whole case before the District Magistrate. The Europeans retired without being able to indulge in their usual — morning bath. The Sub Magistrate also left the spot and on the same day wrote and despatched his report Exhibit (C) to the District Magistrate describing in detail the occurrence at the "Falls".

3. These are the main facts on which the prosecution is founded.

4. The plea of the accused is that 1st, 2nd, & 3rd accused - peons in the Dewan's service - went simply for the purpose of bathing at about 6 or 6.30 A.M. and were allowed to enter the bathing place unmolested. They took their bath and left, no rioting or unlawful assembly having taken place.

5. It is not denied on behalf of the accused that the European residents have the right of bathing at the water fall, nor is it denied that a custom obtained for some years for the Europeans to enjoy the bath to the exclusion of the natives up till 9.30 A.M. every morning except on the occasion of a festival. In consequence of squabbles and difficulties in the way of natives & Europeans

bathing together at the water fall a modusvivendi was established by Mr. Lee Warner by the issue of a notice in 1884 prescribing Certain bathing hours exclusively for the Europeans (Viz till 9.30 A.M.) the remainder of the day being allotted exclusively for the natives. Whether this notice was issued by Mr Lee Warner in any Official Capacity or not, matters very little, but it is plain from the proceedings of the meeting exhibit B that the arrangement of 1884 was acquiesced in and adhered to without demur or protest ever since by the natives of the Locality as well as native visitors to Courtallam. Accomodation for European bathers has been provided at the water fall and an enclosure erected in front of it to secure the privacy of European Lady bathers.

6 Proceeding to the analysis of the evidence offered on both sides, the first element of offences punishable under sections 143 & 147 I.P.C. Consists in five persons at least Combining for an unlawful purpose That there were 5 Mysoreans at least at the water fall that morning is established not only by the evidence of the prosecution but also by that offered by the defence. The report (A) mentions 10 Mysoreans; the Sub Magistrate swears to five at least; one of the defendants, (3rd defendant Hussain) admits the presence of five and one of the defence witnesses (7th) Corroborates him. Three Brahmin Cooks, defence witnesses (5 & 6) and another not examined are also proved by the defence to have been present just before the riot occurred.

7. The next element is the unlawfulness of the Common object which brought the four accused and their fellow Mysoreans to the water fall. This is the most important point in the case. The accused assert that there was nothing unlawful in their presence there, and that their presence was due solely

to their desire to enjoy according to their usual Custom, their early morning bath. The prosecution contends that they and the other Mysoreans had come with the common unlawful object of asserting a right or supposed right to bathe during the hours allotted for the Europeans under Mr Lee Warner's notice and of enforcing that right, if necessary by force or show of force. The prosecution does not absolutely deny that the accused or natives in general may have a legal right to use the bath before 9.30 A.M. or that they supposed they had such a right, but what is asserted is that a Custom had prevailed with the consent of all parties by which the waterfall before 9.30 A.M. had been reserved exclusively for the European residents and that the wanton breach of this Custom by the accused for the first time on the morning of the 27th July is one of the many facts evidencing the unlawfulness of their common intent.

8. To judge whether the unlawful intent above stated was entertained by the accused and the other Mysoreans, we must consider the events of the previous day, the tenor of the resolutions passed at the meeting, the attitude and general behaviour of the accused at the waterfall and the impression which the acts of the accused made on the minds of the local authorities.

9. It is admitted that the assault which Mr Clarke is alleged to have committed on the 26· on the wife of a Brahmin Vakil, Krishnayya, had aroused amongst the people feelings of excitement & indignation which found vent in the resolution passed at the meeting held on the same day. In the 3rd proposal of the meeting the respective rights

rights of the Europeans and natives in regard to the use of the waterfall are reviewed and Mr. Clarkes Conduct Commented on. A Resolution is thereupon passed in the following words. "That provision should be made to safeguard individuals from such indignities" (as the one perpetrated by Mr. Clarke). The penultimate resolu=tion is that, in Consequence of the notice of Mr. Lee Warner being issued only for the Convenience of Europeans, as it has not the sanction of Law, and as it was made use of by Mr Clarke to Commit the assault on a Hindu female, "It does not therefore appear that we should feel ourselves bound by the notice and the Collector be informed accordingly". Taking these two resolutions with the admission in the proceedings that Europeans were up to that date in the possession of the privilege of using the waterfall up

till

till 9.30 A.M. to the exclusion of the natives, and Considering the Conduct of the natives in General (led by the accused & their fellow mysoreans assisted afterwards by a crowd of 30 or 40 natives of the locality & natives strangers), in the very next morning assuming possession of the bath at the waterfall from the early hours of 6 or 6.30 notwithstanding the orders of the police & Magistrate, it is an absurdity to allege that there was no common object amongst the five or more mysoreans at the "falls" or in fact amongst the assembly of natives who followed their example by crowding into the enclosure; it is idle to contend that the conduct of the mysoreans including the accused in resorting to the bath so early as 6 or 6.30 A.M. was innocent, that the mysoreans at last had come only to perform their morning ablutions & that they had not come for the set purpose of carrying into effect the resolutions passed the previous morning, of setting at naught Mr. Lee Warner's notice of 1884 & putting an end to the arrangement or custom which has obtained since. It seems to me a most justifiable inference to make (seeing how soon the acts of the accused succeeded the meeting & how exactly they corresponded with the resolutions passed), that the accused with the other Mysorians had acted as they did only in consequence & under the influence of the resolutions of meeting.

10. Why the accused & the other Mysorians should have figured so prominently in the riot is explained by the fact that a Deputy Commissioner of Mysore — M. R. Ry. Madava Row had taken part in the meeting & that the final resolution was to communicate the result of the meeting "to the patriotic statesman

now

now at the station" referring evidently to the Dewan of Mysore. The accused & the other Mysorians being servants or protegees either of the Dy. Commissioner or of the Dewan naturally concluded that it was their duty to put into effect the resolutions of the meeting which appeared to them to have had the sanction of their masters. It is only just to say (& the circumstance affords another illustration of how the resolutions of the meeting were responsible for the commotion on the next morning) that after the riot, the deputy Commissioner wrote objecting to the tone of some of the resolutions as too strongly worded & advising a conciliatory attitude.

11. All these facts completely refute the theory of the defence that the accused had resorted to the "Falls" simply for their usual morning ablution.

had subsided. Instead

12. That the accused intended by force or show of force to assert the right or supposed right of the natives to bathe before 9.30 A.M. is evidenced by the actual use of force to the Police and by some of them carrying sticks and by their acting as shown above in pursuance of a resolution to the effect that individuals were to be safe guarded against indignities inflicted by any Europeans. At the time a great feeling of excitement and indignation prevailed, directed particularly against Mr. Clarke and the other Europeans generally using the bath. The accused must have been aware of the events of the previous day and of the extreme probability of the Europeans coming to bathe. Their attitude in nevertheless possessing themselves of the bath and refusing to leave it inspite of the advice and orders of the Police and the Magistrate and in the face of the European gentlemen who had, as stated in Exhibit B, come to bathe — all indicate an intention to maintain their right or supposed right by force or show of force. The Deputy Commissioner himself admits that when he heard of his men, the accused being at the waterfall, he feared owing to the excitement which prevailed amongst the people that if they were interfered with in their right of bathing, they would commit a breach of the peace and he went so far as to despatch a messenger to advice them not to offend against the law. The reason why a very serious riot did not ensue was, not because of the peaceful intentions of the accused, but because of the wisdom of the Europeans in not insisting on their privilege or custom of bathing and in their retiring on the Sub Magistrate's advice without enjoying the pleasure of a bath at all.

13. Again the conduct and behaviour of the accused so impressed the station house Officer as to induce him to send the report Exhibit A. calling for the aid of the Magistrate and so impressed the Magistrate that in order to avoid a riot, he advised the Europeans not to have a bath and that he felt it his duty to bring immediately the riotous acts of the accused to the notice of the District Magistrate by his report Exhibit B. Mr. Clarke also desired (deemed?) it necessary to requisition Police aid. If the accused and their companions had confined

themselves to bathing and had not given signs of a disposition to break the peace, it is most unlikely that such measures would have been found necessary.

14. It being proved that the common intent of the four accused and some others was to assert and enforce by force or show of force their right or supposed right of bathing before 9.30 A.M. and force having been actually used by one or more to the Police in pursuance of their common object, all the accused must be held guilty of rioting – section 146. I. P. C.

15. Coming to the defence which has been commented upon already, it is admitted both by the accused and many of the defence witnesses that they were all at the waterfall at the time of the occurrence and that at least three other Mysorians like accused were also present.

16. The plea that the first three accused went merely to perform their morning ablutions and that nothing in the way of a disturbance, unlawful assembly or riot had ensued has already been shown to have been

had subsided. Instead of that, he telegraphed to the Police to prosecute for rioting, ordered Mr. Henry up to try the cases, & passed what seems to me (& I see from the printed report that Mr. Best of the High Court is of the same opinion) was an illegal order under Sec 144 CPC. Still, there is nothing worse here than a mistake of judgment, & as the Hon Mr. Garstin says, Mr. Tremenheere seems not to be biassed in any way. We must now wait for the Dt. Mag's judgment & the result of the appeal.

JG
27/8

Council

Judl. DEPARTMENT

C No. 3436.

From The D.Mg. Tinnevelly

Dated 23d. August 1890.

FOR ORDERS.

To
26 Augt.

×× was tried by Mr Henry at Courtallam & not at Tuticorin – Possibly he delivered judgment at Tuticorin. but the Dewan in his letter of Aug. 17th says he had heard from Tuticorin of the conviction

26/8/90

When Mr Tremenheere got the Tahsildar's two reports on the 29th July, he was right in coming to the conclusion that disturbances were imminent at Courtallam, & that he, as District Magistrate, must prevent them. I think he ought, especially as the Dewan of Mysore was on the spot & H.E. the Governor had written about him, to have attempted to arrange matters by conciliation, & he could no doubt have done so, though perhaps not until the local excitement caused by the unduly exaggerated charge that a European gentleman had assaulted a Native lady with intent to outrage her modesty & dishonour h

The judgment of the Joint Magistrate has not yet been received but as it is presumed that H.E.'s are desirous of perusing the Dist. Magte's report it is sent on at once

Mr Tremenheere seems to me to have made 2 mistakes on his own showing. The first was in not publishing the grounds for issuing the notice under Sec: 144 C.P.C. along with it & the next in fixing 10 A.M. as the limit of the hour for Europeans to bathe. He recorded his reasons but I think the section requires the reasons for the order to form part of it. There was no doubt an unlawful assembly & the report of the Tenkasi Sub Magte shows that there was an intention on the part of those who attended the meeting on the evening of the 26th July "to withdraw the "concession in favour of allowing Europeans "to bathe which was tantamount to an intention to refuse to allow them to bathe. There were therefore all the elements of a disturbance. Mr Tremenheere's report is not one-sided and as he seems better in the Tahsildar, so far as he is personally concerned, an interested person – & He considers Mr Henry's sentence too severe. Apparently the case ××

26

Judicial Department.

Current No. 3436

1890

TINNEVELLY Dist. Magte's OFFICE

From

The Ag District Magistrate

Tinnevelly

To

The Chief Secretary to

Government, Judl. Depr.

Fort St. George.

Dated 23rd }
Received 26th } August 1890

No. J.
Case 7

ENCLOSURE Five

CHIEF SECRETARIAT
26 AUG 90

Subject

Submitting report called for on the case alleged rioting at Courtallam.

Mr. Clarke and pledging itself not to adhere to the Customary hours for bathing, it would have been harmless. But it virtually pledged itself to prevent Europeans bathing; and such a resolution, widely circulated as it was bound to be among an excited population, would probably have the effect of inciting them to prevent this by the force of associated numbers – that is, by an unlawful assembly. It seemed to me highly improper that the Magistrate of a village should join in such a resolution, and I called upon him for an explanation. I was not then aware that he was on leave.

14. It should be known that this is not an open pool. A Committee exists which every season, from the produce of fees, erects a high substantial screen, with a gateway; inside the screen are dressing-rooms, with doors which can be locked. It is also contended, I believe, that in the early years of the century, Europeans or at least the fee-payers improved the pool, and built the bridge which is the only means of access. I mention these things to show that not improbably a legal right may be held to vest in the Committee, to have an enclosure during certain months and to keep out strangers who do not conform to their rules, which though formulated by Mr. Lee Warner in 1884 have had existence for time out of mind.

15. Neither at the time I passed the order nor since, have I been in the least personally interested in the dispute. I have never bathed in the pool, and for medical reasons never can.

16. I can think of nothing more at present to tell Government, but if there is any point not cleared up I can do so on being required by telegram.

I have the honor to be,
Sir,
Your most obedient servant

H. Tremenheere.
Ag. District Magistrate

Deputy Commissioner of Shimoga, numbers flocked the next morning to the pool from places even so distant as Tenkasi and Shencotta. As to what actually happened there (as distinct from what was reported to me by the sub-Magistrate in his first report B) I can only refer Government to the findings of the Joint Magistrate. Owing to my rapid marches recently my letters have not caught me up, and I have not yet seen his judgment. I have telegraphed to him to send a copy direct to Government.

12. As to the trial, I have only to remark that of the 10 persons originally mentioned, the witnesses could recognize only 4, so this number alone were put up before the Magistrate; that they were defended by a barrister and two Vakils; that they were convicted and sentenced, in my opinion, to too severe a punishment (one month simple and 3 months rigorous); and that the Court of sessions has fixed the hearing of the appeal for the first day after the August sessions.

13. I have now only to report about the Village Munsiff of Tenkasi. Had the meetin [illegible]ined itself to resolutions condemni

about this phase of the episode. I dare say however that my confidential opinion may be expected, and it is this. Owing to an ambiguous phrase in a notice issued by Mr. Lee Warner in 1884 (Exhibit E) Mr. Krishna Ayer took his wife down to bathe in the hour set apart for "ladies". Mrs. Clarke going to bathe at that time, returned to call her husband, who met Mr. and Mrs. Krishna Ayer on a narrow path just below the path. An altercation ensued between the men, and it is the moot point whether Mr. Clarke shoved Mrs. Krishna Ayer on the back, or whether in turning round suddenly to resent some expression, his hand accidently touched that lady. This detail it is impossible now to decide. It is sufficient to say that it was exaggerated by rumour into a wanton and dastardly assault, and inflamed the whole country-side. An indignation meeting called the same evening, passed resolutions× condemning Mr. Clarke, but also asserting that Europeans had no right to use the pool, and pledging the meeting to make this good. In Consequence of this, and possibly encouraged by the presence at the meeting of Mr. Mahadeva K

Shaht [illegible] ourt is ever
[illegible] doubt that

× will be submitted direct from the Joint M-
-trate.

open to give redress. Up to the present, my order has not been declared illegal, and it certainly preserved the peace. That it is equitable, is shewn by its being in accordance with immemorial Custom.

9. I Can well imagine that Government may require more evidence of this than my simple opinion. I beg to refer then to Exhibit D in which the venerable Bishop Sargent noted as follows in 1884;

" I Concur in this petition, having had personal knowledge for nearly 50 years that European visitors during the season have had the use of the Falls up to a certain hour. This has been the *Mamool*".

10. I have now told Government everything of importance as far as my own action is Concerned. Owing to urgent duties elsewhere, I was unable to reach Courtallum until the 2nd August. Mr. Krishna Aiyer, I found, had withdrawn the aggravated Charges against Mr. Clarke, Confining his Complaint to simple assault. Soon after, both this and the Counter-Complaint were withdrawn.

11. Owing to this withdrawal, I am not able to tell Government anything cert

clearly inconsistent with the preservation of the public peace. I therefore, reciting the position of affairs, passed an order (C) under section 144 fixing the hours for bathing for Europeans up to 10 A.M. and inferentially giving natives the rest of the day.

8. I hardly know whether I should remind Government that this is perhaps preeminently the district for rioting, and that the executive Cannot afford for a moment to give it play. We have the Tengalai - Vadagalai disputes in Srivilliputur and Tirukurungudi, and a score of similar factions ever on the brink of an outbreak. The District Magistrate has to make frequent use of the preventive sections of the Procedure Code; and if he should neglect to do so, and allow the legal orders of the Police and the Magistracy to be laughed at by a disorderly mob, he would have a heavy responsibility to Government. On the other hand, thanks to effective action, there is notoriously less rioting in this district of late, and the Executive may fairly claim the moral support of Government. If any order under the Prevention Chapter is illegal, the High Court is ever

6. I

) it appeared to be beyond doubt that

the ten persons had formed an unlawful assembly and had Committed rioting. I therefore telegraphed to the Sub Magistrate to direct the Police to Charge them for rioting; and as the Joint Magistrate would be on the spot enquiring into Connected matters, I directed him to dispose of this Case also.

7. My next duty to Government was to ensure that no further breach of the peace should ensue. As matters stood, such breach was distinctly probable. Courtallum was filling up for the season — Europeans by long custom had acquired a legal right to bathe — and if they should continue to be stopped, a breach of the peace would be nearly certain. Nor was this the only contingency. Even supposing that the natives had thought better of their intention to stop Europeans bathing, and merely went themselves to bathe at the same time, the public peace would certainly be broken; for it would be unlikely that Europeans would quietly allow native men to bathe along with European ladies, or that natives would allow European men to bathe along with the wives and daughters of the natives. Such a state of things would

Magistrate, to proceed to Courtallum to try the Case.

. As report B (para 4) shewed that Mr. Clarke as about to institute a complaint for an assault pon his wife against a Pandaram (a Sudra scetic) I directed Mr. Henry to dispose of this Complaint also, as it was Connected with the other.

5. I must refer the Government to report B (dated 27th) in extenso. I learnt from it that for more than half a century the rule had obtained that during the season Europeans alone had bathed until 10* A.M. — that the pool had been enclosed with a screen — that a meeting of 50 persons had determined that Europeans should not bathe (para 1.) — that in fear of a "row" Police had to be stationed there and the Magistrate had to be present — that on the 27th ten persons had Come with sticks (para 2.), disobeyed the lawful orders* of the Police and pushed aside a Constable — that the Magistrate himself (para 3) had in vain ordered them to disperse — and that, on this, a crowd of other persons poured into the enclosure, whose entrance it was not possible to prevent "without Coming to blows."

* This should have been 9.30

* Under section 127.

6. From this report (supposing it to be ut) it appeared to be beyond doubt that

Jud C No 3436

No. I
Camp

Tinnevelly District Magistrate's
Camp Ambasamudram, 23rd August 1890.

From J. H. A. Tremenheere Esqre
Ag. District Magistrate of Tinne

To,
The Chief Secretary to Government,
Judicial Department, Fort Saint Ge

Sir,

I have the honor as required by telegrams of the 20th and 22nd instant to submit a report as to the late alleged rioting at Courtallum.

2. On the 29th September when I was in Camp at Ettiyapuram, Otapidaram Taluk, I received the enclosed reports (A and B) from the Tahsildar Sub Magistrate of Tenkasi, which had been addressed to Tinnevelly.

3. The earlier report dated the 26th (A.) submitted a Complaint put in by Mr. Krishna Aiyer of Cuddalore against Mr. Clarke for assault under sections 352, 354 and 355 (Simple assault; assault to outrage modesty; assault to dishonour) alleged to have been Committed against Mr. Krishna Aiyer's wife. Mr. Clarke being a European British subject, was not liable to be tried by the Sub Magistrate or even by Mr. Varada Rao, Head Assistant Magistrate: I therefore was obliged to order Mr. Henry, the Joint

native
would

---

certain sacred days. It seems to me that all that

24

E

Mr. Lee-Warner's notice. 1884.

Enclosure in a letter of the Dist. Magistrate of Tinnevelly No. I/Camp dated 23rd August 1890.

Jud 3436/1/90

1 13 E

Notice

Hours for bathing at the Courtallam Falls.

For Ladies until 8 A.M.
" Gentlemen 8 to 9.30 A.M.

The Huts are available for Native Gentlemen on paying Rs. 10. from 9.30 to 11 A.M.

A strict adherence to the above hours is respectfully requested. The Police Peon will keep away all Natives up to 9.30, after which the Falls are open to all.

The Kavilgar in charge of the Huts is directed to open them every morning at 6, and lock them at 11 o'clock. If there are no Native Subscribers, the Huts will be locked at 9.30 A.M.

The Huts will again be opened by the Kavilgar from 5 to 7 o'clock in the Evening, for the use of subscribers who may wish to bathe at those hours.

By Order
J. Lee-Warner
Collector

Courtallam
1st September 1884.

True Copy.
H Tremenheere
A.C. 11.9.90

---

certain sacred days. It seems to me that all that is required is some standard of time to regulate the bathing. If a gong were struck at 9. or 9.30 all would know & follow the order of the day.

Edw Sargent, Bp

D

Petition of 1884,
Showing Bishop
Sargent's evidence

Enclosure in a letter
of the Dist Magte
of Tinnevelly, No. I Camp
dated 28th August /90

Jud ~~3436~~ 190

John B. Macfarlane

T. Clarke

M. Clarke.

M. Thomas

F. E. Thomas.

A. H. Cavalier

M. Cavalier

A. H. Lowry.

M. Lowry

A. E. Cary

Mary F. Clark.

A. S. Colvin Clarke.

Jas. A. R. Clark

A. M. Hayes

A. H. Sharp.

V. W. Harcourt.

M. C. Harcourt.

T. Kember

Mrs. Kember

A. Bredin

E. M. Sargent. Bp. I concur in this petition having had personal knowledge for nearly 50 yrs that European Visitors during the season have had the use of the Falls up to a certain hour — This has been the mamool & Visitors have readily abstained from going to the Falls on

---

this year, as the enclosed copy of regulations dated 1882 will show, which have had the sanction of Collectors for the last fifty years —

The passage of Horsekeepers & other low caste people has before been objected to, and decided against the temple people. In 1880 stones were put up to debar the entrance of horses to the pathway leading past the temple & were removed on the order of Mr. Pennington the then Collector establishing the right of way.

The visitors therefore beg the Collector to order a search for previous orders in the matter, & in the meanwhile to take such steps as may seem necessary to maintain the previous regulations —

Mary Thomas

A. Hayes.

A. M. Sanderson

S. A. M. Sanderson

[illegible] 9-9-84.

No 2086

COURT FEE
GOVERNMENT OF INDIA
EIGHT ANNAS

COLLECTORS OFFICE

Courtallum

Sept. 1st. 1884

From the European Visitors at
Courtallum

To the Collector of
Tinnevelly

The Collector of [illegible] said to the ~~[illegible]~~ at the instance of 2nd Clerk Courtallam [illegible] acts as [illegible] [illegible] of the rules referred to in [illegible], is the it was notified that the Europeans would bathe at the falls at 9.30. ~~[illegible]~~ [illegible] was people informed that this would be sufficient to [illegible] [illegible] nothing. ~~The~~ The [illegible] done not follow the [illegible] [illegible] [illegible].

Sir-

The Temple people having petitioned the Collector regarding the reserving of the Waterfall for European visitors during certain hours, have without waiting for the Collector's orders in the matter taken the law into their own hands & forcibly entered the bathing enclosure during the hours reserved for Europeans. The repetition of this action is likely to involve a breach of the peace-

The petition of the Temple people is based on misrepresentation of facts, no innovation having been made in the bathing regulations by the visitors

---

C

Order under Section 144. C.C.P.

Enclosure in a letter of the Dist. Magistrate of Tinnevelly No $\frac{I}{Camp}$ dated 23rd August 18

Fil 3436/3/90

morning.

(Signed) J. H. A. Tremenheere
Ag Dist Magte

29.7.90.

(True copy)

J H Tremenheere
Ag Dist Magistrate

Order under section 144. C.C.P.

Whereas I learn by a report from the Tahsildar Submagistrate of Tenkasi that rioting took place on the 27th instant at the Courtallam waterfall,

and whereas I have reason to believe that rioting may take place again unless hours be fixed for the different classes of people to bathe therein,

and for this end immediate prevention or speedy remedy is desirable to prevent obstruction and annoyance to persons lawfully employed in bathing and to prevent a riot,

the case being emergent, I hereby pass the following order under section 144, C.C.P. viz.

Order to the public frequenting or visiting Courtallam

For two months from this date I direct that all persons being natives of India shall abstain from bathing in the Courtallam waterfall before ten o'clock in the

---

Copy of Report No. 54
27-7-90

Dis. 58
27

B

Sub Mag^s report
27 July

Enclosure in a letter of the District Magte of Tinnevelly, No. J/Camp dated 23rd August 1890.

3436
4/9/90

2/

honor I shall try my best to prevent a breach of the peace. It is the wish of all that your honor should come & settle the affair. The Mysore Dewan told me that he is going to write to your honor about this.

I beg to remain
Most Honored Sir
Your Most Obedient Servant
(Sgd.) R. Narasimhaloo
Intr 2d Class Magte
27 – 7 – 80

(True Copy)

Tahr & Magte

No. 56

To
The District Magistrate
of Tinnevelly

Report of the Tahsildar 2d Class Magistrate of Tenkasi

Most Honored Sir

I beg to state that since sending the complaint of Kristnier against Mr. Clarke to your honor I heard some of the leading men who are come here for the season & some persons of the town, all about 50 people, held a meeting at 6. P. M. in the Mantapam at Kuthalam, south of the temple, presided over by Subramania Pillai, Mittadar of Sivanadanur living at Ilangi & passed resolutions, censuring the conduct of Mr. Clarke, & resolving to withdraw the concession as they call it, made in favour of European gentry in allowing them to bathe in the falls till 10. A. M. on account of the conduct of Mr. Clarke. They left the meeting with a determination to go to the falls the next morning during the hours set apart for the European gentry. This seemed to me as if some row would take place. I then sent for the Head Constable who told me that he was also likewise informed & that he received a note from Mr. Clarke asking him to detail a constable for duty as usual. I then told him to go himself promising that I would also be there.

2. This morning the Station House Officer

went to Kuttalam with two constables to see that no breach of the peace occurs. Few people belonging to the Mysore Dewan's party came to the water falls with sticks at 6 A.M. & wanted to get into the enclosure. The Police constables told them that admission to natives was only after ten & that they should not go inside. They pushed aside one constable & went to the falls. The Police Head Constable apprehending a breach of the peace if European gentry were to come there for bath wrote to me a report, which I received when I was talking to the Dewan about this. I represented to the Dewan how such a course was likely to end in a rioting & how it could be avoided if the people had only patience to wait the orders of the Collector, to whom I heard they sent a copy of the resolutions. I also explained to him that because Mr. Clarke assaulted a woman, other gentlemen cannot be made to suffer & that a respectful request to your honor will be the most advisable course, instead of people trying to break the rules, which have been observed for more than half a century. The Dewan said that he also advised the people to the same effect but being excited at yesterdays' incident they are obstinate in having their own way.

3. As soon as I received the note of the Station House Officer as soon as I was informed by the constable that European gentry wished to have a bath & have come there, I requested the Deputy Commissioner with the Dewan to ask his men to clear. He sent a messenger to his people at the falls. I directly went to the falls. I met near the temple on their way back from the falls Mr. & Mrs. Clarke, Mr. Bazin & another gentleman, who told me that the rules with regard to bath have all been broken & that the Police are unable to keep off people from getting inside. Thinking the messenger from the Dewan's camp was going to send off his men I told the gentry that I would clear the place & that they can have a bath. I came to the falls & asked the people to make haste & go; they would not do so. I asked the messenger why he did not communicate the instructions & whether he was not asked to tell them go. He replied that he was ordered to inform his people to have their bath & then go. We waited for half an hour. There was no chance of their going out. People (not belonging to Mysore) on the contrary, poured into the enclosure from the other side of the screen, which had been washed away by floods & it was not possible to prevent their entrance without coming to blows. Mr. Clarke said that the rules ought to be enforced at any cost & that he urged the strongest protest against the breaking of the rules issued by constituted authority. I replied

~~that~~ it is better to yield than to give occasion for any breach of the peace where the people are said to be excited & that I would be blamed should any rioting take place. They approved of what I said & asked me to place the whole matter before your honor. All of us left the place without giving occasion to any sort of unpleasantness.

4. Mrs. Clarke told me that soon after the row complained of by Kristnier yesterday (of which a different version is given by that lady) she was passing the bridge in order to go & call Mr. Brasier for assistance, when a pandaram (a Vellalah Sanyasi) name not known came & stood in front of Mrs. Clarke & pushed her back with his elbow. Mrs. Clarke told me that she is going to prefer a complaint about it.

5. A wrong idea has got into the head of some people that your honor does not like to enforce the rules except in the way of persuading natives to keep back at those hours. As they think & say that the rules are not binding on them & as the incident of yesterday has given pain to the leading men, there is no chance of my persuading them to respect the rules & allow European gentry unmolested in the enjoyment of their right at any rate until the excitement is a little abated.

Pending ~~the~~ solutions of the question by your honor

12

Sub Mag's report
26 July

Enclosure in a letter
of the District Magte.
of Tinnevelly, No J/camp dated
28th August 1890.

To
The District Magistrate
Tinnevelly

Report of the Sub. 2nd Class Mag.
Tenkasi

Dis. 53
26-7-90 Enc — 1.

Submitting the complaint
of B. Kristnier of Cuddalore
now at Kuttalam [illegible]
Mr. T. Clar[illegible]
~~under~~ Sections 35 [illegible]
Section 448 of [illegible]

TREASURY DY COLLECTOR
28 JUL 90
TINNEVELLY

S.S. 6

No. 53

One — one

A

Sm. was not competent to receive the complaint. He sh/d have returned it with an endorsement ~~stating~~

H. 29.7.90.

To
The District Magte
Tinnevelly.

Report of the Tly 2nd Cl. Magte
Tenkasi Taluq:—

Sir,

I beg to submit herewith a Criminal Complaint presented by B. Krishna of Cuddalore now at Kuttalam, accusing Mr. J. Clarke with offences under section 352, 354 and 355 of I.P.C. I took sworn dep. from him and submit it for your Honor's disposal, as Mr. Clarke is a European British subject (section 443 of C.P.C.). I learn that the complainant is a first grade pleader of South Arcot District & is come to Kuttalam for the season.

I beg to remain,
Sir,
Your most obdt servant
B. Narasimhiah
2nd Cl. Magte
26th Jul/90.

Proceedings of the meeting held at the Trikuda Mantapam. Courtallam Temple.
On the 26th July 90 at 6.30 P.M.
with reference to the matter of bathing in the falls at Courtallam.

Present.

Names

M.R.Ry R. E. Krishna Ayer al B.A. B.L. High Court pleader.
Do. Srinivasa Ayer al — do —
Do. Sundararaja Pandithar al Elathur
Do. Subramania Sastri al. Mathur-Mandavam —.
Do. Andi Ayer al
Do. Ramakrishna Ayer avergal Elanji coil trustee
Do. Rama Ayer avergal. Village Munsif
Do. Anantha Krishna Sastri al
Do. N. Venkatarama Ayer — "
" R. Mothatri Row — "
" I. Subramania Pillai — "
" A Subramania Pillai Elanji Kovil trustee.

M.R.R. Kanagu Muttaya Pillai avergal
Courtallam Covil trustee
,, Trikuda Rajappa Kavirayar al
,, Sankaralingam Pillai — ,,
,, Chidambaram Pillai — ,,
,, Kuttalanatha Pillai — ,,
,, Avudainayagam Pillai — ,,
,, Velayutham Pillai — ,,
,, Kandasamie Pillai — ,,
,, Muttusamie Pillai — ,,
,, Kandappa Mudaliar — ,,
,, Meenatchesundaram Pillai — ,,
,, Chellam Pillai — ,,
and several others.

Proposed by M.R.R. Trikudarajappa Kavirayar al and Seconded by M.R.R. Conagu Muttaya Pillai al & carried out unanimously that M.R.R. T. Subramanien Pillai al be requested to be president and M.R.R. Sankaralingam Pillai al be requested to be secretary to this meeting

2. Proposed by M.R.R. Rama Ayer al and seconded by M.R.R. Thirisundararajappa Kavirayar al that in the opinion of this meeting the action of Mr. T. Clarke Coffee planter in placing his hand on the back of a respect~~able~~ful native lady and pushing her off while returning from the falls after her bathing this morning was very improper opposed to the rites and privileges of females according to the rules of Etiquette observable by our community and calculated to reflect dishonour upon all the members of our community.

Carried unanimously

3. Proposed by M.R.R. Audi Ayer avergal and Seconded by M.R.R. Rama Ayer al that in view of the following considerations namely:—
That the said Kuttalam falls held to be holy serve to perform sacred rites appertaining to the temple &

the members of the Hindu community resorting to it,

That, though Europeans have no such rites and are not therefore entitled to use the falls on that score, yet in consideration of the loyal feelings actuating us towards the British nation no serious objections have been raised to their having their early morning bath through over riding our needs,

That in years past large number of Europeans resorted to the place. the season being in its full swing, but of late the season is grown very indifferent and the Europeans resorting to it are very few, the only permanent inhabitant being the said Coffee planter,

That even in this by far reduced extent of its utility to the Europeans most often limited to the convenience of but one member, the religious needs of the temple, of the people in the neighbourhood, of the many seeking the place on pilgrimage that should be attended to in the mornings remain suspended till past 9.30 A.M. on account of the prevention of the Police peon, the Kavalgar and the thottie even though the said convenience is not continuously for the whole times, is very often only for a short time and is sometimes not at all availed of.

That it is a matter much to be regretted that thus the convenience & caste observances of the many are brought into jeopardy.

That the latrine arrangements so near the Sacred falls for the convenience of Europeans have positively inflicted a deep wound on our religious susceptibilities.

That in view of these considerations and also what had been done this morning by the Coffee planter and with a view to prevent similar mishaps from similar tempered people to members of our community, Provision should be made to safeguard individuals against such indignities

Carried nem con.

4. Proposed by Mr R.R. Muttusami Pillai al and Seconded by Mr R.R. C. Subramanie Pillai al that though it appears that there is a notice fixing the hours of bath for Europeans it likewise appears that the same has been framed for convenience & is neither law nor has it the authority of any law; further it has been made the handle for such a bad conduct towards the said Hindu lady As it therefore does not appear that we should feel ourselves bound by the notice, the Collector be informed of these particulars

Carried nem Con.

5. Proposed by Mr R.R. Subramania Sastrial al & seconded by Mr R.R. Vencataramana Iyer al that a copy of these proceedings be respectfully submitted to the patriotic statesmen now at this station

Carried nem. Con.

With a vote of thanks to the chairman the meeting terminated

(Sgd) T. Subramanie Pillai
Chairman.

(True translation)

(Sgd) T. Sankaralingam Pillai
Secretary

(True Copy)

C.R. [illegible]

[illegible] Send this (taking [illegible]) to Govt [illegible] special messenger if the post has [illegible]

Ex B in C.C. 41 of 1890 on the file of the Joint Magte of Tinnevelly.

No. 1697 Tinnevelly Dist. Magte's office
Camp Ambasamudram 24th August/90.

(Go 3456)

From,

J. A. A. Tremenheere Esquire
Ag. District Magistrate,
Tinnevelly.

To,

The Chief Secretary to Govt.
Judicial Dept.
Fort St. George.

Sir,

In continuation of my letter No. $\frac{1}{\text{camp}}$ dated 23rd instant, I have the honor to forward herewith copy of Joint Magistrate's judgment in Case No. 41 of 1890 (Courtallam rioting case) together with a copy of Proceedings of the meeting held at Tirikuda Mantapam in Courtallam.

I have the honor to be
Sir,
Your most obedient Servant
H. Tremenheere
Ag. District Magistrate

Circulated in continuation of papers submitted yesterday

27 Augt.

Seen. The 2 sets of papers Wd. be re-circulated together for disposal.

25/8/90

I think we must await the result of the appeal before passing orders

28/8

Judicial Department.

Acc 3456

E

1890

TINNEVELLY Dist. Magte's OFFICE

From
The District Magte.
Tinnevelly

To
The Chief Secretary to
Government
Fort St. George.

CHIEF SECRETARIAT 27 AUG 90 GOVERNMENT OF MADRAS

Dated 24 } August 1890
Received 27 }

No. 1697

Enclosures 2

Subject

Forwarding in continuation of this Office letter D/camp of 23d Instt a copy of Joint Magistrate's Judgment in Case No 41 of 1890 (Courtallum rioting Case) together with a copy of Proceedings of the Meeting held by the Natives.

u 27-8.

Telegram Ordinary
To Dt. Mr. Tinnevelly

Wire without delay ~~day~~ exact day that ~~[illegible]~~ the appeal to Sessions Court is to be heard. Have prisoners been released on bail. If ~~[illegible]~~ not have instruct Public Prosecutor to apply to Court to admit them to bail. In any case wire result of appeal.

(By order of H.E. in C.)

29 Augt.

Dsd. 29.8.90

Ordered that the following Telegram be sent to the D.M. Tinnevelly

No. 368. Wire without delay exact day that appeal to Sessions Court is to be heard. Have prisoners been released on bail. If not instruct Public Prosecutor to apply to Court to admit them to bail. In any case wire result of appeal.

(Sd) J.F. Price

Courtallam Fracas

Telegram ~~to~~ from ~~District~~ District Magistrate Tinnevelly

Reference

Cw. 3482

INDIAN TELEGRAPHS

Code Class. XS

Monthly Number. 1026

To (Office) Ootacamund

From (Office) Palamcottah

Words.	Day.	Hour.	Minute.	Official Instructions.
17	29	13	10	urgent

To (Person) P. S. Madras

From (Person) District Magistrate

CHIEF SECRETARIAT 29 AUG 90 GOVERNMENT OF MADRAS

Judge says he will endeavour to hear courtallam appeal tomorrow

Circulate

for

29/8/90

Mr. Tremenheere wires to the Pl. Secy. & does not reply to the Chief Secy's question ~~relating to the~~ release of the prisoner on bail which is the chief point

Recd. from L.N. Sent to L.N.

At Hrs. Mts. by OOTACAMUND 29-8-90 Hrs. Mts. by

Telegraph Master.

64 Word Form.

F. C. 2.

G. W. Allen and Co.—No. 109 T.—20-11-89—18,00,000.

Circulated under instructions of H.E. the Govr.

T.

29 Augt.

CURRENT No. 3482

[9] Judicial DEPARTMENT.

Telegram

ORDER

Depd 30/8

Telegram to District Magistrate Tinnevelly -

My telegram No. 368 of yesterday. Reply sharp

From

The Distt. Magistrate
Tinnevelly

No.

Dated 29th Augt. 1890
Received
Enclosures

SUBJECT.

Stating that the ~~appeal in the~~ Courtallam appeal ~~will be heard~~ Tomorrow.

Judgt. will [illegible] 12th [illegible]

In the Court of the Joint Magistrate of Tinnevelly.

CALENDAR CASE No. 41 OF 1890.

COMPLAINANT.

QUEEN EMPRESS.

Witnesses.

1. Subramania Pillai, Station House Officer.
2. Subramania Pillai, Constable No. 646.
3. Sankaralingam Pillai, Constable No. 874.
4. Narasimhalu Aiyar, Tahsildar and 2nd class Magistrate of Tenkasi.
5. Sankaralingam Pillai.
6. Mr. V. B. Madhava Row, Dy. Commissioner of Mysore.

Defendants.

1. Papa.
2. Lingana Naick.
3. Hussun Khan.
4. Sami Sastri.

Witnesses.

1. Mr. J. H. A. Tremenhere, Collector and Dist. Magistrate of Tinnevelly.
2. H. Taylor, Inspector of Tenkasi.
3. Madappan.
4. Subbu Tevan.
5. Abbadurai Aiyar.
6. Narayana Aiyar.
7. Srinivasa Aiyar.
8. Krishna Aiyar.
9. Krishnasawmi Aiyar.
10. Seenia Pillai.
11. Madsami.

Offence.

Being members of an unlawful assembly and rioting, Sections 143 and 147 I.P.C.

Finding Guilty

Sentence 4 months' imprisonment, the first month to be simple and the remaining three rigorous.

JUDGMENT.

1. The four accused are charged with having in conjunction with others not arrested, on the 27th July last, formed members of an unlawful assembly and committed rioting, Sections 143 and 147 I.P.C.

2. The facts of the case are briefly these:

At the waterfall at Courtallum, Europeans as well as Natives, are wont to bathe—the Europeans till 9-30 A.M. and the Natives during the remainder of the day. On the morning of the 26th July, a disturbance occurred at the "Falls" in which Mr. Clarke, a local planter, is alleged to have assaulted the wife of one Krishna Aiyar. On the same evening a meeting was convened at which resolutions (Exhibit B) were passed expressing indignation at Mr. Clarke's conduct and discussing the rights of the Europeans and Natives to resort to the waterfall before 9-30 A. M.

In consequence of these resolutions and the excitement which prevailed, the Tahsildar Magistrate thought it advisable to despatch constables to the waterfalls as he apprehended a breach of the peace in case the Europeans insisted on their right of bathing. The Station House Officer and two constables prosecution witnesses (1), (2) and (3)—were detailed on this duty and proceeded to the waterfall at 6 A. M. on the morning of the 27th July. Mr. Clarke also apprehended some disturbance that morning and requested the presence of the Police. Shortly after the arrival of the Police, the four accused with six other Mysoreans—adherents and employés of the Dewan of Mysore who was at the time making a stay at Courtallum—came to the "Falls" with a view to bathing, some of them with sticks in their hands. The Police, fearing that if Mr. Clarke or any of the Europeans should come to bathe, a riot might ensue, ordered the Mysoreans not to enter the bath till after 9-30 A. M.; but the words of the Police were not heeded. Constable No. 874 prosecution 3rd witness was pushed aside, the four accused with the other Mysoreans entered the enclosure erected around the bathing place and proceeded to bathe. The Station House Officer at once despatched the report (Exhibit A) to the Sub-Magistrate who had also arrived at Courtallum to concert measures for the preservation of the peace. The Sub-Magistrate received the report (A) before 8 A.M. and proceeded to the waterfall at once. He found that the bathing place was in the possession of the four accused and other Mysoreans while other strangers and people of the neighbourhood were pouring in numbers into the enclosure. Mr. Clarke and other Europeans had in the meanwhile arrived to bathe. The Sub-Magistrate apprehended a breach of the peace if Europeans insisted on their right to bathe and order the accused and the others in the bath to disperse, but they refused to listen to him. From their attitude and general behaviour, the Sub-Magistrate concluded that they had come to the bath with the determination to use force and commit rioting in case the Europeans maintained their right of bathing before 9-30 A. M. He advised the Europeans therefore not to enter the bath but to retire and thus avoid any breach of the peace promising at the same time to lay the whole case before the District Magistrate. The Europeans retired without being able to indulge in their usual morning bath. The Sub-Magistrate also left the spot and on the same day wrote and despatched his report (Exhibit C) to the District Magistrate describing in detail the occurrence at the "Falls."

3. These are the main facts on which the prosecution is founded.

4. The plea of the accused is that 1st, 2nd and 3rd accused—peons in the Dewan's service—went simply for the purpose of bathing at about 6 or 6-30 A.M., and were allowed to enter the bathing place unmolested. They took their bath and left no rioting or unlawful assembly having taken place.

5. It is not denied on behalf of the accused that the European residents have the right of bathing at the waterfall, nor is it denied that a custom obtained for some years for the Europeans to enjoy the bath to the exclusion of the natives up till 9-30 A.M., every morning except on the occasion of a festival. In consequence of squabbles and difficulties in the way of Natives and Europeans bathing together at the waterfall a *modus vivendi* was established by Mr. Lee-Warner by the issue of a notice in 1884 prescribing certain bathing hours exclusively for the Europeans (*viz.*, till 9-30 A. M.,)—the remainder of the day being allotted exclusively for the natives, whether this notice was issued by Mr. Lee-Warner in any official capacity or not, matters very little, but it is plain from the Proceedings of the meeting (Exhibit B.) that this arrangement of 1884 was acquiesced in and adhered to without demur or protest ever since by the natives of the locality as well as Native visitors to Courtallum. Accommodation for European bathers has been provided at the waterfall and enclosure erected in front of it to secure the privacy of European lady bathers.

6. Proceeding to the analysis of the evidence offered on both sides, the first element of offences punishable under Sections 143 and 147 I.P.C. consists in five persons at least combining for an unlawful purpose. That there were five Mysoreans at least at the waterfall that morning is established not only by the evidence of the prosecution but also by that offered by the defence. The report A mentions ten Mysoreans; the Sub-Magistrate swears to five at least; one of the defendants, (3rd defendant Hussun) admits the presence of five and one of the defence witness (seventh) corroborates him. Three Brahmin cooks defence witnesses (5) and (6) and another not examined are also proved by the defence to have been present just before the riot occurred.

7. The next element is the unlawfulness of the common object which brought the four accused and their fellow Mysoreans to the waterfall. This is the most important point in the case. The accused assert that there was nothing unlawful in their presence there and their presence was due solely to their desire to enjoy according to their usual custom, their early morning bath. The prosecution contends that they and the other Mysoreans had come with the common unlawful object of asserting a right or supposed right to bathe during the hours allotted for the Europeans under Mr. Lee-Warner's notice and of enforcing that right if necessary by force or show of force. The prosecution does not also absolutely deny that the accused or natives in general may have a legal right to use the bath before 9-30 A.M. or that they supposed that they had such a right, but what is asserted is that a custom had prevailed with the consent of all parties by which the waterfall before 9-30 A.M. had been reserved exclusively for the European residents, and that the wanton breach of this custom by the accused for the first time on the morning of the 27th July is one of the many facts evidencing the unlawfulness of their common intent.

8. To judge whether the unlawful intent above stated was entertained by the accused and the other Mysoreans we must consider the events of the previous day, the tenor of the resolutions passed at the meeting, the attitude and general behaviour of the accused at the waterfall, and the impressions which the acts of the accused made on the minds of the local authorities.

9. It is admitted that the assault which Mr. Clarke is alleged to have committed on the 26th on the wife of a Brahmin, Vakil Krishna Aiyar, had aroused amongst the people feelings of excitement and indignation which found vent in the resolutions passed at the meeting held on the same day. In the 3rd proposal of the meeting the respective rights of the Europeans and Natives in regard to the use of the waterfall are reviewed and Mr. Clarke's conduct commented on. A resolution is thereupon passed in the following words :—

“ That provision should be made to safe-guard individuals from such indignities” (as the one perpetrated by Mr. Clarke). The penultimate resolution is that, in consequence of the notice of Mr. Lee-Warner being issued only for the convenience of Europeans, as it has not the sanction of law, and as it was made use of by Mr. Clarke to commit the assault on a Hindu female. “ It does not therefore appear that we should feel ourselves bound by the notice and the Collector be informed accordingly.” Taking these two resolutions with the admission in the proceedings that Europeans were up to that date in the possession of the privilege of using the waterfall up till 9-30 A.M. to the exclusion of the natives, and considering the conduct of the natives in general (led by the accused and their fellow Mysoreans assisted afterwards by a crowd of 30 or 40 natives of the locality and native strangers) in the very next morning assuming possession of the bath at the waterfall from the early hours of 6 or 6-30 A. M. notwithstanding the orders of the Police and Magistrate it is an absurdity to allege that there was no common object amongst the five or more Mysoreans at the “ Falls ” or in fact amongst the assemblage of natives who followed their example by crowding into the enclosure, it is idle to contend that the conduct of the Mysoreans including the accused resorting to the bath so early as 6 or 6-30 A. M. was innocent, that the Mysoreans at least had come early to perform their morning ablutions and that they had not come for the set purpose of carrying into effect the resolutions passed the previous evening setting at naught Mr. Lee-Warner's notice of 1884, and putting an end to the arrangement or custom which has obtained since. It seems to me a most justifiable inference to make (seeing how soon the acts of the accused succeeded the meeting and how exactly they corresponded with the resolutions passed) that the accused with the other Mysoreans had acted as they did only in consequence and under the influence of the resolution of the meeting.

10. Why the accused and the other Mysoreans should have figured so prominently in the riot is explained by the fact that a Deputy Commissioner of Mysore, M. R. Ry. Madhava Row had taken part in the meeting and that the final resolution was to communicate the result of the meeting “to the pariotic statesman now at the station” referring evidently to the Dewan of Mysore. The accused and the other Mysoreans being servants or protegés either of the Deputy Commissioner or of the Dewan naturally concluded that it was their duty to put into effect the resolutions of the meeting which appeared to them to have had the sanction of their masters. It is only just to say (and the circumstance affords another illustration of how the resolutions of the meeting were responsible for the commotion of the next morning) that after the riot, the Deputy Commissioners wrote objecting to the tone of some of the resolutions as too strongly worded and advising a conciliatory attitude.

11. All these facts completely refute the theory of the defence that the accused has resorted to the “ Falls ” simply for their usual morning ablutions.

12. That the accused intended by force or show of force to assert the right or supposed right of the Natives to bathe before 9-30 A.M. is evidenced by the actual use of force to the Police and by some of them carrying sticks and by their acting as shown above in pursuance of a resolution to the effect that individuals were to be safe-guarded against indignities inflicted by any European. At the time a great feeling of excitement and indignation prevailed, directed particularly against Mr. Clarke and the other Europeans generally using the bath.

The accused must have been aware of the events of the previous day and of the extreme probability of the Europeans coming to bathe. Their attitude in nevertheless possessing themselves of the bath and refusing to leave it in spite of the advice and orders of the Police and the Magistrate and in the face of the European gentlemen who has as stated in Exhibit B come to bathe—all indicate an intention to maintain their right or supposed right by force or show of force.

The Deputy Commissioner himself admits that when he heard of his men, the accused being at the waterfall he feared owing to excitement which prevailed amongst the people that if they were interfered with in their bathing, they would commit a breach of the peace and he went so far as to despatch a messenger to advise them not to offend against the law. The reason why a very serious riot did not ensue was not because of the peaceful intention of the accused, but because of the wisdom of the Europeans in not insisting on their privilege or custom of bathing and in their retiring on the Sub-Magistrate's advice without enjoying the pleasure of a bath at all.

13. Again the conduct and behaviour of the accused so impressed the Station House Officer to induce him to send the report (Exhibit A) calling for the aid of the Magistrate and so impressed the Magistrate that in order to avoid a riot, he advised the Europeans not to have a bath and that he felt it his duty to bring immediately the riotous acts of the accused to the notice of the District Magistrate by his report (Exhibit B). Mr. Clarke also desired it necessary to requisition Police aid. If the accused and their companions had confined themselves to bathing and had not given signs of a deposition to break the peace it is most unlikely that such measures would have been found necessary.

14. It being proved that the common intent of the four accused and some others was to assert and enforce by force or show of force their right or supposed right of bathing before 9-30 A.M. and force having been actually used by one or more to the Police in pursuance of their common object all the accused must be held guilty of rioting, Section 146 I.P.C.

15. Coming to the defence which has been commented upon already it is admitted both by the accused and many of the defence witnesses that they were all at the waterfall at the time of the occurrence and that at last three or other Mysoreans like accused were also present.

16. The plea that the first three accused went merely to perform their morning ablutions and that nothing in the way of a disturbance, unlawful assembly or riot, had ensued has already been shown to have been refuted by the evidence for the prosecution. It was for the defence to prove this plea, but the defence evidence on the point is unreliable where it is not vague, useless and irrelevant. The witnesses are persons who are either interested in accused's behalf or were present indirectly aiding and abetting the accused's act or who came to the scene of the disturbance after it had nearly all subsided.

17. The first, second, and third accused in their statements partially admit the case for the prosecution that the Police were at the "Falls" and warned them not to enter the bath but that they seeing others bathe insisted on bathing also.

18. It was argued that if the accused and the other Mysoreans had come armed, the sticks would have been seen by the Magistrate and seized by the Police, but first accused admits himself that he had a stick (a very usual appurtenance of a peon going to perform his morning ablutions) yet it was not seen by the Magistrate nor seized by the Police. The argument is deprived therefore of its force. The sticks were in the bathing huts. First defendant admits he was on the bank near the huts.

19. Comments were also made on the omission of the Police to arrest the other Mysore people if any others had been present assisting the accused, but others were present is admitted even by the defence and the Police state that they could not see the others amongst the Dewan's or the Deputy Commissioner's servants at the time of the arrest. As the identification of those concerned was not effected till some four days after the offence, it is not impossible that though the report A says that identification of the offenders could be effected, the Police may, through lapse of time have experienced some difficulty in identifying them.

20. The delay in the prosecution of the case which was much relied on by the defence as a point in favor of the accused is also accounted for. The Police and Sub-Magistrate made a reference to superior authorities for orders before taking steps against the offenders.

21. Discrepancies stated to exist in the evidence of the Station House Officer and the two constables in regard to the use of force are pointed out by the defence as belying the story of the use of force. In cases of disturbance and rioting, it cannot be expected that the evidence of the witnesses will exactly tally. On the contrary, some variance in the statements is natural. But the Station House Officer and the two constables have sworn to the use of force towards third prosecution witness and the first report A mentions the fact.

22. I find the four accused guilty of the offences charged.

23. Though the riot was only a little more than a technical one, I consider the conduct of the accused should be visited with a severe punishment in having wantonly broken through a rule or custom which had hitherto worked harmoniously and which had reconciled to the satisfaction of all parties the contending rights and privileges of the Europeans and the natives in regard to the use of the waterfall in having set an example likely to lead to constant difficulties and likely to imperil the future maintenance of the public peace in the locality.

24. I accordingly sentence each of the accused to four months' imprisonment and direct that for the first month it be simple and for the remaining three rigorous. I further direct under Section 106 C. C. P. that each of the accused do execute a bond personally for Rs. 50 with surety each in the same sum to keep the peace for two months.

Signed C. E. HENRY,
Ag. Joint Magistrate.

16-8-90.

(True Copy.)

LAWRENCE ASYLUM PRESS—1890.

High Court
Madras.
28th August 18

To

The Chief Se tary to Government
Stone H use, Ootacamund

CHIEF SECRETARY
29 AUG 90

Sir,

I have the honor to enclose a Copy of a Judgment of the Joint Magistrate of Tinnevelly from which you will see that certain Servants of the Dewan of Mysore have been Convicted and Sentenced to 4 months imprisonment for what is held to be a riot.

One policeman is said to have been pushed aside by one of the prisoners and no other violence was used.

I propose to move the High Court on Monday next (1) to transfer the appeal to Madras

for

Recd. 3483-90

r trial from the Sessions Court in which it is now pending and (2) to release the prisoners on bail as the Magistrate says the offence is a 'technical' one.

As it appears to me that the Government may very likely Consider the appeal to be one which ought, in the interests of the public and of the Crown itself, to be tried by the High Court, I have the honour to suggest that in such Case the Government Pleader may be directed to appear and to Consent to the transfer.

I have the honour to be Sir,
Your most obed^t Servant
H. G. Wedderburn
Counsel for the Prisoners.

P.S. A print of the evidence will follow tomorrow.
HGW.

Judicial No. 3483

From

Mr [redacted] Wedderburn

Barrister-at-law

Dated } 25 Augt 1890
Recd } 29

Courtallam Assault case

Requesting to instruct the Govt Pleader to consent to the transfer of the appeal in the — to the High Ct

---

Recommend [illegible]

Demi: for Ct. Ask for a copy of the complaint to be [illegible] by [illegible] & the charge of assault on [illegible] [illegible] 31/8/90

C. No. 3482 & 3483

Submitted for orders.

29 Augt.

Mr Wedderburn had better be informed that we understand from the Dt. Magistrate of Tinnevelly ~~that the appeal~~ will be heard today in all probability by the Sessions Judge.

30/8/90

Yes and send him a copy of telegram yesterday

30/8 [illegible] which have read to [illegible] the question ~~relating to the~~ release of the prisoner on bail, is contained in the telegram from Govt sent

If not we might telegraph again

Aug 30th

Ackd for H.E.

The instructions given above have been complied with

I [illegible] that the application [illegible] release on bail [illegible]

31/8 [illegible]

The telegram sent by me to the Dt. Magt has not been replied to till, the telegram to the P.S. was [illegible] the [illegible] mentioned by H.E. the Govr. yesterday. I have [illegible] in [illegible]

Refer

G.O. ~~30th August 1890~~ Despd 31/8

The following telegram will be despatched to Mr. H.G. Wedderburn to whom a copy of the (H.E.) telegram sent by Govt. to the Dist. Magt. of Tinnevelly on the 29th Inst. will be communicated

(H.E. [illegible] [illegible])

From orders

30 Augt.

"Government understands from Magistrate Tinnevelly that appeal will be in all probability heard today by Sessions Judge."

DEPARTMENT

INDIAN TELEGRAPHS.

Code Class. Rp

Monthly Number. 1097

To (Office) Ootacamund	**From** (Office) Madras

Words.	Day.	Hour.	Minute.	Official Instructions.
73·3	31	9	20	Urgent Rp [illegible]

To (Person) The chief Secretary	**From** (Person) W. G. Wedderburn

CHIEF SECRETARY GOVERNMENT 31 AUG 90

The appeal adjourned ~~Saturday~~ fortnight under 526 a Criminal procedure code & prisoners on bail & application for transfer will be made on Tuesday

Recd. from		LN.	Sent to		LN.
At	Hrs.	Mts. by	At	Hrs.	Mts. by

Telegraph Master.

OOTACAMUND 31-8-90

G. W. Allen and Co.—No. 109 T.--20-11-89—18,00,000.

64 Word Form.

F. C. 2.

31/8

I assume Government Pleader will not act without instructions

S. 1/9/90

Dsd 1-9-90

The following telegram will be sent to the D. M. Tinnevelly:—

1.7.90

No 370. Send copies complaints lodged by Krishnair & Mr Clarke of assault on their wives.

(Sd) J.A. Price.

WITH ORDE

Cw 3574

Code Class. } XS INDIAN TELEGRAPHS. Monthly Number. } 1100

To (Office) Ootacamund			From (Office) Palamcottah	
Words.	Day.	Hour.	Minute.	Official Instructions. } Urgent
19	31	15	57	

To (Person) Madras

From (Person) District Magistrate

CHIEF SECRETARIAT
1 SEP 90

Courtallam appeal adjourned two weeks prisoners ordered to be let on bail yesterday evening

Saml. J. Martelli

64 Word Form.

F. C. 2.

Recd. from L.N. At Hrs. Mts. by

Sent to L.N. At Hrs. Mts. by

Telegraph Master.

OOTACAMUND 31-8-90

G W Allen and Co.—No. 1.9 T—23-11-89—18,00,000.

NT No. 3514

Judicial DEPARTMENT.

From

The District Magistrate
Tinnevelly

No.

Dated 31st Augt 90

Received 1 Sept 90

Enclosures

SUBJECT.

Stating that the Courtallam appeal adjourned to two weeks and the prisoners ordered to be let on bail on the evening of the 30th Augt

Hon's

Circulated.

The file has been retained in the office

This gives the same information as regards bail as was afforded by Mr [illegible] telegram. It is circulated merely as Hon'bles may enquire if any thing had been heard from the D.M.

S
1 Sept

Seen
HS
7/9/90 [illegible] 3/9

Aw 3527

80

Code Class. XS INDIAN TELEGRAPHS. Monthly Number.

To (Office) Ootacamund
From (Office) Tinnevelly S.

Words.	Day.	Hour.	Minute.	Official Instructions.
14/3	1	17	50	urgt

To (Person) Madras
From (Person) District Magistrate

Continuing yesterdays telegram adjournment was under section 526 a

64 Word Form.

Recd. from LN. At Hrs. Mts. by
Sent to LN. At Hrs. Mts. by
Telegraph Master.

G. W. Allen and Co.—No. 109 T.—20-11-89—18,00,000.

OOTACAMUND 1-9-90

NT No. 3514

The District Magistrate
Tinnevelly

Enclosures
The file has been retained in the office.
[illegible]

31st Augt 90
1st Sept 90

Stating that the Courtallam appeal adjourned to two weeks and the prisoners ordered to be released on bail on the evening of the 30th Augt

---

Enclosed

The D M Tinnevelly

1st Sept 1890

Stating that the adjournment of appeal in the Courtallam case was under Sec.

RRENT No. 3527

[9] Judicial DEPARTMENT.

From

The D.M. Tinnevelly

Circulate

Submitted in continuation of previous telegram

C/ 3/2.

ORDER

Lodged

4 Sept

H.M.'s already know this

No. Telegram

Dated 1st } Sept 1890.
Received 2nd }
Enclosures

SUBJECT.

Stating that the adjournment of appeal in the Courtallam assault case was under Section 525 a.

WITH ORDER

URRENT No.

[9] Judicial DEPARTMENT.

From [illegible]

Circd

Circulated

C/ 10/9

C.S. said may be lodged being anonymous.

C.

No.

Dated
Received 8. 9. 90 (In Reg 9/9)
Enclosures

SUBJECT.

Re Courtallam viol-

case - Copy of appeal against Joint Magistrate of Tinnevelly's judgment in Calendar Case 41/1890

In the District Court of Tinnevelly.

CRIMINAL APPEAL No. *of* 1890.

In the Court of the Joint Magistrate of Tinnevelly.

Case No. 41 *of* 1890.

Papau and 3 others—Prisoners—Appellants.

The appellants beg to submit this appeal against the conviction and sentence passed by the Joint Magistrate of Tinnevelly in Case No. 41 of 1890, dated 16th August 1890, on the following among other grounds.

That the judgment of the Lower Court is contrary to law and the evidence adduced in the case.

2. That the facts alleged and proved by the prosecution do not constitute any offence either in law or in fact.

3. That the Lower Court seems to labour under the erroneous impression that the bathing of the appellants at the Falls on the morning of the 27th of July last before 10 A.M. was an innovation and the immediate result of certain resolution passed at a meeting held on the 26th July at Courtallam.

4. That such impression is only an inference on the part of the Magistrate unsupported by even the shadow of any evidence on the side of the prosecution.

5. That the evidence of each of the eye-witnesses to the alleged occurrence is self-conflicting and further the evidence of each witness contradicts the evidence of the other in material points.

6. That the conviction has resulted among other grounds on an erroneous impression of the Magistrate that a long standing custom existed which excluded the natives from bathing at the Falls in the early mornings, but such impression is wholly opposed to the evidence of the prosecution and defence witnesses.

7. That the Lower Court has entirely misconstrued the words used in the resolutions of the 26th July and has consequently come to conclusion adverse to the appellants.

8. That the Lower Court has failed to give due weight to or properly appreciate the evidence for the defence.

Pray therefore that the Court may be graciously pleased to quash the conviction and acquit the appellants.

Under section 408, Criminal Procedure Code.

(Signed) BALU S. STREENIVASA,
Counsel.

19th August 1890.

(Initialled) W. F. G.,
District Judge.

19th August 1890.

(True Copy.)

Superintendent.

HIGGINBOTHAM & CO.—MADRAS, 1890.

Case No. 41. *On the Tinnevelly* *J. M. F.*
1890.

Statement given by the Defendant No. 4.

The 4th day of August 1890.

Name .. ..Sami Sastri.

Father's Name.................Venkataramana Iyer.

Residence........................Courtallam.

Age ....20.

Occupation ....Cultivator.

Q. Did you go to the Falls on the 27th in July?

A. Yes. I went according to mamul. I did not see the Police at all. I was not there with the Tahsildar. No one ordered me out the whole time. I went alone to the bath.

(Signed) C. E. HENRY.

Q. Heard charge. Are you guilty?

A. Not guilty. I will give list of witnesses.

ஒப்பம் సామిశాస్త్రులు-.

Taken in my presence and hearing, interpreted in Canarese which he understands and acknowledged by him to be correct. This contains a true and full account of the statement made by the accused.

(Signed) C. E. HENRY,
Joint Magistrate.

(True Copy.)

HIGGINBOTHAM & CO.—MADRAS, 1890.

Case No. 41. On the Tinnevelly $\frac{J.\ M.\ F.}{1890.}$

Statement given by the Defendant No. 3.

The 4th day of August 1890.

Name ....Hussein Khan.
Father's Name.................Kasim Khan.
Residence.......................Courtallam.
Age ....27.
Occupation ....Peon.

Q. Did you go to the Falls?

A. Yes; as usual. I had no stick. I did not jostle the Police. I did not see them. Some persons were washing their clothes whom I do not know. Two of them objected to my going in to bathe. I said others were bathing and why should not I. They said I should bathe quickly and come out. Constable No. 874 was one of those persons.

Q. Did the Police or Magistrate order you out?

A. The Tahsildar asked us if we had bathed, I said I had not. He said I should bathe and go away soon. I bathed and left the place.

Q. How many of your fellow-servants were there?

A. While I was bathing I saw four or five Mysoreans bathing there.

உசேன்கா னென்று பாகில் ஒப்பம்.

Q. Heard Charge. Are you guilty?

A. Not guilty. Will give list of witnesses.

உசேன்கான் என்று பாகில் ஒப்பம்.

Taken in my presence and hearing, interpreted in Hindustani which he understands and acknowledged by him to be correct.

This contains a true and full account of the statement made by the accused.

(Signed) C. E. HENRY,
Joint Magistrate.

(True Copy.)

Superintendent.

HIGGINBOTHAM & CO.—MADRAS, 1890.

BEN No. 3527

Case No. 41. *On the Tinnevelly* $\frac{\textit{M. F.}}{\textit{1890.}}$

Statement given by the Defendant No. 2.

This 4th day of August 1890.

Name ……………………Lingama Naick.
Father's Name……………Not legible.
Residence…………………Courtallam.
Age ………………………27.
Occupation ………Servant of Government.

Q. Did you go to the Falls on the morning of 27th ?

A. Yes ; I went according to mamul at 6 or 6-30 or 6-45 A.M.

Q. Did the Police order you out of the bath ?

A. Some one cleaning his teeth told us we could not go. I said several were bathing. Then he made no objection. He had no dress. I had no stick. The Head constable was the person who was cleaning his teeth. I did not jostle the Police at all. I was not ordered out of the bath by any one, but I saw people leave and I left with them.

(Signed) C. E. HENRY.

(ஒப்பம்) లింగమనాయక్.

4th August 1890.

Q. Heard charge. Are you guilty ?

A. Not guilty. I will give list of witnesses.

(ஒப்பம்) లింగమనాయక్.

Taken in my presence and hearing, interpreted to the accused in Telugu which he understands and acknowledged by him to be correct.

This contains a true and full account of the statement made by the accused.

(Signed) C. E. HENRY,
Joint Magistrate.

(True Copy.)

Superintendent.

HIGGINBOTHAM & CO.—MADRAS, 1890.

Case No. 41. *On the Tinnevelly* $\frac{J.\ M.\ F.}{1890.}$

Statement given by the 1st Defendant Papa.

This 4th day of August 1890.

08 SEP 90

Name..............................Papa.

Father's Name ....Subbayan.

Residence ....Courtallam.

Age.................................32.

Occupation........................Chonadar.

Q. Did you go to the Waterfall, push the Police aside and enter the enclosure in opposition to their orders?

A. No; that is not true. I and several others were washing our clothes. Males and females whom I do not know and bathing.

Q. Did the Police prevent your entrance into the enclosure?

A. No; they said nothing when I entered. Afterwards the Police said the Europeans were coming and that we should leave the place. Several persons left the place. We also followed them and retired. The Tahsildar also ordered us to go away and left the place, soon after we left the place.

Q. Had you sticks?

A. Yes; I had a walking stick (produced) which I had left on the rock with my cloth.

Q. Were you aware of the custom that natives should bathe after 10 A.M.?

A. No; we used to bathe at 7 or 8 or early in the morning when no one was there.

Q. Did you go in consequence of the resolution at the meeting to the Waterfall to assist by force or show thereof a right to bathe at all hours?

A. No; I did not go with their purpose.

Q. Heard charge. Are you guilty?

A. Not guilty. I shall give list of witnesses.

ஒப்பம் పాపా

Taken in my presence and hearing, interpreted to the accused in Telugu which he understands and acknowledged by him to be correct.

This contains a true and full account of the statement made by the accused.

(Signed) C. E. HENRY,

Joint Magistrate.

(True Copy.)

Superintendent.

HIGGINBOTHAM & CO.—MADRAS, 1890.

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15. Coming to the defence which has been commented upon already it is admitted both by the accused and many of the defence witnesses that they were all at the waterfall at the time of the occurrence and that at last three or other Mysoreans like accused were also present.

16. The plea that the first three accused went merely to perform their morning ablutions and that nothing in the way of a disturbance, unlawful assembly or riot, had ensued has already been shown to have been refuted by the evidence for the prosecution. It was for the defence to prove this plea, but the defence evidence on the point is unreliable where it is not vague, useless and irrelevant. The witnesses are persons who are either interested in accused's behalf or were present indirectly aiding and abetting the accused's act or who came to the scene of the disturbance after it had nearly all subsided.

17. The first, second, and third accused in their statements partially admit the case for the prosecution that the Police were at the "Falls" and warned them not to enter the bath but that they seeing others bathe insisted on bathing also.

18. It was argued that if the accused and the other Mysoreans had come armed, the sticks would have been seen by the Magistrate and seized by the Police, but first accused admits himself that he had a stick (a very usual appurtenance of a peon going to perform his morning ablutions) yet it was not seen by the Magistrate nor seized by the Police. The argument is deprived therefore of its force. The sticks were in the bathing huts. First defendant admits he was on the bank near the huts.

19. Comments were also made on the omission of the Police to arrest the other Mysore people if any others had been present assisting the accused, but others were present is admitted even by the defence and the Police state that they could not see the others amongst the Dewan's or the Deputy Commissioner's servants at the time of the arrest. As the identification of those concerned was not effected till some four days after the offence, it is not impossible that though the report A says that identification of the offenders could be effected, the Police may, through lapse of time have experienced some difficulty in identifying them.

20. The delay in the prosecution of the case which was much relied on by the defence as a point in favor of the accused is also accounted for. The Police and Sub-Magistrate made a reference to superior authorities for orders before taking steps against the offenders.

21. Discrepancies stated to exist in the evidence of the Station House Officer and the two constables in regard to the use of force are pointed out by the defence as belying the story of the use of force. In cases of disturbance and rioting, it cannot be expected that the evidence of the witnesses will exactly tally. On the contrary, some variance in the statements is natural. But the Station House Officer and the two constables have sworn to the use of force towards third prosecution witness and the first report A mentions the fact.

22. I find the four accused guilty of the offences charged.

8. To judge whether the unlawful intent above stated was entertained by the accused and the other Mysoreans we must consider the events of the previous day, the tenor of the resolutions passed at the meeting, the attitude and general behaviour of the accused at the waterfall, and the impressions which the acts of the accused made on the minds of the local authorities.

9. It is admitted that the assault which Mr. Clarke is alleged to have committed on the 26th on the wife of a Brahmin, Vakil Krishna Aiyar, had aroused amongst the people feelings of excitement and indignation which found vent in the resolutions passed at the meeting held on the same day. In the 3rd proposal of the meeting the respective rights of the Europeans and Natives in regard to the use of the waterfall are reviewed and Mr. Clarke's conduct commented on. A resolution is thereupon passed in the following words:—

"That provision should be made to safe-guard individuals from such indignities" (as the one perpetrated by Mr. Clarke). The penultimate resolution is that, in consequence of the notice of Mr. Lee-Warner being issued only for the convenience of Europeans, as it has not the sanction of law, and as it was made use of by Mr. Clarke to commit the assault on a Hindu female. "It does not therefore appear that we should feel ourselves bound by the notice and the Collector be informed accordingly." Taking these two resolutions with the admission in the proceedings that Europeans were up to that date in the possession of the privilege of using the waterfall up till 9-30 A.M. to the exclusion of the natives, and considering the conduct of the natives in general (led by the accused and their fellow Mysoreans assisted afterwards by a crowd of 30 or 40 natives of the locality and native strangers) in the very next morning assuming possession of the bath at the waterfall from the early hours of 6 or 6-30 A. M. notwithstanding the orders of the Police and Magistrate it is an absurdity to allege that there was no common object amongst the five or more Mysoreans at the "Falls" or in fact amongst the assemblage of natives who followed their example by crowding into the enclosure, it is idle to contend that the conduct of the Mysoreans including the accused resorting to the bath so early as 6 or 6-30 A. M. was innocent, that the Mysoreans at least had come early to perform their morning ablutions and that they had not come for the set purpose of carrying into effect the resolutions passed the previous evening setting at naught Mr. Lee-Warner's notice of 1884, and putting an end to the arrangement or custom which has obtained since. It seems to me a most justifiable inference to make (seeing how soon the acts of the accused succeeded the meeting and how exactly they corresponded with the resolutions passed) that the accused with the other Mysoreans had acted as they did only in consequence and under the influence of the resolution of the meeting.

0. Why the accused and the other Mysoreans should have figured so promi- in the riot is explained by the fact that a Deputy Commissioner of Mysore, M. R. Ry. Madhava Row had taken part in the meeting and that the final resolution was to communicate the result of the meeting "to the pariotic statesman now at the station" referring evidently to the Dewan of Mysore. The accused and the other Mysoreans being servants or protegés either of the Deputy Commissioner or of the Dewan naturally concluded that it was their duty to put into effect the resolutions of the meeting which appeared to them to have had the sanction of their masters. It is only just to say (and the circumstance affords another illustration of how the resolutions of the meeting were responsible for the commotion of the next morning) that after the riot, the Deputy Commissioners wrote objecting to the tone of some of the resolutions as too strongly worded and advising a conciliatory attitude.

11. All these facts completely refute the theory of the defence that the accused has resorted to the "Falls" simply for their usual morning ablutions.

12. That the accused intended by force or show of force to assert the right or supposed right of the Natives to bathe before 9-30 A.M. is evidenced by the actual use of force to the Police and by some of them carrying sticks and by their acting as shown above in pursuance of a resolution to the effect that individuals were to be safe-guarded against indignities inflicted by any European. At the time a great feeling of excitement and indignation prevailed, directed particularly against Mr. Clarke and the other Europeans generally using the bath.

The accused must have been aware of the events of the previous day and of the extreme probability of the Europeans coming to bathe. Their attitude in nevertheless possessing themselves of the bath and refusing to leave it in spite of the advice and orders of the Police and the Magistrate and in the face of the European gentlemen who has as stated in Exhibit B come to bathe—all indicate an intention to maintain their right or supposed right by force or show of force.

The Deputy Commissioner himself admits that when he heard of his men, the accused being at the waterfall he feared owing to excitement which prevailed amongst the people that if they were interfered with in their bathing, they would commit a breach of the peace and he went so far as to despatch a messenger to advise them not to offend against the law. The reason why a very serious riot did not ensue was not because of the peaceful intention of the accused, but because of the wisdom of the Europeans in not insisting on their privilege or custom of bathing and in their retiring on the Sub-Magistrate's advice without enjoying the pleasure of a bath at all.

13. Again the conduct and behaviour of the accused so impressed the Station House Officer to induce him to send the report (Exhibit A) calling for the aid of the Magistrate and so impressed the Magistrate that in order to avoid a riot, he advised the Europeans not to have a bath and that he felt it his duty to bring immediately the riotous acts of the accused to the notice of the District Magistrate by his report (Exhibit B). Mr. Clarke also desired it necessary to requisition Police aid. If the accused and their companions had confined themselves to bathing and had not given signs of a deposition to break the peace it is most unlikely that such measures would have been found necessary.

14. It being proved that the common intent of the four accused and some others was to assert and enforce by force or show of force their right or supposed right of bathing before 9-30 A.M. and force having been actually used by one or more to the Police in pursuance of their common object all the accused must be held guilty of rioting, Section 146 I.P.C.

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The accused must have been aware of the events of the previous day and of the extreme probability of the Europeans coming to bathe. Their attitude in nevertheless possessing themselves of the bath and refusing to leave it in spite of the advice and orders of the Police and the Magistrate and in the face of the European gentlemen who has as stated in Exhibit B come to bathe—all indicate an intention to maintain their right or supposed right by force or show of force.

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13. Again the conduct and behaviour of the accused so impressed the Station House Officer to induce him to send the report (Exhibit A) calling for the aid of the Magistrate and so impressed the Magistrate that in order to avoid a riot, he advised the Europeans not to have a bath and that he felt it his duty to bring immediately the riotous acts of the accused to the notice of the District Magistrate by his report (Exhibit B). Mr. Clarke also desired it necessary to requisition Police aid. If the accused and their companions had confined themselves to bathing and had not given signs of a deposition to break the peace it is most unlikely that such measur would have been found necessary.

14. It being proved that the common intent of the four accused and some others was to assert and enforce by force or show of force their right or supposed right of bathing before 9-30 A.M. and force having been actually used by one or more to the Police in pursuance of their common object all the accused must be held guilty of rioting, Section 146 I.P.C.

In the Court of the Joint Magistrate of Tinnevelly.

CALENDAR CASE No. 41 OF 1890.

COMPLAINANT.

QUEEN EMPRESS.

Witnesses.

1. Subramania Pillai, Station House Officer.
2. Subramania Pillai, Constable No. 646.
3. Sankaralingam Pillai, Constable No. 874.
4. Narasimhalu Aiyar, Tahsildar and 2nd class Magistrate of Tenkasi.
5. Sankaralingam Pillai.
6. Mr. V. B. Madhava Row, Dy. Commissioner of Mysore.

Defendants.

1. Papa.
2. Lingana Naick.
3. Hussun Khan.
4. Sami Sastri.

Witnesses.

1. Mr. J. H. A. Tremenhere, Collector and Dist. Magistrate of Tinnevelly.
2. H. Taylor, Inspector of Tenkasi.
3. Madappan.
4. Subbu Tevan.
5. Abbadurai Aiyar.
6. Narayana Aiyar.
7. Srinivasa Aiyar.
8. Krishna Aiyar.
9. Krishnasawmi Aiyar.
10. Seenia Pillai.
11. Madsami.

Offence.

Being members of an unlawful assembly and rioting, Sections 143 and 147 I.P.C.

Finding Guilty

Sentence 4 months' imprisonment, the first month to be simple and the remaining three rigorous.

JUDGMENT.

1. The four accused are charged with having in conjunction with others not arrested, on the 27th July last, formed members of an unlawful assembly and committed rioting, Sections 143 and 147 I.P.C.

2. The facts of the case are briefly these :

At the waterfall at Courtallum, Europeans as well as Natives, are wont to bathe—the Europeans till 9-30 A.M. and the Natives during the remainder of the day. On the morning of the 26th July, a disturbance occurred at the "Falls" in which Mr. Clarke, a local planter, is alleged to have assaulted the wife of one Krishna Aiyar. On the same evening a meeting was convened at which resolutions (Exhibit B) were passed expressing indignation at Mr. Clarke's conduct and discussing the rights of the Europeans and Natives to resort to the waterfall before 9-30 A. M.

In consequence of these resolutions and the excitement which prevailed, the Tahsildar Magistrate thought it advisable to despatch constables to the waterfalls as he apprehended a breach of the peace in case the Europeans insisted on their right of bathing. The Station House Officer and two constables prosecution witnesses (1), (2) and (3)—were detailed on this duty and proceeded to the waterfall at 6 A. M. on the morning of the 27th July. Mr. Clarke also apprehended some disturbance that morning and requested the presence of the Police. Shortly after the arrival of the Police, the four accused with six other Mysoreans—adherents and employés of the Dewan of Mysore who was at the time making a stay at Courtallum—came to the "Falls" with a view to bathing, some of them with sticks in their hands. The Police, fearing that if Mr. Clarke or any of the Europeans should come to bathe, a riot might ensue, ordered the Mysoreans not to enter the bath till after 9-30 A. M.; but the words of the Police were not heeded. Constable No. 874 prosecution 3rd witness was pushed aside, the four accused with the other Mysoreans entered the enclosure erected around the bathing place and proceeded to bathe. The Station House Officer at once despatched the report (Exhibit A) to the Sub-Magistrate who had also arrived at Courtallum to concert measures for the preservation of the peace. The Sub-Magistrate received the report (A) before 8 A.M. and proceeded to the waterfall at once. He found that the bathing place was in the possession of the four accused and other Mysoreans while other strangers and people of the neighbourhood were pouring in numbers into the enclosure. Mr. Clarke and other Europeans had in the meanwhile arrived to bathe. The Sub-Magistrate apprehended a breach of the peace if Europeans insisted on their right to bathe and order the accused and the others in the bath to disperse, but they refused to listen to him. From their attitude and general behaviour, the Sub-Magistrate concluded that they had come to the bath with the determination to use force and commit rioting in case the Europeans maintained their right of bathing before 9-30 A. M. He advised the Europeans therefore not to enter the bath but to retire and thus avoid any breach of the peace promising at the same time to lay the whole case before the District Magistrate. The Europeans retired without being able to indulge in their usual morning bath. The Sub-Magistrate also left the spot and on the same day wrote and despatched his report (Exhibit C) to the District Magistrate describing in detail the occurrence at the "Falls."

3. These are the main facts on which the prosecution is founded.

4. The plea of the accused is that 1st, 2nd and 3rd accused—peons in the Dewan's service—went simply for the purpose of bathing at about 6 or 6-30 A.M., and were allowed to enter the bathing place unmolested. They took their bath and left no rioting or unlawful assembly having taken place.

5. It is not denied on behalf of the accused that the European residents have the right of bathing at the waterfall, nor is it denied that a custom obtained for some years for the Europeans to enjoy the bath to the exclusion of the natives up till 9-30 A.M., every morning except on the occasion of a festival. In consequence of squabbles and difficulties in the way of Natives and Europeans bathing together at the waterfall a *modus vivendi* was established by Mr. Lee-Warner by the issue of a notice in 1884 prescribing certain bathing hours exclusively for the Europeans (*viz.*, till 9-30 A. M.,)—the remainder of the day being allotted exclusively for the natives, whether this notice was issued by Mr. Lee-Warner in any official capacity or not, matters very little, but it is plain from the Proceedings of the meeting (Exhibit B.) that this arrangement of 1884 was acquiesced in and adhered to without demur or protest ever since by the natives of the locality as well as Native visitors to Courtallum. Accommodation for European bathers has been provided at the waterfall and enclosure erected in front of it to secure the privacy of European lady bathers.

6. Proceeding to the analysis of the evidence offered on both sides, the first element of offences punishable under Sections 143 and 147 I.P.C. consists in five persons at least combining for an unlawful purpose. That there were five Mysoreans at least at the waterfall that morning is established not only by the evidence of the prosecution but also by that offered by the defence. The report A mentions ten Mysoreans; the Sub-Magistrate swears to five at least; one of the defendants, (3rd defendant Hussun) admits the presence of five and one of the defence witness (seventh) corroborates him. Three Brahmin cooks defence witwitnesses (5) and (6) and another not examined are also proved by the defence to have been present just before the riot occurred.

7. The next element is the unlawfulness of the common object which brought the four accused and their fellow Mysoreans to the waterfall. This is the most important point in the case. The accused assert that there was nothing unlawful in their presence there and their presence was due solely to their desire to enjoy according to their usual custom, their early morning bath. The prosecution contends that they and the other Mysoreans had come with the common unlawful object of asserting a right or supposed right to bathe during the hours allotted for the Europeans under Mr. Lee-Warner's notice and of enforcing that right if necessary by force or show of force. The prosecution does not also absolutely deny that the accused or natives in general may have a legal right to use the bath before 9-30 A.M. or that they supposed that they had such a right, but what is asserted is that a custom had prevailed with the consent of all parties by which the waterfall before 9-30 A.M. had been reserved exclusively for the European residents, and that the wanton breach of this custom by the accused for the first time on the morning of the 27th July is one of the many facts evidencing the unlawfulness of their common intent.

8. To judge whether the unlawful intent above stated was entertained by the accused and the other Mysoreans we must consider the events of the previous day, the tenor of the resolutions passed at the meeting, the attitude and general behaviour of the accused at the waterfall, and the impressions which the acts of the accused made on the minds of the local authorities.

9. It is admitted that the assault which Mr. Clarke is alleged to have committed on the 26th on the wife of a Brahmin, Vakil Krishna Aiyar, had aroused amongst the people feelings of excitement and indignation which found vent in the resolutions passed at the meeting held on the same day. In the 3rd proposal of the meeting the respective rights of the Europeans and Natives in regard to the use of the waterfall are reviewed and Mr. Clarke's conduct commented on. A resolution is thereupon passed in the following words:—

"That provision should be made to safe-guard individuals from such indignities" (as the one perpetrated by Mr. Clarke). The penultimate resolution is that, in consequence of the notice of Mr. Lee-Warner being issued only for the convenience of Europeans, as it has not the sanction of law, and as it was made use of by Mr. Clarke to commit the assault on a Hindu female. "It does not therefore appear that we should feel ourselves bound by the notice and the Collector be informed accordingly." Taking these two resolutions with the admission in the proceedings that Europeans were up to that date in the possession of the privilege of using the waterfall up till 9-30 A.M. to the exclusion of the natives, and considering the conduct of the natives in general (led by the accused and their fellow Mysoreans assisted afterwards by a crowd of 30 or 40 natives of the locality and native strangers) in the very next morning assuming possession of the bath at the waterfall from the early hours of 6 or 6-30 A. M. notwithstanding the orders of the Police and Magistrate it is an absurdity to allege that there was no common object amongst the five or more Mysoreans at the "Falls" or in fact amongst the assemblage of natives who followed their example by crowding into the enclosure, it is idle to contend that the conduct of the Mysoreans including the accused resorting to the bath so early as 6 or 6-30 A. M. was innocent, that the Mysoreans at least had come early to perform their morning ablutions and that they had not come for the set purpose of carrying into effect the resolutions passed the previous evening setting at naught Mr. Lee-Warner's notice of 1884, and putting an end to the arrangement or custom which has obtained since. It seems to me a most justifiable inference to make (seeing how soon the acts of the accused succeeded the meeting and how exactly they corresponded with the resolutions passed) that the accused with the other Mysoreans had acted as they did only in consequence and under the influence of the resolution of the meeting.

10. Why the accused and the other Mysoreans should have figured so prominently in the riot is explained by the fact that a Deputy Commissioner of Mysore, M. R. Ry. Madhava Row had taken part in the meeting and that the final resolution was to communicate the result of the meeting "to the pariotic statesman now at the station" referring evidently to the Dewan of Mysore. The accused and the other Mysoreans being servants or protegés either of the Deputy Commissioner or of the Dewan naturally concluded that it was their duty to put into effect the re-

23. Though the riot was only a little more than a technical one, I consider the conduct of the accused should be visited with a severe punishment in having wantonly broken through a rule or custom which had hitherto worked harmoniously and which had reconciled to the satisfaction of all parties the contending rights and privileges of the Europeans and the natives in regard to the use of the waterfall in having set an example likely to lead to constant difficulties and likely to imperil the future maintenance of the public peace in the locality.

24. I accordingly sentence each of the accused to four months' imprisonment and direct that for the first month it be simple and for the remaining three rigorous. I further direct under Section 106 C. C. P. that each of the accused do execute a bond personally for Rs. 50 with surety each in the same sum to keep the peace for two months.

Signed C. E. HENRY,
Ag. Joint Magistrate.

16-8-90.

(True Copy.)

LAWRENCE ASYLUM PRESS—1890.

In the Court of the Joint Magistrate of Tinnevelly.

Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the first witness for the prosecution. The 2nd day of August 1890.

Name	Subramani Pillai.
Father's name	Nalla Kannu Pillai.
Residence	Tenkasi.
Age	33.
Occupation...	Station House Officer.
Caste	Vellala.
Religion	Hindu.

On morning of 27th July I with two constables numbers 646 and 874 came to the waterfall for bandobust at 5-30 A.M. The four defendants before court and six others came to have a bath. I told them that they should not go this being the time for Europeans to bathe and that natives should bathe only after 10 A.M. *I told them also that it appears they had come for rioting* and that they should not go at all. I heard that the previous day there was a meeting held proposing that natives should go next morning for bathing and that natives should bathe even if Europeans should come and that the result should be ascertained. First defendant said "you had better go away" and pushed third prosecution witness who stood beside me. I sent immediately an express cover to the Sub-Magistrate to the effect that I anticipated breach of the peace. The four defendants said they would go to have a bath. I thought I had better report the matter to the Tahsildar and consider over the matter before arresting the defendants because they were the Dewan's men. Besides the four defendants six others came. They were also the Dewan's men. First, second and third defendants and three others absent had sticks in their hands about a[illegible] thick. The Sub-Magistrate and certain Europeans came and wanted the [illegible] o leave the waterfall. The Sub-Magistrate told all those who stood th[illegible] way but they did not go. They said they would abide by the orde[illegible] or.

C[illegible]xamination reserved.

(Signed) C. E. HENRY,
Acting Assistant Magistrate.
2-8-90.

Cross-examination on solemn affirmation.

Exhibit A is the first report sent to the Sub-Magistrate. I went to the Falls for bandobust. I went of my own accord from Tenkasi. I started from Tenkasi at 5-30 in the morning and arrived at 6 A.M. I saw nobody bathing in the Falls when I arrived. The defendants were the first to go and bathe in the Falls. When they came I told them they ought not to go in. They asked me if

I had any orders to prevent them. I told them I had received a letter from Mr. Clarke and it was the custom to go for bandobust. I do not know personally if constables went for bandobust. I only heard it at the station. I have been four months Station House Officer of Tenkasi. For these four months till the date in question no constable went for bandobust. I am not aware of any orders that constables should go to the Falls for bandobust. Owing to the previous nights meeting and to Mr. Clarke's letter I went for bandobust. I took the two constables at my own instance. One of the two constables was deputed for bandobust at the waterfall and the other as Treasury Guard. After the date of this occurrence there was bandobust every day. I deputed them myself. No one pushed me nor Constable number 646. The disturbance took place at 6 or 6-15 in the morning. I had my uniform on then. I put it on at Courtallum. I do not remember if the other constables came in uniform from Tenkasi. They had uniforms on at the waterfall. The Tahsildar I saw at the Falls at about 7-30 or 8 A.M. I did not see him before I sent report (A). I did not seize any of the sticks. They were taken away. I do not remember if fourth defendant had a stick or not. I cannot say what caste the others belonged besides the defendants. When Tahsildar came the four defendants were bathing. Fourth defendant was also bathing when the Tahsildar came. First, second and third defendants had sticks when they went to the Falls. I do not know what kind of sticks they had. They left their sticks in the huts when they bathed. I pointed out the defendants to the Tahsildar when he came. I did not show the Tahsildar the sticks left in the hut. I did not tell Tahsildar they had left sticks in the hut. Several people were bathing when the Tahsildar came. I told the others also not to enter, but they did not obey my orders. I could not actually prevent their entrance. The others bathing there were all persons of the local villages except defendants. Europeans came to bathe after I went. They came at 6-30 or 6-45 A.M. Mr. Clarke was one of them. At that time a good many people were bathing at the Falls. Mr. Clarke asked me why I had allowed these people to bathe in the Falls, but did not reprimand me. I said the Mysore people had forced their way in and the others had followed. Before this Exhibit A (report) had been sent. Before Mr. Clarke came I sent report (A). I wrote it at 6-15 or 6-30. I had despatched it before Mr. Clarke came. I sent it through 3rd prosecution witness constable Sankaralingam Pillai. I told him to take to the Tahsildar of Tenkasi. Not one of those who brought the sticks attempted to use them. The other 6 besides defendants also went to have a bath. They were bathing when the Tahsildar came. They took their sticks into the Falls and left them in the huts while bathing. I pointed out to the Tahsildar generally the Mysore people and not the six in particular. We did not take possession of the sticks at all. I went with the Inspector to the Dewan's house on 31st July to arrest the ten defendants. We had no warrant for their arrest. The Dewan's servants were only once mustered for identification. The first time we went there was no master. On the first occasion we went to Dewan's house. I did not identify one man. The persons present were mustered on the first occasion. On the second occasion I identified the four defendants before court. The other six were not to be found there. We did not ask what had become of the other six men. I told the constables who went to the Falls to search for those six persons. Ten or fifteen persons were mustered for our identification I never saw the four defendants (present) before the 27th July.

Then I saw them from the time of altercation till the Tahsildar came. The defendants had not any dress on them. Next time I saw them on 31st July. Then ey were dressed as now. At the Falls they were mingled with other people. The first time I went with the Inspector I saw Madhava Row, Deputy Commissioner. The Inspector spoke to him in English. We got the orders of the Magistrate on the 30th. Thereupon we proceeded. We got orders from the Taluq Magistrate at Tenkasi to arrest the people who had committed disturbance at the waterfall. This was a written order. He ordered arrest for rioting. The order is in the station. We came to the Falls to arrange that Europeans should go to the Falls till 10 A. M. and natives afterwards. It was so stated in Mr. Clarke's letter. I also heard it was the custom. Mr, Clarke is not a Police Officer or Magistrate. It is not part of our duty to see that Europeans bathe till 10 and natives afterwards. I thought a riot might happen if Europeans would come to bathe. So I prevented defendants. If I had not prevented defendants there would not have been any rioting. A disturbance might have occurred if Europeans had entered the Falls for bathing. I stood north of the bridge when the European gentlemen came. They came to where I stood. No natives said that the European should not come and bathe with them. First defendant pushed one of the constables and went fast to the Falls. He actually pushed the constable on one side. The constable so pushed did not attempt to keep him back. Besides the ten mentioned in Exhibit A six or seven Mysore people kept coming to the Falls.

Re-examination.

I met the Europeans ten yards from the bridge. They came to bathe. I told them that the natives had gone in spite of my warning and that I had reported the matter to the Tahsildar. I told them that the natives had gone to bathe in spite of my orders. I told the Europeans that as the natives had crowded to the Falls, a riot would occur if they went to bathe. The Tahsildar came ½ or ¾ hour after the Europeans. The Europeans returned to their Bungalows. I saw them come with the Tahsildar. The first time we went to the Dewan's house two persons came out to meet me and the Inspector. I was told to come back after a short time.

Read and acknowledged to be correct.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
4-8-90.

(True Copy.)

LAWRENCE ASYLUM PRESS—1890.

In the Court of the Joint Magistrate of Tinnevelly.
Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the second witness for the prosecution. This 2nd day of August 1890.

Name	... Subramania Pillai.
Father's name	... Chidambaram Pillai.
Residence...	... Tenkasi.
Age	... 26.
Occupation	... Constable No. 646.
Caste	... Vellala.
Religion	... Hindu

On 27th July morning I had been to waterfall for bandobust. Ten persons including the four defendants present came to take a bath. The Head Constable said they should not go till 10 A.M., as it was time for Europeans to have a bath, but if they come after 10 A.M., they could have a bath. They said what business the Head Constable has to address them and why should they listen to his words. First defendant whose name I do not know pushed Constable No. 874. He pushed the Constable because the Constable prevented him from going in to bathe. First, second, and third defendants had sticks and about four or five others who are not present had sticks in their hands. A report was sent to the Sub-Magistrate who thereupon came to the spot at about 8 A.M. There were ten or fifteen persons at the waterfall when second Class Magistrate came. The Sub-Magistrate said to the ten persons including the four defendants then who were there bathing that they could not bathe then and that the European gentlemen had come there and that they should be allowed first to bathe. At that time three European gentlemen were there. They did not bathe because the defendants and the others were bathing and did not leave the place even after they were told to go away. There was a likelihood of a riot.

Cross-examination reserved.

(Signed) C. E. HENRY,

Acting Joint Magistrate.

2-8-90.

Cross-examination on solemn affirmation.

I went to Falls under the orders of the Head Constable. I left Tenkasi at about 5 A. M. We were all in uniform from Tenkasi. We arrived at the Falls in uniform. We arrived at the Falls at about 6. A. M. Two or three minutes after the defendants came there. Nobody was bathing when we arrived, five or six others besides these defendants came to the spot. All the ten came one after the other. They came to have a bath. The Station House Officer told them not to go in and to stop. The defendants came and asked the Station House Officer under what authority he stopped them. The Station House Officer said he had got an order that they should not go till 10 o'clock. He did not say from whom the orders were received by him. Station House Officer said "you should not go to bathe, will we say so without orders." They did not ask to see the order but said "what order is there" and forcibly entered. Five or six had sticks and some without them. 4th defendant had no stick. First and second defendants said they did not care. The other two rushed in. As soon as first defendant put his hands on the Constable, the latter moved aside. Vakil Krishna Iyer's wife also went in to the Falls afterwards. I did not prevent the Vakil's wife from entering. After defendants and Vakil Krishna Iyer's wife went in to the Falls to bathe the other people of the surrounding villages did not go in to bathe. They were standing in the Mandabam west of the bridge and near the temple. Shortly after some European Gentlemen came there. The woman (Vakil's wife) immediately left the place but the other Mysore people remained bathing. When the Europeans came about ten or fifteen natives were bathing and also when the Tahsildar came. Those ten or fifteen were defendants and other Mysore servants. I pointed the Mysore people to the Tahsildar. The Mysoreans brought their sticks into the bath. They left their sticks in the huts close by. I did not observe closely the several places in which they left their sticks. I did not observe whether they took their sticks when they went back. We did not show the Tahsildar the sticks. He saw them himself. I went to the huts with the Tahsildar. The sticks were lying there. The Tahsildar gave no orders about seizure of the sticks. The Mysore people did nothing with their sticks. I was present when the Head Constable wrote the report (A). It was 6 or 6-30, when he wrote it. Immediately he sent it through a Constable. The Europeans came a little after us shortly after Exhibit A was sent. After Exhibit A was sent, the Europeans came. The Constables had taken it away. After the defendants had entered the bath, other Mysore people also came there. About 2 or 3 so came. They also went into the bath.

No Re-examination.

Read and acknowledged to be correct,

(Signed.) C. E. HENRY,
Acting Joint Magistrate.
4-8-90.

(True Copy.)

LAWRENCE ASYLUM PRESS—1890.

In the Court of the Joint Magistrate of Tinnevelly.

Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the third witness for the prosecution. The 2nd day of August 1890.

Name	Sankaralingam Pillai.
Father's name	Arunachellam Pillai.
Residence...	Tenkasi.
Age	25.
Occupation	Constable No. 874.
Caste	Vellala
Religion	Hindu.

On 27th July morning at about 6 A.M. I saw the four defendants before Court at the waterfall. That morning, I, the Station House Officer and another constable (second prosecution witness) had been to the waterfall for bandobust. The four defendants first came. Subsequently five or six came. We told them no one should go there from 6 to 10 A.M. and after the gentlemen had a bath, they should go there. First defendant said "go away, I have seen many police" and pushed aside Constable No. 646 and the Station House Officer and entered but he did not touch me. Fourth defendant pushed me afterwards. Not less than four or five of those present had sticks in their hands. The four defendants and others who came subsequently bathed in the waterfall. The Sub-Magistrate came to the waterfall. He said they should not bathe but have their bath after the European gentlemen had theirs. The defendants did not go away. The Sub-Magistrate left the place. There were no gentlemen when the Sub-Magistrate was there. They came afterwards in about half an hour. If any European gentlemen would have come there then, there would have been a serious riot.

Cross-examination reserved.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
2-8-90.

Cross-examination on solemn affirmation.

I was pushed and beaten. First defendant pushed me with his hand. I staggered two spaces; second defendant also pushed me. Third defendant also pushed me. Fourth defendant also pushed me. The Mysoreans came in a crowd and I cannot positively say who were the persons who actually pushed me. The Station House Officer and second witness were also pushed aside. I do not know by whom. I saw them pushed. I made a statement before this Court the day before yesterday that 1st defendant did not touch me at all. The defendants went in with sticks. One or two of defendants had sticks but I cannot say which of them. About ten persons of the Mysoreans came with sticks. Only some had sticks. They came all in a crowd. Other Mysoreans—one or two—came after the others had gone. None of those who came in the second batch are here. After the Mysoreans had entered the bath, people of the surrounding villages came and stood outside. Between the arrival of the Mysoreans and of the Tahsildar, none of the neighbouring villagers came. Only Mysoreans bathed till the Tahsildar came. I do not remember if any woman or children bathed there. Only Mysoreans were bathing when the Tahsildar came. About ten persons were bathing when the Tahsildar came. I went to the bathing place with the Tahsildar and Station House Officer. I saw the sticks lying close by, so as to take them as soon as they were wanted. All the four defendants present were actually under the Falls when the Tahsildar came. The sticks were lying a yard off from where they were bath- ing. I saw one or two sticks so lying. The Tahsildar said nothing about the sticks. I took the report (A) sent by the Station House Officer. It was given me at 6-30 A.M. to be taken. The Mysore people and second witness were present when exhibit A was given me. I took Exhibit A to the Tahsildar near the Dewan's residence inside the compound. The Tahsildar was going to see the Dewan. The Tahsildar was alone when I delivered Exhibit A coming out of the Dewan's house. The Tahsildar did not go to the Falls before I delivered the report (A). After I got the report (A) from the Station House Officer, I went straight to the Dewan's bungalow. I reached it at 6-30 A.M. The Tahsildar came to the Falls and inquired about the contents of the report (A). I do not know if he asked any of the four defendants about the contents.

No Re-examination.

Read and acknowledged to be correct.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
2-8-90.

(True Copy.)

LAWRENCE ASYLUM PRESS—1890.

In the Court of the Joint Magistrate of Tinnevelly.

Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the fourth witness for the prosecution. The 2nd day of August 1890.

Name	B. Narasimhalu Ayya.
Father's name	Gopala Iyer.
Residence	Tenkasi.
Age	41.
Occupation	Tahsildar 2nd Class Magistrate.
Caste	Brahmin.
Religion	Siva.

On night of 26th July I heard a meeting was held in the Mantapam South of Courtallum Temple in which certain resolutions were passed censuring the conduct of Mr. Clarke for assaulting a woman and withdrawing the concession made in favour of European gentry allowing them to bathe in the early hours of the day in the waterfall. I also heard that they left the meeting with determination to go to the waterfall next morning at the time set apart for European gentry. This seemed as if a riot would take place and I sent for the Head Constable and asked him what he had heard about it. He said he was likewise informed and had received a note from Mr. Clarke asking for a Constable at the waterfalls. I ordered him to go himself and promised myself to come next morning. I went on the morning of the 27th July to the Dewan's Bungalow and was talking to him. While there I received a report from the Head Constable at the waterfall. Exhibit A. is the report I received from the Head Constable. As the Dewan had gone inside, I asked the Deputy Commissioner who was there to send a man calling upon his men to leave the waterfall as I was told by the Constable bringing the report that European gentry had come there for a bath. He called a Mussalman and gave him some instructions which I do not know. I directly went to the waterfall. When I went to the waterfall I saw the four defendants engaged in bathing. I ordered them out. They refused to come out. I asked the Mussalman why he did not communicate instructions he had received from the Deputy Commissioner. The Mussulman said that the Deputy Commissioner had told him to tell the four defendants to take their bath and then go away. I waited for half an hour and told them in vain to clear. As they did not obey me I went away. I expected a riot to take place if any European came to bathe. If the Europeans persisted in having a bath we thought there would be a regular rioting. My opinion was they came prepared to riot. I did not see any weapons in their hands as they were all bathing. From the determination shown by defendants to have their bath and from their disobedience of my orders and from the people in general following the example of the defendants in crowding into the enclosure and from the determination with which the meeting had been held the previous evening I anticipated a riot. I thought that the defendants and ten others came with a determination to assert their right or supposed right while I was there. There was no use of force or show of force. I was not hooted.

Cross examination reserved.

(Signed) C. E. HENRY,

2-8-90.

Cross-examination on solemn affirmation.

I see Exhibit (C) report sent by me on 27th July to the District Magistrate. I was speaking to the Dewan on the morning of the occurrence. I told him that rioting would ensue if the rules in regard to bathing were broken and that if the people had only patience, rioting would be avoided. I expected rioting if the Europeans went to bathe.

Cross-examination continued.

All the facts stated in Exhibit C are correct and as they happened. I had a conversation with the first prosecution witness on night of the 26th July. I gave orders that night to the Head Constable to go to the waterfall. I gave orders directly to the Head Constable. They were verbal. I left Tenkasi at 5-45 A.M. on morning of 27th July. I came to the Dewan's Camp which I reached at 6-45 to the best of my recollection. I was in the Dewan's company for three quarters of an hour or one hour. I received the report Exhibit A while I had just parted company with him. Exhibit A was the first intimation I had of any disturbance at the Falls that morning. I did not receipt Exhibit A. I had no pen. I received Exhibit A at nearly 8 o'clock. I did not immediately go to the Falls on receipt of (A). On its receipt I went at once to the Verandah and called out Mr. Madhava Row and asked him to send a person to call back his men as the European gentry had come there for a bath. I am sure I made the request. I went to the Falls, after that I went direct to the Falls. I took less than ten minutes to go to the Falls. I saw a dozen people bathing. Amongst the dozen there were three widows. No children amongst the remaining seven or eight people belonged to the Dewan's Suite. I made a verbal inquiry from the Police. I went inside the enclosure. I did not see any sticks lying there. I did not go into the huts. The Head Constable and Constable came with me into the enclosure. I cannot say if they were there the whole time within the enclosure. The Europeans went with me to the Falls. I met them south of the Temple. I did not notice if the Police followed me out of the enclosure. While I was in the enclosure people rushed in from the other side. About 20 people rushed in from the other side. The Police did not point out any one as having pushed or jostled them nor did I ask them. After the Head Constable and I had gone, he pointed out first defendant saying, "This is the man that was lying on his back on the rock." He meant by that that first defendant had taken upon the rock a prominent position on the rock to command a good view of Europeans bathing. The Constables did not tell me anything about the first defendant nor about the other defendants. The Head Constable pointed out to the four defendants and others not present saying, "These are the people who came into the enclosure notwithstanding the opposition of the Police." Then I went away. I expected disturbance if the Europeans persisted bathing. I expected that if the persons present who were bathing were turned out for the Europeans there would be a disturbance. I thought I had authority as a Magistrate to turn the peeple out who were bathing. I had my own powers as a Magistrate to turn them out. The opposition of Police which I have above mentioned means that a Police Constable was shoved and I was told so by the Police at the time. The Head Constable told me this and the two Constables were present. Only the Head Constable told me that the Police Constable was jostled. The other two Constables did not say a word. I did not take any steps to clear them out. I told the people bathing to go but they did not go. I went away. There was no obstruction of any kind offered to the Europeans from having their bath. I issued no warrant to arrest defendants nor was any asked for. I did not give orders to arrest defendants. I did not ask the Constables as to what became of the sticks. The contents of Exhibit C. consist only of information received so far as it refers to the rioting or disturbance at the Falls. I only heard that the meeting broke up with the determination to go to the waterfall next morning.

Re-examination.

The offences alleged occurred before I came to the spot. Owing to the number of people at the Falls and fewness of the Constables at my disposal I did not arrest offenders. Besides the Dewan's people were known to the people and I thought there was no harm in waiting for securing their presence when the case came before the courts.

(Signed) B. NARASIMAHALU AYYA,

2nd Class Magistrate.

Read and acknowledged to be correct.

(Signed) C. E. HENRY,

Acting Joint Magistrate.

4-8-90.

(True Copy.)

LAWRENCE ASYLUM PRESS—1890.

In the Court of the Joi agis ate of Tinnevelly.
Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the 5th witness for the prosecution. The 4th day of August 1890.

Name	Sankaralingam Pillai.
Father's name	Nalla Kumaru.
Residence	Tenkasi.
Age	55.
Oc pation	Cultivator.
Cas	Vellalah.
Rel ion	Hindu.

I se my signature to Exhibit B. It is mine. I was Secretary of the meeting held on 26th July at Courtallum. Two or three of the Dewan's men were present. I did not see defendants before Court present. The Deputy Commissioner Madhava Row was present. The phrase "provision should be made against such indignates" in the Proceedings (Exhibit B) meant that report should be made to the Collector who should be requested to prevent such occurrences in future, *viz.*, the assault on the Hindu lady. We did not take any steps next morning to assert our right of bathing in the early hours of the morning.

Cross-examination reserved.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
4-8-90.

Cross-examination on solemn affirmation.

No one at meeting advocated violent measures. The meeting was peaceably conducted. The Deputy Commissioner, Madhava Row wrote me a letter saying that the matter should be represented to the Collector. The Temple trustee has got it. The purport of the letter was that the matter should be represented to the Collector and every thing carried out according to his orders. This wa the first time such a meeting was held in reference to bathing in the Falls b before this petitions were sent to the Collector.

No Re-examination.

Read and acknowledged to be correct.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
4-8-90.

(Signed) N. SANKARALINGAM, PILLAI,

(True Copy.)

Lawrence Asylum Press—1890.

it to disperse.

Cross-examination reserved.

In the Court of the Joint Magistrate of Tinnevelly.
Calendar Case No 41 of 1890.

Deposition given on solemn affirmation by the 6th witness for the prosecution. The 4th day of August 1890.

Name	V. B. Madhava Row.
Father's name	Visvanatha Row.
Residence	Courtallum.
Age	
Occupation	Deputy Commissioner, Mysore State.
Caste	Brahmin.
Religion	Hindu.

On evening of 26th July I was present at a meeting held at the Courtallum Temple. The first resolution expressed the indignation of the native community at the insult offered to a Hindu lady. Exhibit B is a translation of the resolution which were in Tamil. I do not remember any resolution being passed to the effect that, "Provision should be made to safe-guard individuals from such indignities." I believe that this clause was not part of the resolution at all. Two of my peons came to the meeting with umbrellas afterwards as it was raining. I cannot remember if they were any of the accused present. I am not sure if any of the defendants went to the Falls on the morning of the 27th July. I became aware of it however at the time when the Tahsildar came to see the Dewan. The Tahsildar did not ask the Dewan in my presence to withdraw the men bathing at the Falls

The Tahsildar did not tell me that he anticipated a riot if these men continued bathing in the Falls. The Dewan or Doctor Dhanukoti Raju said that some of our men were at the Falls and that the Police had come and that some of our men might misbehave themselves. If our men were at the Falls, if any force was used by the Police, our men might retaliate and misbehave. The Police might have used force to get out of the Falls. Perhaps from the events of the previous day, the defendants might in anger resent action of Police. I sent messenger that they were to be entirely passive and not return violence even if Police used force. My message was directed to my own men. I sent this message at 8 A.M. I saw the Tahsildar that morning in the Dewan's house. I may have had some conversation with the Tahsildar. I sent the messenger at my own instance and motion. The first and third defendants are the Dewan's orderlies. The second defendant is my dalayet. The fourth defendant is a purohit under the Dewan. One of the Dewan's servants went to bathe at 5 A.M. and two others with 4th accused at 5-30 A.M. when these latter were returning, the first, second and third defendants went for their bath. Two or three others went with me and the Dewan later on at 9 A.M. Whether one or two others at the house went or not I do not know. I did not know that the Tahsildar considered that an unlawful assembly had assembled and had ordered it to disperse.

Cross-examination reserved.

Cross-examination on solemn affirmation.

The meeting was quietly and peaceably conducted. No one gave expression to any violent expressions. No one proposed adoption of violent measures. No proposal was made to exclude Europeans from the baths. I suggested that the Collector should be addressed to modify the notice which had been put up and that we should await the Collector's orders before taking any steps. Next morning the resolutions were sent to me. I disapproved of the second resolution in which it was said that this practice of allowing Europeans to bathe should not be recognised. Altogether the Dewan and I have 12 or 13 attendants of all kinds. Two or three cooks of the Dewan bathe early in the morning before 5 and return before sunrise. Later on two or three servants go. The rest go afternoon. The second batch return before 7 or 8 from their baths. This was the practice observed by our attendants till the morning. No servants joined us and none left us since our arrival. The four defendants present were arrested in my room. The Inspector of Police and Head Constable came to my house. They came once at 3 P.M. and the Head Constable pointed out first defendant as one of those wanted by him. He said he wanted another man but that he was not among the servants present. He wanted to arrest two persons amongst our servants. I asked them under what authority or for what offence they wanted to arrest them and if they had warrants. He said he had orders from the Sub-Magistrate to arrest them and had no warrants but that it was a cognizable case. The Inspector mentioned 353 Indian Penal Code as the offence for which arrest was made. On the second occasion three more were arrested. The next time all my servants were produced for inspection. The Tahsildar made no request to me to send men to take away my men.

No Re-examination.

To The Court.

The practice I allude to above of our attendants was followed on the morning. Only 1st, 2nd and 3rd defendants could have been at the Falls when I sent a message advising them not to use force. The fourth defendant must have come away by that time but I am not positive but he generally is back before 8 A.M. I saw four other of our attendants preparing cloths for the bath. I saw all the others also in the bungalow attending to different duties. So the notice for natives not going to the bath before 10 A.M. was not being observed even before the 27th. The meeting was an indignation meeting for the outrage which had been committed on the Hindu lady. The other resolutions were only subsidiary ones. As no Europeans used to resort to the bath since our arrival our servants used to go there before 10 A.M. They had strict orders not to go to the bath if Europeans came. I was afraid that the outrage committed the previous day would stir up my servants. So I sent a messenger. I was afraid that if they were at the Falls and the Police ordered them, they would use violence. That was the first day the Police came to the place. My fear was that in consequence of the outrage on the Hindu lady the previous day my men might through excitement decline to leave the bath even when ordered by the Police. The appearance for the first time on the scene aroused those fears. I do not remember the name of the messenger I sent with this message. The messenger was Doctor Dhanukoti Raju's servant.

Read and acknowledged to be correct.

(Signed) C. E. HEN

EXHIBIT A.

To

The 2nd Class Magistrate of Tenkasi Taluq.

The humble report of the Station House Officer of Tenkasi:—

This morning at 6 o'clock while humble self and Constables Nos. 874 and 646 were guarding the waterfalls at Courtallum, ten of the men who had accompanied the Mysore Dewan and who were identified, came armed with clubs. On being told that natives should bathe after 10 o'clock but should not go now, they pushed aside Constable No. 874 and got upon the hills which were adjacent to the place where there were great waterfalls. I believe there will be a rioting should Europeans come there. More Mysore men are coming in. I humbly request that proper arrangements should be made in this matter.

(Signed) SUBRAMANIA PILLAY,

3rd Grade Hd. Constable No, 316.

27-7-90.

(True Copy.)

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EXHIBIT (A.)

தென் காசி தாலூகா ம-ா-ா-ஸ்ரீ 2-வது கிளாஸ் மேஜிஸ்திரேட்டு அவர்கள் சமுகத்திற்கு.

தென்காசி ஸ்டேஷனுபிசர் வணக்கமா யெழுதிக்கொண்ட ரிப்போர்ட்டு.

இன்றுகாலை 6-மணிக்கு குத்தாலம் அருவிக்கரை பந்தோபஸ்துக்காகப் பிதிவியும் 874 நெம்பர் 646 நெம்பர் கான்ஸ்டேபிள்களுமாகப் பந்தோபஸ்து செய்துக்கொண்டிருக்கும்போது ம-ா-ா-ஸ்ரீ மைசூர் திவானவர்களுடன் கூட வந்திருக்கிறவர்களில் இனந்தெரிந்த 10 பேர்கள்வரை கும்புகள் சகிதமாய் வந்தார்கள். 10-மணிக்குமேல் நேட்டிவுகள் குளிக்கவேணும் இப்போது போகக்கூடாதென்று சொன்னதற்கு 874 நெம்பர் கான்ஸ்டேபிளைப்பிடித்துத் தள்ளிவிட்டு போய் யேகமாய் அருவிவிழுகிற இடத்திற்குச் சமீபத்தில் மலைகளிலேறிக்கொண்டிருக்கிறார்கள். ஈரோப்பியர்கள் வந்தால் கலகம் நடக்குமென்று நம்புகிறேன். மைசூர் ஆள்க்கள் மேலும் மேலும் வந்துக்கொண் டிருக்குறார்கள். இது விஷயத்திற் தக்க யேற்பாடு செய்யவேணுமென்று அனேகமாய் கேட்டுக்கொள்ளுகிறேன்.

(ஒப்பம்) சுப்பிரமணிய பிள்ளை.

316 நெம்பர் 3-வது கிரேட்

ஹெட்கான்ஸ்டேபிள்.

27—7—90.

(True copy)

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Proceedings of the Meeting held at the Thiricoodamandapam,

Courtallam Temple,

on the 26th July 1890, at 6-30 P. M., with reference to the matter of bathing in the falls at Courtallam.

1. Subramania Pillai, President.

Sankaralingam Pillai, Secretary.

2. Proposed by M. R. Ry. Rama Iyer Avergal, and seconded by M. R. Ry. Thricoodarajappa Cavirayer, Avergal, that in the opinion of this meeting, the action of Mr. T. Clarke, Coffee Planter in placing his hand on the back of a respectable native lady and pushing her off while returning from the falls after her bath this morning, was very improper, opposed to the rights and privileges of females according to the rules of etiquette observable by our community and calculated to reflect dishonor upon all the members of our community.

Carried unanimously.

3. Proposed by Mr. Andianju, Avergal, and seconded by Mr. Ramier, Avergal, that in view of the following considerations namely :—

That the said Courtallam falls held to be holy, serve to perform sacred rites appertaining to the temple and the members of the Hindu community resorting to it. That, though Europeans have no such rites and are not therefore entitled to use the falls on that score yet in consideration of the loyal feeling actuating us towards the British nation, no serious objections have been raised to their having their early morning bath though overriding our needs.

That in years past large number of Europeans resorted to the place, the season being in its full swing: but of late the season is grown very indifferent and the Europeans resorting to it are very few, the only permanent inhabitant being the said Coffee Planter.

That even in this by far reduced extent of its utility to the Europeans most often limited to the convenience of but one member, the religious needs of the temple, of the people in the neighbourhood, of the many seeking the place on pilgrimage that should be attended to, in the mornings, remain suspended till past 9-30 A.M. on account of the prevention of the police peon, the cavalgar and the thotti; even though the said convenience is not continuously of the whole time, is very often only for a short time, and is sometimes not at all availed of.

That it is a matter much to be regretted that thus the convenience and caste observances of the many are brought into jeopardy.

[illegible] latrine arrangements so near the sacred falls for the convenience of European [illegible] positively inflicted a deep wound on our religious susceptibilities. That [illegible] view of these considerations and also what had been done this [illegible] Coffee Planter and with a view to prevent similar mishaps from

was informed [illegible]

come there, I requested the Deputy [illegible]

[illegible] messenger to his people at the falls. I directly [illegible]

Provision should be made to safe-guard individuals against such indignities.

Carried *nem. con.*

4. Proposed by Mr. Muthusawmi Pillai and seconded by Mr. A. Subramania Pillai, that though it appears that there is a notice fixing the hours of bath for Europeans, it likewise appears that the same has been framed for convenience and is neither law nor has it the authority of any law; further it has been made the handle for such a bad conduct towards the said Hindu lady. As it therefore does not appear that we should feel ourselves bound by the notice the Collector be informed of these particulars.

Carried *nem. con.*

5. Proposed by Mr. Subbramaniam Pillai, and seconded by Mr. Venkatarama Ayar, Avergal, that a copy of these proceedings be respectfully submitted to the patriotic statesman now at this station.

Carried *nem. con.*

(True Translation).

No. 54.

EXHIBIT (C).

To

THE DISTRICT MAGISTRATE

of Tinnevelly.

Report of the Tahsildar, 2nd Class Magistrate of Tenkasi Taluq.

MOST HONORED SIR,

I beg to state that, since sending the complaint of Krishnier against Mr. Clarke to your Honor, I heard some of the leading men, who are come here for the season, and some persons of the town, all about 50 people, held a meeting at 6 P.M. in the Mantapam at Courtallam, south of the Temple, presided over by Subramania Pillai, Mittadar of Sivanadanur, living at Ilanji, and passed resolutions concerning the conduct of Mr. Clarke, and resolving to withdraw the concession, as they call it, made in favour of European gentry in allowing them to bathe in the falls till 10 A.M. on account of the conduct of Mr. Clarke. They left the meeting with a determination to go to the falls the next morning during the hours set apart for the European gentry. This seemed to me as if some row would take place. I then sent for the Head Constable, who told me that he was also likewise informed and that he received a note from Mr. Clarke, asking him to detail a Constable for duty as usual. I then told him to go himself, promising that I would also be there.

2. This morning the Station House Officer went to Courtallum with two Constables to see that no breach of the peace occurs. Ten people belonging to the Mysore Dewan's party came to the waterfalls with sticks at 6 A.M. and wanted to get into the enclosure. The Police Constables told them that admission to natives was only after ten, and that they should not go inside. They pushed aside one Constable and went to the falls. The Police Head Constable, apprehending a breach of the peace if European gentry were to come there, for bath, wrote to me a report which I received when I was talking to the Dewan about this. I represented to the Dewan how such a course was likely to end in a rioting and how it could be avoided if the people had only patience to wait the order of the Collector, to whom I heard they sent a copy of the resolution. I also explained to him that because Mr. Clarke assaulted a woman, other gentlemen cannot be made to suffer, and that a respectful request to your Honor will be the most advisable course instead of people trying to break the rules which have been observed for more than a century. The Dewan said that he also advised the people to the same effect but, being excited at yesterday's incident, they are obstinate in having their own way.

As soon as I received the note of the Station House Officer, and as soon I was informed by the Constable that European gentry wished to have a bath come there, I requested the Deputy Commissioner with the Dewan to ask [illegible] messenger to his people at the falls. I directly [illegible] with regard to bath have all been broken, and that the Police are unable to keep off people from getting inside. Thinking the messenger from the Dewan's Camp was going to send off his men, I told the gentry that I would clear the place and that they can have a bath. I came to the Falls and asked the people to make haste and go: they would not do so. I asked the messenger why he did not communicate the instructions and whether he was not asked to tell them to go; he replied that he was ordered to inform his people to have their bath and then go. We waited for half-an-hour. Their was no chance of their going out. People (not belonging to Mysore) on the contrary poured into the enclosure from the other side of the screen which had been washed away by floods, and it was not possible to prevent their entrance without coming to blows. Mr. Clarke said that the rules ought to be enforced at any cost, and that he urged the strongest protest against the breaking of the rules issued by constituted authority. I replied that it is better to yield than to give occasion for any breach of the peace when the people are said to be excited, and that I would be blamed should any rioting take place. They approved of what I said and asked me to place the whole matter before your Honor. All of us left the place without giving occasion to any sort of unpleasantness.

4. Mrs. Clarke told me that soon after the row complained of by Krishnier yesterday, (of which a different version is given by that lady), she was passing the bridge in order to go and call Mr. Brasier for assistance, when a Pandaram (a Vellala Sannyasi), name not known, came and stood in front of Mrs. Clarke and pushed her back with his elbow. Mr. Clarke told me that he is going to prefer a complaint about it.

5. A wrong idea has got into the head of some people that your Honor does not like to enforce the rules except in the way of persuading natives to keep back at those hours. As they think and say that the rules are not binding on them and as the incident of yesterday has given pain to the leading men, there is no chance of my persuading them to respect the rules and allow European gentry unmolested in the enjoyments of their rights, at any rate until the excitement is a little abated. Pending the solution of the question by your Honor, I shall try my best to prevent a breach of the peace. It is the wish of all that your Honor should come and settle the affair. The Mysore Dewan told me that he is going to write to your Honor about this.

I beg to remain, &c.,

(Signed) B. NARASIMHALU IYER,

2nd Class Magistrate.

(True Copy.)

(Signed) B. NARASIMHALU IYER,

2nd Class Magistrate,

29-7-90

(True Copy.)

Order under Section 144, Civil Procedure Code.

Whereas I learn by a report from the Tahsildar Sub-Magistrate of Te
kasi that rioting took place on the 27th instant at the Courtallam Waterfall,

and whereas I have reason to believe that rioting may take place a
unless hours be fixed for the different classes of people to bathe therein,

and for this end immediate prevention or speedy remedy is desirabl
prevent obstruction and annoyance to persons lawfully employed in bathin
to prevent a riot,

the case being emergent, I hereby pass the following order under S
144, Criminal Procedure Code, *viz.*,

Order to the public frequenting or visiting Courtallum.

For two months from this date I direct that all persons being na
India shall abstain from bathing in the Courtallum Waterfall before ten o'
the morning.

(Signed) J. H. A. TREMENHERE,
Acting District Magist

In the Court of the Joint Magistrate of Tinnevelly.
Calendar Case No. 41 of 1890.

Deposition given on oath by the first witness for the defence. The 12th day of August 1890.

Name	... J. H. A. Tremenhere.
Father's name	... do. do.
Residence...	... Tinnevelly.
Age	...
Occupation	... Collector and District Magistrate.
Caste	... European.
Religion	... Christian.

I think it was on the next evening after I received the report Exhibit C, I received on 31st July the English copy Exhibit B of the Proceedings of the meeting held. I immediately dated it. To the best of my belief the Tamil copy was received several days later. Previous to the date of their alleged offence, personally I did not issue any notice prescribing the hours for bathing. Personally I did not send notice previous to date of this offence to any Constable or other person to keep away natives from the bath, nor was I personally asked to send any such notice. I file the Original Exhibits I and II, Tahsildar's report. It was received by me on 29-7-90.

No cross-examination.

(Signed) J. H. A. TREMENHERE.

Read in English for Mr. Tremenhere and acknowledged to be correct.

(Signed) C. E. HENRY,
Acting Joint Magistrate.

12-8-90.

(True Copy.)

LAWRENCE ASYLUM PRESS—1890.

In the Court of the Joint Magistrate of Tinnevelly.
Calendar Case No. 41 of 1890.

Deposition given on oath by the 2nd witness for the defence. The 12th day of August 1890.

Name	... H. Taylor.
Father's name	...
Residence	... Courtallum.
Age	...
Occupation	... Police Inspector.
Caste	... European.
Religion	... Christian.

I received no report about alleged occurrence on the morning of the 27th but I received it from the Station House Officer of Tenkasi on the 28th July. I was not in Courtallum on the morning of the 27th. I made investigation into the matter. The charge sheet was put in on 31st July or 1st August. I arrested the accused at the Dewan's Bungalow.

No Cross-examination.

To the Court.

I returned on the 28th to Courtallum and heard that the Tahsildar had reported the occurrence to the Collector. As soon as I had received orders I arrested the sum and charged the case.

Read an acknowledged to be correct.

(Signed) C. E. HENRY,
Acting Joint Magistrate,
12-8-90.

(Signed) H. TAYLOR,
Inspector, F. Division.

(True Copy.)

Lawrence Asylum Press—1890.

In the Court of the Joint Magistrate of Tinnevelly.

Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the 3rd witness for the defence.
The 12th day of August 1890.

Name	
Father's name	... Madappan.
Residence	... Kothadi Muppan,
Age	... Kasimajorpuram.
Occupation	... 38.
Caste	... Watchman at the Waterfall.
Religion	... Betel gardener.
	... Hindu.

I know the four accused before the court, since I went as Kavalgar of the waterfall at Courtallum. I have been Kavalgar since 7 or 8 days before the end of the last month, *i.e.*, I mean the last English month not Tamil month. I have heard that the accused were the servants of the Dewan, because they used to come with him for bathing. I heard of the assault made last month on the Hindu Lady. I do not know the date or day of the week on which this assault took place. I was at the waterfall on the morning of this alleged assault. On the next day I saw the accused at the waterfall. One of the accused as usual had a stick with him. He used usually to carry about a stick with him. Accused came next day to have a bath. No disturbance occurred at the waterfall the morning after the alleged assault took place. When accused went to the Falls some others were bathing. Three cooks were returning at the time after their bath. When accused went to the Falls the Police were present at the spot. The Police had no uniform when the accused came to the Falls. When the people went to the Falls, the Constable said they should not go there. Then there was some verbal altercation. I went in to look after my own business. The four accused came one after the other to the Falls. The Tahsildar came to the spot at 8 A.M. Several persons were bathing when the Tahsildar came. Both men and women.

Cross-examination reserved.

(Signed) C. E. HENRY,

Acting Joint Magistrate.

12-8-90.

Cross-examination.

After the Police came to the Falls they put on their uniform. The Police came at 7 A.M. I do not know the names of the Brahmin cooks whom I met at the Falls. But I identify them in the Court (witnesses points out the 5th and 6th defence witness). I went to the Falls at 5-30 A.M. The cooks were there when I went to the Falls. I did not see the first three accused there; then 4th accused

not see any

also was not there. It was when the cooks were returning from bath that the altercation took place between the accused and the Constables. I do not know whether accused used force to the Police or not because I had gone in to clean the place within the enclosure. The Police Constables were looking on at a distance. They asked cooks to give their names but accused said they would give the cooks names and wanted the Constables to let the cooks go. All the accused came one after the other to the Falls from the Dewan's Bungalow.

No Re-examination.

To the Court.

I am Kavalgar appointed by Mr. Clarke.

Read and declared to be correct.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
12-8-90.

(ஒப்பம்)- இந்தக்கிரல் மாடப்பன்

(True Copy.)

LAWRENCE ASYLUM PRESS—1890.

In the Court of the Joint Magistrate of Tinnevelly.
Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the 4th witness for the defence.
The 12th day of August 1890.

Name ... ... Subbu Tevan.
Father's name ... ... Sami Tevan.
Residence ... ... Kasimesarapuram.
Age ... ... 35.
Occupation ... ... Cultivator.
Caste ... ... Maravan.
Religion ... ... Hindu.

I know the four accused before Court. I do not know their names. They are Mysoreans and now reside in the Travancore Maharajah's Bungalow. They are the Dewan's servants. I am employed in the Dewan's service at present. I take the Dewan's chair to the waterfall and bring it back at 6 A.M. I used to take the chair to the waterfall and bring it back. I heard about the assault made on a Hindu lady. I do not know the date or day of the week of the assault but it occurred 10 or 15 days ago. Next day I took a chair to the waterfall. I saw the first three accused, Papa, Lingana Naick and Hussane Khan go in advance of us to take a bath at the Falls. The first accused had a stick in his hand. Accused second and third had nothing in their hands. About 10 or 30 people were bathing at the falls when the first three accused went to the Falls. No disturbance of any thing of the sort occurred there. The Tahsildar came there that morning. The first three accused used to go to bathe usually at 5-30 or 6 or 7 or 8 or 9 A.M. The first three accused did not push any body at the waterfall. Some Constables were standing with the Tahsildar.

Cross-examination reserved.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
12-8-90.

Cross-examination.

There is no fixed time for the Dewan to come to bathe. A Naligai after I used to bring chair to the Falls, he used to come. When I went to the Falls I saw 4th accused returning after a bath from the Falls. I went to the Falls at 6 A. M. I saw no Police there when first I went there. The first three accused went in and had their bath. No one prevented them. I know the two Brahmin cooks 5th and 6th defence witnesses. They were returning from their bath when I went to the spot. No one obstructed them. No disturbance occurred that morning while I was there. There was no altercation even. Fourth accused was returning with the two cooks.

No Re-examination.

Read and declared to be correct.

(Signed) C. E. HENRY,
Acting Assistant Magistrate.
(ஒப்பம்.) இந்தக்கிரல் சுப்புதேவன்.

(True Copy.)

LAWRENCE ASYLUM PRESS—

my
did not see any

In the Court of the Joint Magistrate of Tinnevelly.
Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the 5th witness for the defence. The 12th day of August 1890.

Name	... Appadurai Iyer.
Father's name	... Sami Iyer.
Residence	... Tinnayam, Trichinopoly.
Age	... 32.
Occupation	... Dewan's Cook.
Caste	... Brahmin.
Religion	... Hindu.

I am one of the cooks of the Dewan of Mysore. I used to bathe in the waterfall since my arrival here. I used to go at 5-30 or 6 A.M. I used to go in company with others. The other cooks and servants and water carriers used to go with me. I know the four accused present. I heard of the assault committed on the Hindu lady at the waterfall. The day after that assault is said to have taken place I went to bathe at the Falls with two others, *viz.*, Naranier and 4th accused Sami Sastri. When I went to the Falls people were bathing at the Falls. About 20 or 25 were so bathing. The first three accused were met by us as we were returning from the Falls after our bath. They were going to have their bath. The first accused had as usual a stick in his hand. He usually carried a stick. No one prevented me hitherto from going to bathe in the Falls. It would be about 6-30 A.M. when we were returning from our bath. The first three accused use to come daily to bathe, some days with us but being servants we generally used to go beforehand. I do not know if anything occurred at the Falls that morning. I met the accused between the bridge and the screen put up at the Falls that is outside the screen. When the first three accused went into the bathing place, no disturbance took place so long as I was there. Not one of the first three accused pushed anybody at the Falls. There was no Police Constable in uniform and none of the accused pushed any of the Constables.

Cross-examination reserved.

(Signed) C. E. HENRY,
Acting Joint Magistrate,
12-8-90.

Cross-examination.

one obstructed us from going into the bath at the Falls. When we returned some one asked me my name. I asked him why he wanted my name. Then the first three accused came to the spot and said that they would give my name and I wanted him to let me go away as I had some h [illegible] I did not see any [illegible] ble that morning. When I we [illegible] first three accused. I did not see the Tahsildar at the spot. The Kavalgar was not there when we went to bathe. Narasimier went first. I went afterwards. I did not see Naranier speak to the Kavalgar. I do not know whether the Police obstructed the first three accused because I went away. The first three accused were not at the Falls when we went to bathe. 4th accused returned after our bath, a little behind us. I did not see Sami Sastri speak to the Police.

Re–examination.

Sami Sastri came 10 paces behind. The first three accused were going to bathe in the Falls and I was returning when I met them. When we were going to have a bath Naranier, 6th defence witness went first, then 4th accused, and then I.

Read and declared to be correct.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
12-8-90.

(ஒப்பம்) அப்பாதுரை அப்பய்யன்.

(True Copy.)

In the Court of the Joint Magistrate of Tinnevelly.
Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the 6th witness for the defence. The 12th day of August 1890.

Name	... Narayana Aiyar.
Father's name	... Ganapathi Aiyar.
Residence	... Vadakasemur, Tanjore District.
Age	... 24.
Occupation	... Cook.
Caste	... Brahmin.
Religion	... Hindu.

I am a cook under the Deputy Commissioner of Mysore. I know the accused present. The 1st and 3rd accused are the Dewan's servants and 2nd accused is the servant of the Deputy Commissioner, while 4th accused is a sastry under the Dewan. I bathe generally at the waterfall. I have heard of the alleged assault on the native lady but I do not know personally of it. Next day I went to the Falls. Appadorai Aiyar 5th defence witness and 4th accused went with me to the Falls. At 5-30 or 6 A.M. we went to the Falls. While returning after our bath outside the screen we met the first three accused. The first accused only had a stick as usual. He used generally to carry it about with him. About 6-30 A. M. we returned from our bath. There was no disturbance that morning there. None of the accused pushed any of the Constables. The Deputy Commissioner Madhava Row has only two servants, *viz.*, Rama Iyer and I. The Dewan has four servants. The Deputy Commissioner has also got one peon, the 2nd accused. The Dewan has got four peons.

Cross-examination reserved.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
12-8-90.

Cross-examination.

I met no one when I went to bathe. I saw the Kavalgar when I was going to bathe. He asked me if I came to bathe. I said "yes." He said I should bathe soon and leave the place. 5th witness and 4th accused had accompanied me. I do not know if 5th defence witness saw the Kavalgar or not. 5th defence witness was about 100 yards away when the Kavalgar spoke to me. I met when I was returning from the Falls a Constable near the bridge. He was in uniform. I saw only one Constable. I do not know if he was a Head Constable or a Constable. The Constable said "stop here"; you must not go, when I asked "why". He ordered me to give my name and to go. He spoke to the 5th defence witness so. The Constable did not tell 5th defence witness that he was acting insolently. Fourth accused came after me. I saw the first three accused when I was returning from my bath. I saw them first between the bridge and the screen. I did not see Ragavelu with the first three accused. I did not see the Tahsildar there that morning. It was 3rd accused who asked the Constable in uniform to let us because we had business to attend to. I did not see Ramannah that morning. I gave a statement to the Deputy Commissioner on the evening of the arrest of the accused. I mentioned before the Deputy Commissioner that I met only one Constable because I saw only one. I did not say that I had met two Constables. I did not say that it was a Head Constable who obstructed me but only a Constable. I meant that no fight took place on the 27th morning when I stated that an altercation had taken place. The wife of Krishnier was not present when I was bathing.

No re-examination.

Read and declared to be correct.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
12-8-90.

(ஒப்பம்) நாராயணய்யர்.

(True Copy).

LAWRENCE ASYLUM PRESS.—1890.

In the Court of the Joint Magistrate of Tinnevelly.
Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the 7th witness for the defence
The 12th day of August 1890.

Name	... Srinivasa Iyer.
Father's name	... Annadurai Iyer.
Residence	... Vannarpet.
Age	... 29.
Occupation	... High Court Vakil.
Caste	... Brahmin.
Religion	... Hindu.

I know date of assault on Krishna Iyer's wife. It occurred on the 26th July last. I remember a meeting having taken place the same day. I was present at it. The meeting was convened first to express our indignation against the outrageous conduct of an English member towards a Hindu lady. It was further resolved to represent to the District Magistrate as to the practicability of suggesting some measure to prevent recurrence of such outrage and also to change the hours prescribed for bathing so as to suit the convenience of Hindus and the performance of religious service in the Temple. The meeting was very peaceable and not riotous. No insolent measures were advocated by anybody. No resolution was adopted to exclude Europeans thereafter from the Falls. It was not resolved that people should go to the waterfall next morning so as to exclude Europeans from bathing there. Next morning the 27th I went to the Falls at 8-30. A.M. I saw the Tahsildar there then. I bathed after the arrival of the Tahsildar. 30 or 40 people were bathing when I went to bath, people of both sexes and children. I cannot say if the four accused were present at the Falls or not when I was bathing. There were Mysoreans bathing then at the time. About half a dozen Mysoreans were bathing at the time. I cannot say if the accused were any of them. The Tahsildar did not prevent me from bathing. The Tahsildar was simply standing with some Europeans when I went. I saw no sticks at the huts. I saw none of the Mysoreans carrying sticks at the waterfall.

Cross-examination reserved.

(Signed) C. E. HENRY,
Acting Joint Magistrate.
12-8-90.

Cross-examination.

I saw Tahsildar at 8-30 A.M. standing. I did not observe what he was doing. I simply saw him standing. I immediately went to bathe. I did not meet the Tahsildar face to face. I did not go over the bridge. Nobody told me that the Tahsildar had told accused not to bathe. I identified the half a dozen present at the Falls by their brawny arms, their dress, and by their wearing moustaches.

“ Provision should be made to safe-guard individuals against such indignities ” in resolution No. 3 of the meeting means that steps should be taken to make representations to the Collector with a view to prevent the recurrence of such indignities as the assault on Krishna Iyer's wife. No resolution was passed that natives should as usual go to bathe. When I went into the enclosure, I was not aware that rioting had occurred. I did not look out therefore for any sticks. I bathed inside the enclosure.

No Re-examination.

Read and declared to be correct.

(Signed) C. E. HENRY,
Acting Joint Magistrate.

12-8-90.

(Signed) A. SRINIVASA IYER.

(True Copy.)

LAWRENCE ASYLUM PRESS—1890.

In the Court of the Joint Magistrate of Tinnevelly
Calendar Case No. 41 of 1890.

Deposition given on solemn affirmation by the 8th witness for the defence.
The 12th August 1890.

Name	Krishna Iyer.
Father's name	Rama Iyer.
Residence	Vannarpett.
Age	25.
Occupation	Vakil.
Caste	Brahmin.
Religion	Hindu,

I am a graduate in law of the Madras University. I know date of assault committed on Krishna Iyer's wife at the waterfall. It occurred on 26th July last. I was present at the meeting held that evening. It was peacefully conducted. No violent measures were advocated at that meeting. No resolution was passed that natives should go next morning and exclude Europeans fron bathing. I went to the waterfall on 27th morning and I bathed. I saw the Tahsilder there, as he was returning home. I saw him outside of the enclosure. I went that morning with the last witness (7th defence witness). 7th defence witness went into the enclosure first. I went some time afterwards. 30 or 40 people were bathing when I went into the enclosure. There were people of both sexes. I did not see any sticks at the huts when I entered the enclosure. I saw the Tahsildar at a distance when I was entering the enclosure. I saw a Mahomedan bathing. He might have been the third accused but I cannot say for certain for my attention was not directed to that point. I cannot say if the other accused were there.

Cross-examination reserved.

(Signed) C. E. HENRY,
Acting Assistant Magistrate.

Cross-examination. 12-8-90.

7th defence witness and I started together to the Falls. I saw 7th defence witness get into the water first. 7th defence witness did not go over the bridge but through the Mantapam. When I was returning home, I inquired as to why the Tahsildar had come to the spot. I heard that the Tahsildar was there to prevent the natives from bathing. I saw European ladies and gentlemen returning with the Tahsildar. I do not remember having asked 7th defence witness as to why Tahsildar had to come to the spot. I went to the huts and stood near them to dry myself.

No Re-examination.

Read and declared to be correct.

(Signed) C. E. HENRY,
Acting Assistant Magistrate.

12-8-90.

(Signed) A. K. KRISHNA IYER.

(True Copy.)

LAWRENCE ASYLUM PRESS—1890.

In the Court of the Joint Magistrate of Tinnevelly.

CALENDAR CASE No. 41 *of* 1890.

Deposition given on solemn affirmation by the 9th witness for the defence.

The 12th day of August 1890.

Name.. ....Krishnasami Iyer.
Father's Name..... .....Siva Rama Krishna Sastry.
Residence ....Tinnevelly.
Age. ....51.
Occupation..............District Court Pleader.
Caste ....Brahmin.
Religion ....Hindu.

I heard of the assault on Krishna Iyer's wife on 26th July last. I believe a meeting was convened on the evening of the 26th July to express feelings of regret and indignation at the alleged assault by Mr. Clarke on a respectable native lady. The final resolution was that the matter should be brought to the notice of the Collector in order that similar occurrences might not take place. It was not resolved that natives should go to the waterfall next morning and exclude Europeans altogether. The meeting was not disorderly. It was a peaceful meeting. I know the four accused. I do not remember seeing them at the Falls the morning after the assault. I was not at the Falls the next morning but I was at the Mantapam opposite to the Falls. From the Mantapam I could see people passing over the bridge and along the screen. I went to that Mantapam at about 8 A.M. I saw none of the accused pass in front of the temple while I was there but people were going to and coming from the Falls. I was in front of the temple from 7 A.M. I could see people bathing from the Mantapam. 30 or 40 people were bathing scattered about. I could not see distinctly who were bathing at the Falls but I could see people bathing at the partition where the screen was washed.

Cross-examination reserved.

(Signed) C. E. HENRY,
Acting Assistant Magistrate.

12*th August* 1890.

Cross-Examination.

From 7 to 8 A.M. I was near or about the temple. I was not in a position to state if any thing was going on near the Falls. I went to the Mantapam at about

8 A.M. From 6 to 8 A.M. a disturbance might have occurred near the Falls of which I know nothing. I saw the Tahsildar at the Falls. I have a faint recollection that there were one or two constables with him. I was told that the Tahsildar had come to let the Europeans bathe there and tell the native people to go away. I was lodging in the temple. I simply took a walk to the Mantapam. I believe that with reference to the previous day's occurrence the Tahsildar came to the spot.

No re-examination.

Read and declared to be correct.

(Signed) C. E. HENRY,
Acting Assistant Magistrate.

12*th August* 1890.

(Signed) A. KRISHNASAMI IYER.

(True Copy.

HIGGINBOTHAM & CO.—MADRAS, 1890.

In the Court of the Joint Magistrate of Tinnevelly.

CALENDAR CASE *No.* 41 *of* 1890.

Deposition given on solemn affirmation by the 10th witness for the defence.

The 12th day of August 1890.

Name .. ..Seema Pillai.
Father's Name ...Chidambara Kuttalam Pillai.
Residence............Tenkasi.
Age ....25.
Occupation ....Temple Kanaccan.
Caste ....Vellalah.
Religion ....Hindu.

I am Kanaccan of the temple at Kuttalam. I know the Dewan who has come here and put up in the Maharajah's bungalow. I know the four accused. They are Mysoreans. I know the Brahmin cooks, 5th and 6th defence witnesses of the Dewan. I saw them go to the Falls to bathe. They used to go at 6 or 6-30 A.M. to bathe. I heard of the assault on a Hindu lady last month. I do not know date or day of the week when it occurred. Next morning I went to the temple at 8 A.M. I saw the four accused bathing at the Falls. I saw them from the steps near the bridge. Others were also bathing. I did not see Tahsildar that morning. I was in the temple. I went from Tenkasi to the temple that day.

Cross-Examination.

4th accused was also bathing. I saw him besides several others. It would be about 8 A.M. when I came to the temple. I do not know what occurred between 6 and 8 A.M. No one told me that the Tahsildar had come. I did not see constables there.

No re-examination.

Read and declared to be correct.

(Signed) C. E. HENRY,
Acting Assistant Magistrate.

12*th August* 1890.

(ஒப்பம்) சீனியாபிள்ளை.

(True Copy.)

HIGGINBOTHAM & CO.—MADRAS, 1890.

In the Court of the Joint Magistrate of Tinnevelly.

CALENDAR CASE No. 41 *of* 1890.

Deposition given on solemn affirmation by the 11th witness for the defence.

The 12*th day of August* 1890.

Name ....Madasami.
Father's Name...Sudalai Muthu Pillai.
Residence.........Kudiyiruppu.
Age................30.
Occupation ......Kavalgar.
Caste..............Vellalah.
Religion...........Hindu.

I heard of the alleged assault on a du lady which occurred a few days ago. I used to sleep at nights in the ten as I am the Temple Kavalgar. I was in the temple till about 7 or 8 A.M. on norning after the occurrence. Before and after 6 A.M. the four accused went Falls to bathe the morning after the occurrence. I did not count how man came to the Falls that morning. I did not observe which of the accuse bathe but they would have gone that morning. I do not know if any dis took place at the Falls that morning.

No Cross-examination.

Read and declared to be corr

(Signed) C. E. HENRY,
Acting Joint Magistrate.

(ஒப்பம்) மாடசாமியபிள்ளை.

(True Copy.)

HIGGINBOTHAM & CO.—MADRAS, 1890.

Ootacamund
September 1890

Att 12/9

My dear Tremenheere,

With reference to the Courtallam incident, I am directed to instruct you to invite Mr. Clarke to send in a written statement of his version of the alleged assault by him on Krishna Aiyar's wife

Yours sincerely

J. H. A. Tremenheere Esqre
C. S.

Judicial [illegible] 3540

CHIEF SECRETARY
21 SEP 90
GOVERNMENT OF MADRAS

Records re Courtallam [illegible]

Circulated
2 Septr

I think it is important that we should see the complaints of Krishnayyar agt. Clarke & of Clarke vs. Krishnayyar. The copies of these D.O.s should also be called for. Instruct the Dt. Magte to invite Mr. Clarke to send in a written statement of his version of the alleged assault on Krishnayyar's wife. We shall have to pass a G.O. on the whole matter probably — in that connection to assert the right of Govt. to the Falls, the equal rights of all classes of Her Majesty's subjects to bathe in the Falls, & the necessity of reasonable regulation of the hours of bathing.

4/9/90

I agree but Mr. Clarke's statement wd. have to be taken cum grano
Septr 5th/90

I agree
4/9

DEPARTMENT

No.

From

Dated 18

FOR ORDERS.

A. D.O. to Mr. Tremenheere is submitted for approval. Is however a statement from Mr. Clarke now wanted.

11 Septr

Yes. We must issue a G.O. on the subject — & for this we ought to have Mr. Clarke's statement — & a copy of the High Court's judgment on the appeal. There is some weak protection [illegible] recorded — a paper [illegible] of gallery — [illegible] —

13/9

A statement [illegible] will be circulated for consideration — 16/9/90

On reconsideration I agree with H.E. Mr. Clarke's statement is not essential even if a G.O. is issued
16/9

Seen. The necessity for action arises out of the fact that Mr. Tremenheere's order however [illegible] by lapse of time on Septr 29th — & the present [illegible] till a fresh likelihood of a fight occurs — say next year. But Govt. by a Notifn. under Sec: 144 can treat the present order as in force with such modifications as it thinks fit [illegible]

Suppose Mr. Clarke declines the invitation? I think we should look very foolish —
I do not at present see the object of issuing a G.O. — I sh. think it would be better to leave the matter alone till Mr. Nicholson returns

~~again to~~

~~Hon. Mr Garstin C.S.I.~~

~~Hon. Mr Grose~~

~~15/9/[illegible]~~

To await return of
the note alluded to
by the Hon. Mr Garstin
(By C.S.'s orders)
17/9

I don't think it would be safe to issue any G.O. or decide on the terms of it until we have seen the Appeal order, & I don't know why we should not get a copy of it soon. Some order of the kind indicated at the end of the Hon Mr Garstin's Note will certainly be required, as there is a real danger of affrays, but are we sure of the legality of Mr Tremenheere's order? I doubted it at first & though I believe it now that is not sufficient. The papers reported that the High Court were to be asked to revise it. Was such an application made, & if so what was the result? The Govt. Pleader was told to consult the Advocate General about it. What was his opinion? The Govt. Pleader might be asked all this by telegram. There is no great emergency about issuing the Notification for Mr Tremenheere's order is in force till the 28th inst, & the Notification would only extend it for two days, so the Europeans will be deprived of their bathing for two days only if it is not in next week's gazette. When the Notification is issued the Hon Mr Garstin's modifications seem desirable. [illegible] 15/9

Note

The Courtallum Case

The public journals have announced ~~that~~ the High Ct. have reversed the conviction & set aside the sentence of the Jt. Magte. of Tinnevelly in the Courtallum case & also declared that as Mr Lee Warner's order was not a legal one there was no offence committed in disregarding it & even in using force to do so.

I directed the Chief Secy. to ask for a copy of the High Ct's judgment, but some time will probably elapse before it is recd. I also tele[illegible] him to order the Distt. Magte. to have a statement taken from Mr Clarke as to what really occurred on the occasion of the so-called assault of him on the native lady. I am not aware whether any steps have been taken in the matter.

Meanwhile, the native papers with natural ingenuity to disregard the facts, have announced ~~that the~~ Dt. Magte.'s order (alluding apparently to Mr. Tremenheere's order under Sec. 144 C.P.C.) has been set aside by the High Ct. as illegal. This impression created by such a mischievous misrepresentation sh^d be avoided as quickly as possible I consider that it is the duty of Govt. now to take action.

Mr Tremenheere's order only is valid till the 29th Sept., tomorrow the 28th Sept. is the last day of its validity.

In my opinion unless the Govt. revive the order & keep it constantly in force the Europeans must fight for their rights or be for ever excluded from exercising them. & therefore affrays are highly probable to occur at the falls. I therefore ~~think that~~ we sh^d issue an order under Sec. 144 Cr. P. C declaring that affrays are likely to occur at the falls unless the hours of bathing for Europeans are definitely legally notified & declaring that Mr T's order is to remain in force, but with these modifications: The hours for bathing for Europeans are in future to be from 7 to 9 A.M. & from 4 to 6 P.M. as suggested by the Dewan of Travancore to the Govt. A Notific^n to this effect sh^d be published

from all places that are not private property

JG

It is Govt. Property so far as is known at present but it is possible the Temple may sue to show that it has the title

JG

I quite agree

JG

We should see the High Court's decision before we decide whether this is true, wise or not

JG

in the Fort St. George Gazette at an early date — & that when we have got Mr. Clarke's Report of the alleged assault & the judgment of the High Ct., a G.O. sh^d issue on the whole case — laying down the following principles:

1. That the Courtallam Falls is part of the natural body of the Chittar river, etc., like the Chittar river, is under the absolute control of the Govt. & is open to all Her Majesty's subjects equally for the purpose of bathing in its waters.

2. That the site of the Falls is Govt. property — & that the mere fact of some sculptures having been cut on some of the rocks does not constitute it the exclusive property of any particular section of the community.

3. That the fact ~~that~~ any one section of a community regarding part of a public highway, or of a river, as sacred, in no way limits or infringes the rights of the rest of the community therein.

The G.O. sh^d also point out the error into which the High Ct. appears to fall in alluding to Mr. Tremenheere's notice as an order. It was a very polite & "respectful request", issued by him ostensibly in his private capacity — such as a Collr. or Magte. –

The Govt. shd. also notice Mr Avery's own inconsistency of setting up instead of a big number of an unlawful assembly – & then opposing the conviction of the Govt. ~~that~~ under the prescriptive right of Europeans to bathe in the falls during certain months of the year are safeguarded by legal [illegible] no affrays are likely to occur [illegible] in the F.S. & therefore the notification ~~[illegible]~~ will be ordered to issue.

Allusion to Bishop Sargent's evidence as proving beyond doubt that ~~the~~ Europeans have enjoyed the right of bathing for 50 years & more shd. also be made.

When the papers come to me I shall be happy to draft [illegible] in which the following notifn. shd. be issued:

"Whereas H.E. the Govt. in Council is satisfied from evidence wh. has been produced before him that during the months of June July Augt. & Septr. of each year European visitors to Courtallam in Tinnevelly have enjoyed for the last 50 years & more the right of bathing in the falls

If it was an error, it was an error of fact & not of law. If the assembly was an unlawful assembly (the High Courts apparently decide that it was not) & if any member of it used force to gain the common object there was a riot

JG

I have already said on other papers connected with this subject – that I think we had better leave the matter alone for the present –

By all means let us have the judgment of the High Court. We shall then be in a position to act if necessary – We want a great deal of information before we can safely issue any G.O. –

We do not know whether all, or only part of the locus in quo is public property – We do not know ~~[illegible]~~ what portion, if any the Temple claims as private property – We must also remember that no G.O. will have the power of deciding whether or not the Temple Authorities have any legal right to any part of the place – and I think it would be highly dangerous and inexpedient – to affirm that it is Government or public property or to ascribe any ~~[illegible]~~ proprietorship as to the rights of the public or any one else without more and reliable information. I also doubt whether the Section 144 of the C P C would warrant us in the present state of facts to issue any order – on the whole I am anxious to leave the matter as it stands till Nicholson comes – it is not the least probable that there will be any disturbance or if there is, we can very soon settle it.

C 8/9/90

2/

I doubt about this passage The contention is not that Europeans can bathe nowhere in the river, but that the Falls are temple property

JG

I do not understand the Hon: Mr Grose's statement ~~that if~~ the Notifn. I suggested shd. issue it wd. only remain in force for 2 days. In my opinion Sec: 144 gives the Executive Govt. power to convert a Magte's order, or injunction, under ~~that~~ Section, which can only endure for 2 months, into an abiding order or injunction for all time or for so long as it pleases.

I do not understand ~~that~~ it has been advanced, except in the newspapers, that the falls are Temple property (in one issue of the Hindu a leading article began with these words "The Courtallam Falls are the property of Govt."). But whether the claim is advanced or not does not affect the question at issue wh: is; Have the European visitors to Courtallam a prescriptive right of bathing in the Falls? I allege they have & that the written statement of the late Bishop Sargent clearly proves it –

at that place; & whereas such right is one inherent in all subjects of Her Majesty alike, in the Chittar river as in all other rivers in India; & whereas H.E. in Council is of opinion that all European visitors to Courtallam shd. be ~~protected~~ in the reasonable exercise of such right; and whereas H.E. in Council is of opinion that ~~that~~ unless such protection is accorded by means of a lawful order there may ~~[illegible]~~ be affrays at the said falls; therefore H.E. in Council is pleased to notify under Sec: 144 C.P.C that the order issued by the Dist. Magte. of Tinnevelly dated July 29th/90, under Sec: 144 of the C.P.C, shall continue in force, but with the following modifications – It shall come into force on the 1st June, & cease to have effect on the 30th Octr. of each year – & the hours of bathing for European visitors shall be from 7 to 9 A.M. & from 4 to 6 P.M. during such period."

15/9/90

This being so, the next question
is whether it is not expedient in
the interests of peace & order,
& whether it is not necessary as
an act of justice to the
European visitors to the Falls,
to secure to them their peaceful
enjoyment of their old pre-
scriptive right, by setting
apart certain lower portions
to bathe as has long been the
custom.
So it is – & that if the
[illegible] of keeping Mr
Tremenheere's order alive
is allowed to pass by, we must
wait till there is a fight
here to-day, or the probability
of one, for Mr Nicholson to
take action under Sec: 144.
This can be avoided by prompt
action now & therefore
am no party to the decision
come to in Council to defer
action. The police are
expecting a G.O. on the
question & if they order to
call for a copy of the High
Court's judgment had been
obtained promptly we might
have been in a position to
issue the G.O. before the 29th
Inst. – I understand that
a copy of that judgment
has been called for. Must
it still be called for afresh

Mr Clarke has written a letter
to the public papers denying
that he assaulted this native's
wife but only collided with
her accidentally – A copy
of the ~~paper~~ Mail containing that letter
had better be put up with these
papers. – It is useless to
call for any other statement
from him now. –
I consider ~~that~~ the paper containing
Bishop Sargent's statement
should be carefully kept under lock
& key of the Chief Secy. till
the matter is finally settled
(& it will settle for a long
time to come) as otherwise it
will probably be abstracted ~~&~~
destroyed in the Office.
JHG

22/9/20

[illegible] copy of judgment

11

~~9~~

[illegible]

Decided in Council.
Statement of Mr. Clarke not to be formally called for. Nicholson to be told personally to [illegible] from his version of the affair.
Nothing further to be done on the subject of a G.O issuing until after Nicholson's return.
(In Council)
19 Sept.

I am not opposed to the above decision.

Seen
23/9

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Tuesday, the ninth day of September,
One thousand eight hundred and ninety.

PRESENT :—

THE HONOURABLE SIR ARTHUR J. H. COLLINS, KNIGHT, *Chief Justice.*

AND

THE HONOURABLE MR. JUSTICE SHEPHARD.

CRIMINAL APPEAL No. 332 OF 1890.

1. Papa,
2. Lingana Naik,
3. Hussun Khan, and
4. Sami Sastri.

} *Appellants (Prisoners).*

Appeal against the Sentence of the Court of the Joint Magistrate of Tinnevelly in Calendar Case No. 41 of 1890. (Criminal Appeal No. 42 of 1890, on the file of the Court of Session of Tinnevelly.)

This Appeal coming on for hearing: Upon perusing the Petition of Appeal and the record of the evidence and proceedings before the said Magistrate, and upon hearing the arguments of Mr. H. G. Wedderburn, Counsel for all the Appellants and Mr. S. Subramaniem, Vakil for the 2nd and 3rd Appellants, and of Mr. W. Grant, Counsel who appeared for Government Pleader and Public Prosecutor on behalf of Government, the Court delivered the following

JUDGMENT.

This is an appeal from a conviction in respect of offences under Sections 143 and 147 of the Penal Code, *viz.*, being members of an unlawful assembly and rioting.

The Joint Magistrate of Tinnevelly found all the accused guilty and sentenced them to four months' imprisonment, three months of which to be rigorous, besides ordering them to give security to keep the peace.

Mr. Wedderburn appeared for the Appellants. Mr. W. Grant appeared on behalf of the Public Prosecutor and said that he had no instructions to support the conviction, but that the Government considered that the offence, if thought to be proved, would be sufficiently punished by the infliction of a small fine.

The facts of the case appear to be these. On the morning of the 27th July at about six o'clock, the four accused, who are in the service of the Dewan of Mysore or the Deputy Commissioner, who were then staying at Courtallam, went to the Falls for the purpose of bathing. When they arrived there, they found the Station House Officer and two Constables at the spot and they were told by the Station House Officer that Europeans only were allowed to bathe at that time and that natives should bathe after 10 A. M. They were desired by him to go away. The 1st accused told the Station House Officer that he had better go away and, according to the

latter's evidence, pushed one of the Constables No. 874. Upon this, the Officer sent an express cover to the Tenkasi Tahsildar and 2nd Class Magistrate in the following terms :—

> "This morning at 6 o'clock while humble self and Constables Nos. 874 and 646 were guarding the waterfalls at Courtallum, ten of the men, who had accompanied the Mysore Dewan and who were identified, came armed with clubs. On being told that natives should bathe after 10 o'clock, but should not go now, they pushed aside Constable No. 874 and got upon the hills which were adjacent to the place where there were great waterfalls. I believe there will be a rioting should Europeans come there. More Mysore men are coming in. I humbly request that proper arrangements should be made in this matter."

The Station House Officer also says that, besides the 4 Defendants, six others of the Dewan's men also came and that the 1st, 2nd and 4th Defendants and three others had sticks in their hands about an inch thick. In cross-examination, this witness says he went to the Falls of his own accord, but that in speaking to the Defendants he says he mentioned the receipt of a letter from Mr. Clarke, a European gentleman living in the locality. This evidently was an instruction to the Constable to prevent natives bathing in the early morning. He also says that for the last four months no Constable had been to the Falls 'for bundobust'. In his opinion, a riot might have happened, if the Europeans had come to the Falls to bathe and, therefore, he tried to prevent the Defendants bathing.

The 2nd witness is Constable No. 646. He also says that the 1st Defendant pushed Constable No. 874, because the latter prevented him from going to bathe.

The 3rd witness is Constable No. 874. In examination-in-chief, he says the 1st Defendant did not touch him, but pushed the 1st and 2nd witnesses. He also thought that, if European gentlemen had come, there would have been a serious riot. In cross-examination, he said he was pushed and beaten, that the first Defendant pushed him with his hand, that he staggered two paces, and that the 3rd and 4th Defendants also pushed him. He goes on to say that the Mysoreans came in a crowd and he cannot say who pushed them; that the Station House Officer and the other Constable were also pushed, but he cannot say by whom. He admits he made a statement the day but one previous that the 1st Defendant did not touch him. With regard to the sticks, he says he saw one or two lying a short distance from the place where the Defendants were bathing. This is all the evidence we have of the alleged unlawful assembly and riot. The Tahsildar does not seem to have arrived till about 8 o'clock. While he was there, there was no use of force or show of force and his attention was not called to any sticks. He says he expected a riot if Europeans came to bathe. The only other material witness called by the prosecution was the Deputy Commissioner, Mr. Madhava Row, who spoke to a meeting held the previous night to protest against an insult alleged to have been offered to a Hindu lady by Mr. Clarke.

That meeting, he says, was quietly conducted and there was no proposal to assert by force any right to bathe at the Falls before 9-30. A. M., although no doubt it was felt at the meeting to be a grievance that natives should be excluded to so late an hour. The minutes of the meeting are embodied in Exhibit B and are spoken to by another witness. Mr. Madhava Row also says that, as no European had been resorting to the Falls early in the morning, the Dewan's servants were in the habit of bathing there about 6 A. M. On behalf of the Defendants, it is admitted that, according to their habit, they went to bathe at the Falls on the morning of the 27th. They deny they did so in pursuance of any preconcerted plan or that they used any force, although there was verbal altercation with the Police about their bathing at that time. As to the sticks, they say they were ordinary walking sticks and one was produced before the Magistrate.

We are of opinion that there is no evidence that these four accused came to the Falls in pursuance of any resolution passed at the meeting. It is not even proved that these men took any part in the meeting and, as the Police had not been on previous days on duty at the Falls,

the accused could not have gone there with any intention of resisting them with force or otherwise. The Joint Magistrate lays great stress on the unlawfulness of the common object which brought the four accused and their fellow Mysoreans to the Falls and is of opinion that this is the most important point in the case. We are of opinion that there is no evidence to support this view. The Magistrate speaks of a rule or custom, which had previously worked harmoniously, having been broken by the accused. It appears that a late Collector., Mr. Lee Warner, issued in 1884 certain rules directing that natives should not bathe until after 9-30 A. M. What power he had to make the rule we are at a loss to conceive and indeed it is not insisted by the prosecution that he had any such power. No doubt the rule was made to prevent disputes, and for the supposed convenience of all parties. The order not being a legal one, it cannot possibly be contended that the breach of it, unless accompanied by force, can be any offence under the Penal Code.

We think that, even accepting the evidence of the first two witnesses for the prosecution, that evidence does not show that any force or show of force was used by any of the Defendants. Neither of them says that any riot in fact took place, but only that a riot was anticipated, if Europeons came to bathe. But we are of opinion that the account given by the Police is somewhat exaggerated. In the Exhibit A, the report sent to the Tahsildar by the 1st witness, it is declared that ten men had come armed with clubs. It is not pretended now that the sticks carried were anything but mere walking sticks. The report also states that more and more Mysoreans are coming. This is contradicted by the evidence of the Deputy Commissioner, who says that they had only 12 or 13 servants at the place. It is suggested that the Police may have exaggerated the story, in order to excuse themselves for allowing the natives to bathe, notwithstanding Mr. Clarke's letter desiring them to prevent them so doing. This suggestion seems a reasonable one. We do not believe that any violence was used by the accused and indeed the report A and the 1st and 2nd witnesses only say that one of them was pushed. The evidence of the 3rd witness is clearly quite unreliable. Considering the excitement which the case aroused and that it was thought necessary to depute a special officer to try it, we think it is to be regretted that an officer of larger judicial experience was not selected. The examination of the evidence for and against the prosecution is very imperfect, and the reasons for inflicting so heavy a sentence for what the Magistrate himself thought to be little more than a technical riot do not commend themselves to us.

We allow the appeal and reverse the conviction and sentence.

Ordered accordingly.

Offg. Registrar,
Appellate Side.

Exd. T. Ramakrishna Pillai.

HIGH COURT OF JUDICATURE
AT
MADRAS.

JUDGMENT

IN

Criminal Appeal No. 332 *of* 1890.

Dated 9th *September* 1890.

Sent

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That meeting, he says, was quietly conducted and there was no proposal to assert by force any right to bathe at the Falls before 9-30. A. M., although nodoubt it was felt at the meeting to be a grievance that natives should be excluded to so late an hour. The minutes of the meeting are embodied in Exhibit B and are spoken to by another witness. Mr. Madhava Row also says that, as no European had been resorting to the Falls early in the morning, the Dewan's servants were in the habit of bathing there about 6 A. M. On behalf of the Defendants, it is admitted that, according to their habit, they went to bathe at the Falls on the morning of the 27th. They deny they did so in pursuance of any preconcerted plan or that they used any force, although there was verbal altercation with the Police about their bathing at that time. As to the sticks, they say they were ordinary walking sticks and one was produced before the Magistrate.

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We think that, even accepting the evidence of the first two witnesses for the prosecution, that evidence does not show that any force or show of force was used by any of the Defendants. Neither of them says that any riot in fact took place, but only that a riot was anticipated, if Europeons came to bathe. But we are of opinion that the account given by the Police is somewhat exaggerated. In the Exhibit A, the report sent to the Tahsildar by the 1st witness, it is declared that ten men had come armed with clubs. It is not pretended now that the sticks carried were anything but mere walking sticks. The report also states that more and more Mysoreans are coming. This is contradicted by the evidence of the Deputy Commissioner, who says that they had only 12 or 13 servants at the place. It is suggested that the Police may have exaggerated the story, in order to excuse themselves for allowing the natives to bathe, notwithstanding Mr. Clarke's letter desiring them to prevent them so doing. This suggestion seems a reasonable one. We do not believe that any violence was used by the accused and indeed the report A and the 1st and 2nd witnesses only say that one of them was pushed. The evidence of the 3rd witness is clearly quite unreliable. Considering the excitement which the case aroused and that it was thought necessary to depute a special officer to try it, we think it is to be regretted that an officer of larger judicial experience was not selected. The examination of the evidence for and against the prosecution is very imperfect, and the reasons for inflicting so heavy a sentence for what the Magistrate himself thought to be little more than a technical riot do not commend themselves to us.

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JUDGMENT.

This is an appeal from a conviction in respect of offences under Sections 143 and 147 of the Penal Code, *viz.*, being members of an unlawful assembly and rioting.

The Joint Magistrate of Tinnevelly found all the accused guilty and sentenced them to four months' imprisonment, three months of which to be rigorous, besides ordering them to give security to keep the peace.

Mr. Wedderburn appeared for the Appellants. Mr. W. Grant appeared on behalf of the Public Prosecutor and said that he had no instructions to support the conviction, but that the Government considered that the offence, if thought to be proved, would be sufficiently punished by the infliction of a small fine.

The facts of the case appear to be these. On the morning of the 27th July at about six o'clock, the four accused, who are in the service of the Dewan of Mysore or the Deputy Commissioner, who were then staying at Courtallam, went to the Falls for the purpose of bathing. When they arrived there, they found the Station House Officer and two Constables at the spot and they were told by the Station House Officer that Europeans only were allowed to bathe at that time and that natives should bathe after 10 A. M. They were desired by him to go away. The 1st accused told the Station House Officer that he had better go away and, according to the

Enclosure I to the High Court's letter dated 20 Sept/90 No. 1158, Judicial.

H.E. the Governor

Enc 1

Judl. No. 3833 of 90

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Tuesday, the ninth day of September,

One thousand eight hundred and ninety.

PRESENT :—

THE HONOURABLE SIR ARTHUR J. H. COLLINS, KNIGHT, *Chief Justice.*

AND

THE HONOURABLE MR. JUSTICE SHEPHARD.

CRIMINAL APPEAL No. 332 OF 1890.

1. Papa, 2. Lingana Naik, 3. Hussun Khan, and 4. Sami Sastri.	*Appellants (Prisoners).*

Appeal against the Sentence of the Court of the Joint Magistrate of Tinnevelly in Calendar Case No. 41 of 1890. (Criminal Appeal No. 42 of 1890, on the file of the Court of Session of Tinnevelly.)

This Appeal coming on for hearing: Upon perusing the Petition of Appeal and the record of the evidence and proceedings before the said Magistrate, and upon hearing the arguments of Mr. H. G. Wedderburn, Counsel for all the Appellants and Mr. S. Subramaniem, Vakil for the 2nd and 3rd Appellants, and of Mr. W. Grant, Counsel who appeared for Government Pleader and Public Prosecutor on behalf of Government, the Court delivered the following

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latter's evidence, pushed one of the Constables No. 874. Upon this, the Officer sent an express cover to the Tenkasi Tahsildar and 2nd Class Magistrate in the following terms:—

"This morning at 6 o'clock while humble self and Constables Nos. 874 and 646 were guarding the waterfalls at Courtallum, ten of the men, who had accompanied the Mysore Dewan and who were identified, came armed with clubs. On being told that natives should bathe after 10 o'clock, but should not go now, they pushed aside Constable No. 874 and got upon the hills which were adjacent to the place where there were great waterfalls. I believe there will be a rioting should Europeans come there. More Mysore men are coming in. I humbly request that proper arrangements should be made in this matter."

The Station House Officer also says that, besides the 4 Defendants, six others of the Dewan's men also came and that the 1st, 2nd and 4th Defendants and three others had sticks in their hands about an inch thick. In cross-examination, this witness says he went to the Falls of his own accord, but that in speaking to the Defendants he says he mentioned the receipt of a letter from Mr. Clarke, a European gentleman living in the locality. This evidently was an instruction to the Constable to prevent natives bathing in the early morning. He also says that for the last four months no Constable had been to the Falls 'for bundobust'. In his opinion, a riot might have happened, if the Europeans had come to the Falls to bathe and, therefore, he tried to prevent the Defendants bathing.

The 2nd witness is Constable No. 646. He also says that the 1st Defendant pushed Constable No. 874, because the latter prevented him from going to bathe.

The 3rd witness is Constable No. 874. In examination-in-chief, he says the 1st Defendant did not touch him, but pushed the 1st and 2nd witnesses. He also thought that, if European gentlemen had come, there would have been a serious riot. In cross-examination, he said he was pushed and beaten, that the first Defendant pushed him with his hand, that he staggered two paces, and that the 3rd and 4th Defendants also pushed him. He goes on to say that the Mysoreans came in a crowd and he cannot say who pushed them; that the Station House Officer and the other Constable were also pushed, but he cannot say by whom. He admits he made a statement the day but one previous that the 1st Defendant did not touch him. With regard to the sticks, he says he saw one or two lying a short distance from the place where the Defendants were bathing. This is all the evidence we have of the alleged unlawful assembly and riot. The Tahsildar does not seem to have arrived till about 8 o'clock. While he was there, there was no use of force or show of force and his attention was not called to any sticks. He says he expected a riot if Europeans came to bathe. The only other material witness called by the prosecution was the Deputy Commissioner, Mr. Madhava Row, who spoke to a meeting held the previous night to protest against an insult alleged to have been offered to a Hindu lady by Mr. Clarke.

That meeting, he says, was quietly conducted and there was no proposal to assert by force any right to bathe at the Falls before 9-30 A. M., although no doubt it was felt at the meeting to be a grievance that natives should be excluded to so late an hour. The minutes of the meeting are embodied in Exhibit B and are spoken to by another witness. Mr. Madhava Row also says that, as no European had been resorting to the Falls early in the morning, the Dewan's servants were in the habit of bathing there about 6 A. M. On behalf of the Defendants, it is admitted that, according to their habit, they went to bathe at the Falls on the morning of the 27th. They deny they did so in pursuance of any preconcerted plan or that they used any force, although there was verbal altercation with the Police about their bathing at that time. As to the sticks, they say they were ordinary walking sticks and one was produced before the Magistrate.

We are of opinion that there is no evidence that these four accused came to the Falls in pursuance of any resolution passed at the meeting. It is not even proved that these men took any part in the meeting and, as the Police had not been on previous days on duty at the Falls,

the accused could not have gone there with any intention of resisting them with force or otherwise. The Joint Magistrate lays great stress on the unlawfulness of the common object which brought the four accused and their fellow Mysoreans to the Falls and is of opinion that this is the most important point in the case. We are of opinion that there is no evidence to support this view. The Magistrate speaks of a rule or custom, which had previously worked harmoniously, having been broken by the accused. It appears that a late Collector, Mr. Lee Warner, issued in 1884 certain rules directing that natives should not bathe until after 9-30 A. M. What power he had to make the rule we are at a loss to conceive and indeed it is not insisted by the prosecution that he had any such power. No doubt the rule was made to prevent disputes, and for the supposed convenience of all parties. The order not being a legal one, it cannot possibly be contended that the breach of it, unless accompanied by force, can be any offence under the Penal Code.

We think that, even accepting the evidence of the first two witnesses for the prosecution, that evidence does not show that any force or show of force was used by any of the Defendants. Neither of them says that any riot in fact took place, but only that a riot was anticipated, if Europeons came to bathe. But we are of opinion that the account given by the Police is somewhat exaggerated. In the Exhibit A, the report sent to the Tahsildar by the 1st witness, it is declared that ten men had come armed with clubs. It is not pretended now that the sticks carried were anything but mere walking sticks. The report also states that more and more Mysoreans are coming. This is contradicted by the evidence of the Deputy Commissioner, who says that they had only 12 or 13 servants at the place. It is suggested that the Police may have exaggerated the story, in order to excuse themselves for allowing the natives to bathe, notwithstanding Mr. Clarke's letter desiring them to prevent them so doing. This suggestion seems a reasonable one. We do not believe that any violence was used by the accused and indeed the report A and the 1st and 2nd witnesses only say that one of them was pushed. The evidence of the 3rd witness is clearly quite unreliable. Considering the excitement which the case aroused and that it was thought necessary to depute a special officer to try it, we think it is to be regretted that an officer of larger judicial experience was not selected. The examination of the evidence for and against the prosecution is very imperfect, and the reasons for inflicting so heavy a sentence for what the Magistrate himself thought to be little more than a technical riot do not commend themselves to us.

We allow the appeal and reverse the conviction and sentence.

Ordered accordingly.

Offg. Registrar,
Appellate Side.

Exd. T. Ramakrishna Pillai.

HIGH COURT OF JUDICATURE
AT
MADRAS.

JUDGMENT
IN
Criminal Appeal No. 332 *of* 1890.

Dated 9*th* *September* 1890.
Sent

Enclosure II to the
High Court's letter dated
20 Sept/90 No. 1158 ,
Judicial.

The Honorable Mr. Garstin C. S. I.

833 of 90

Enclosure III **to the High Court's letter dated 20. Sept/90 No. 1158. Judicial.**

The Honorable Mr. Grose

Seen
JK
4/10

Encl 3
Judl C No 3833/90

C4/10

N.o 1158 Judicial

C No 3833.

High Court of Judicature,
Madras, 20th September 1890.

From

H. W. Foster Esquire,
Offg: Registrar High Court,
Appellate Side, Madras.

To

The Honorable J. F. Price
Chief Secretary to
Government,
Ootacamund.

Sir,

With reference to your telegram of the 19th instant, I have the honor to forward herewith three authenticated copies of the Judgment in Criminal Appeal No. 332 of 1890 on the file of this Court.

I have the honor to be,
Sir,
Your most obedient Servant,

H. Leslie
Offg: Registrar,
Appellate Side.

Encl
B

Submitted to H.E.

the Governor -

7/10

[illegible]

C. No. 3836.

Judicial {1890} Department.

No.

From

offg

THE REGISTRAR OF THE HIGH COU

OF JUDICATURE AT MADR

APPELLATE SI

CHIEF SECRETARIAT
24 SEP 90
GOVERNMENT OF M

Dated 20 September }1890.

Received 24th do

No. 1158 Judicial

Enc: Three

Forwarding three authenticated

copies of Judgment in Crim

appeal No. 332 of 1890

the file of the High C

DEPARTMENT.

No.

From

Dated 18 .

FOR ORDERS.

~~With~~ with regard to the concluding portion of the letter

31 Oct.

Let him go at once. I have seen him at the club

31/10/90

Let him go: I too have seen hi

31/10

C

FOR ORDERS.

~~CONFIDENTIAL~~

Confidential Paper.

Kept under lock & key until the personal instructions of Hon [illegible]

4/11/90

Order

Lodged

5 Nov.

Mr. Nicholson was written to by the Chief Secretary

C.S.
1/XI.

Papers taken into Council

4. XI. 90

CHIEF SECRETARIAT
12 MAY 91
GOVERNMENT OF MADRAS

Extract from the Weekly report of the Superintendent of Police Tinnevelly District from Monday, the 23rd of March to Saturday, the 28th 1891

× × ×

I came out to Tenkasi to see the Temple managers regarding the bathing at the falls, as I am on the Committee of the Subscribers, formed to settle the dispute amicably. The managers appear to be quite willing to settle the matter and promised to give me their opinion of the matter in writing early next month. They appeared to agree to the general lines I gave them, only they want the falls reserved until 11 a.m. against Sudras. The general lines I gave them were.

Until 6.30 am temple devotees. Certain ceremonies have to be performed at the rising of the Sun. 6.30 to 9.30 for Subscribers to the bathing fund.—

9.30 to 11 for all Castes except Sudras.—

It's intended [illegible] Native gentlemen and Europeans only. It is usual for Native gentlemen to bathe after Europeans.

They quite see if they do not settle the matter amicably, there is a danger of the falls being thrown open to all Castes. When things are definitely settled I shall send in a full report for information. If the temple Authorities join the Subscribers in some definite agreement we need fear no outsiders like the Mysoreans.

× × ×

Sd/ E. S[illegible]nson
(True extract.) D. S. Police

C. Stevenson

Dt. Superintendent of Police
Tinnevelly Dt.

quite clear.

for

GOVERNMENT OF MADRAS

FORT ST. GEORGE,

Oct. 3d 1890.

My dear Nicholson

As requested by the Private Secy to H.E. the Govr. I send you the Constabulary papers. Please return them to me under your private seal when done with

Yours sincerely

Frederick Price

Returned with thanks.

FANicholson

2-11-90.

CHIEF SECRETA
31 OCT 90
GOVERNMENT

Madras Club.

31st Oct/90.

R/w
5

My dear Price

I have read all the Courtallam papers, and will return them tomorrow under seal, as desired.

I saw His Excellency yesterday, and gather that it is not the intention of Government to give me any _specific_ instructions as to the mode of disposing of the present difficulty, but merely to desire me to take up the matter personally, without undue delay, and to effect some amicable and reasonable settlement in consultation with the representatives of both parties on the spot. So far as I can gather from the papers, a limitation of the bathing privileges of Europeans to the hours between 6-30 or 7 and 9 AM, and 4-30 to 6-30 P.M. or thereabouts, would be considered a reasonable settlement, both by Government, by Mr Seshadri Iyer who probably represents Hindu opinion, and by

Tremenheere, who may represent local European opinion tempered known by impartiality and knowledge of both sides of the question.

Some such settlement would probably dispose of the matter for ever, in which case there would be no need for any further orders under the Crim. Pro. Code, but only for a G.O. upon the settlement which I should of course report for orders.

If I am right in believing that these are the general views of Government, and that I am not to expect more detailed instructions, am I at liberty to proceed to Tinnevelly? – if so, I could leave Madras tomorrow (Saturday) evening, via Salem, arriving about Wednesday:

Believe me
Yours sincerely
F A Nicholson.

Tinnevelly District

CHIEF SECR
APL
GOVERNMENT OF MADRAS

Extract from Weekly Report of the Superintendent of Police for the week ending 28th March 1891.

× × ×

I came out to Tenkasi to see the Temple Managers regarding the bathing at the falls, as I am on the committee of the subscri[illegible] formed to settle the dispute a[illegible]cab[illegible]

The Managers appea[illegible]d to be qui[illegible] willing to settle the matter and promised to give me their opinion of the matter in writing early next month.

They appeared to agree to the gen[illegible]ral lines I gave them; only they want the falls reserved from 9-30 a.m. until 11 a.m. ×× against Sudras. The general lines [illegible] them were,

[illegible] a.m. temple devotees, cer[illegible] have to be performed at the [illegible] of the sun; 6.30 to 9.30 for subscribe ×× to the bathing fund. 9-30 to

for

District Magistrate's Remarks.

× A delightful commentary on the fuss about reserving the falls for Europeans till 8.30 a.m.

×× This, I take it, removes the only genuine [illegible]jection. The old notice reserved to plain [illegible] Europeans "till 8.30" without allowing [illegible]ly bathing by devotees & Brahmans. This furnished a good argument for [illegible]tsiders

[illegible]his, I believe, includes Hindu gentlemen [illegible]nd ladies (Zemindars &ca), not Europeans only; this should be made [illegible]uite clear.

" for all castes except Sudras.

They quite see if they do not settle the matter amicably, there is a danger of the falls being thrown open to all castes

When things are definitely settled, I shall send in a full report for information. If the temple authorities join the subscribers in some definite agreement we need fear no outsiders like the Mysoreans.

x x x x

(True Extract)

Chas. A. Porteous
Colonel
Ag. Inspr. Genl. of Police

Confidential (173

Constabulary Falls Division

Forwarded (demi-officially) to the Chief Secretary to Government for information

Chas. B. Tottenil
J. G. Police

April 7. 91

CONFIDENTIAL No. 173

[•] Judl. DEPARTMENT.

From

I. G. of Police

No.

Dated 7 }
Received 8 } 4.91
Reg 9
Enclosures One

SUBJECT.

Courtallam Falls. Servants

Extract from Weekly Rept. of Supdt of Tinnevelly Police on negotiations re — Incident

Hw

Hon'ble Mr. Garstin C.S.I.

Circulated for perusal.

May this be Recorded? Mr. Nicholson's Report has not yet been received.

Cl 11/4

11 ap.

12 April

1 Mr. Nicholson had better be reminded to report before he leaves Tinnevelly.

2. If the matter is not settled before next bathing season, there will probably be more rows.

3 As to subscribers it is probable that Hindu gentlemen will keep their money & ~~subscribe~~ bathe after 9.30.

Hro
14 Apr.

I agree in the first 2 paras of the Hon: Mr Stokes' note — as to the 3rd — Fortunately all Hindus are not gentlemen any more than other castes or classes — but it is exceedingly likely that many Hindus will disregard any agreement come to & will insist on their right to use the falls at any time without payment —

SHG
19/4/91

US My dear Mr. Nicholson,

Despd 20/4

In the absence of the Chief Secretary, I am to ask you to submit your report on the Courtallam Falls Dispute before you leave Tinnevelly

C. 13/4

CONFIDENTIAL No. 211

[?] Judicial DEPARTMENT.

From Do.

F. A. Nicholson Esq

No

Dated 9 }
Received 12 } 5. 91.
Enclosures One

SUBJECT.

Courtallam Falls Incident

Forwarding report on the ______

C. Nos 173 & 211 (Confid.l)

May these two currents be recorded now along with all others on which no definite orders has been passed?

[illegible] 14 May.

18 May.

I remember having written under orders to Mr. Nicholson semi ol. [illegible] was under the impression that I sent the letter down to the Office open as I do when copies have to be taken. I may have by mistake closed it.

16 May.

The papers may be recorded pending final report of the negotiations with the Temple Committee. Mr. Nicholson's proceedings in the matter have been judicious.

20 May.

23/5/91

T.R.D. 26.5.91

W 30 May

Don't print

[Read again G.O. No. 1491. d/. 7. 9. 90.
— " R. No 977 d/. 9. 9. 90.
— R. No. 998 d. 16. 9. 90.]

The following papers regarding the Courtallam Falls Dispute

Read also C. No 3348/1890 d/. 19. August from Mr. K. Seshadri Iyer.
Q. — — " " 3369/1890 d/. 21. August – Telegram from Coll. Tinnevelly.
Q. — " " 3436/1890. d/. 23. August. from Coll. Tinnevelly No. I/Camp
Q. — " " 3466/1890 d/. 24 August from Do Do. No. 1697.
Q. — " " 3482/[illegible]0 d/ 29. August from Do. Do Telegram
— " 3483/[illegible]90 d/ 25 August from H. E. Wedderburn Esq
— Tel. [illegible] E. Wedderburn Esq d/. 31. August
Q. — Cur [illegible] 3514/90 d/ 31. August – Telegram from Dt. Magte Tin[illegible]elly.
Q. — " 3527/90 d/. 1. Septr. from [illegible]. Do Te[illegible]
— " . 3540/1890 d/. 1 Septr.
— 3833/1890 d/ 20 Septr [illegible] Registrar High Ct. [illegible]
A – Confd. No. 173/1891. from I. G. of Police d/ 7. April
Q — " – 211/1891 from Dt. Tinnevelly d/. 9th May.

Order

P. 26

Courtallam Falls

Dispute

C.S.

From Orders

Order. 6th June 91 No. 1079

The papers read above will be recorded pending final report of the negotiations with the Temple authorities.

2. The Govt. considers that Mr. Nicholson's proceedings in the matter have been judicious.

(From Orders)

3 June

Dhe. Terrell 4 June

(Q of papers marked).

C.S. 2. VI. 91

Despd. 12. VI. 91.

Read again Order of Government, dated
18 , No.

Back Paper, No. [illegible] 1491 [illegible] of 18

Further Paper, No. 112 of 1891

Enclosures

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Confidential No. 87 / 1891.

Judicial DEPARTMENT.

G.O., DATED 6-VI-91.

No. 1079

Series. Mis

Confidential.

First copy sent to Press

Returned for signature

Despatched 12-VI-91

[Despatch Abstract.]

Courtallam Falls Dispute

Recording with remark pending final result of the negotiations with Travce authorities papers re ——