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Government of Madras.

Judicial DEPARTMENT.

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Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
for the month of May 1860.*

Read the following papers :—

No. 38. From the Reverend R. CALDWELL, L.L.D., Palamcottah, to His Excellency the Governor of Madras in Council, dated 15th March 1860.

I have the honor to lay before you the accompanying correspondence with J. Silver, Esq. the Magistrate of Tinnevely, and to request that you will be so good as to take into consideration the propriety of settling the disputed question of the right of all castes to the equal use of the public streets and highways, a question which was understood to have been "finally settled" by the decision of Government in their Minutes of Consultation, dated 28th January 1859, upheld and confirmed by a Despatch from Her Majesty's Secretary of State for India, dated the 28th July 1859, but which, as it appears to me, has again been unsettled, in this District, by a Notification issued by the present Magistrate of Tinnevely on the 17th December ultimo.

My reference to the Magistrate originated, as you will perceive, in a local difficulty of small importance in itself, and with respect to which that Officer was so good as to comply with my request; but it led to a correspondence with regard to the meaning of the Notification and its conformity or otherwise with the decision of Government.

It is solely with respect to its bearing upon the general question of public right, as affected by the Notification, that I now beg to solicit your attention to this correspondence, and I do so in the hope that the community at large in this District may obtain the means of ascertaining what the views of Government really are.

From the Reverend R. CALDWELL, to J. SILVER, Esq., Collector and Magistrate of Tinnevely dated Taruvei, Panjamahl Talook, 18th February 1860.

I have the honor to lay the following particulars before you and to beg your interference.

The place in which I write this is a large village inhabited mainly by Mahomedans, but containing also a population of about 600 Shanars and Pariars, most of whom have long been Christians. A road passes through the village from East to West, and this constitutes the principal street. There are streets, or rather roads, crossing this North and South, but this principal street is the only way passing through the village from East to West. On each side of it are Mahomedan houses. At each end of the village are the houses inhabited by the other castes, and when it is necessary for people of those castes to go East or West they always go along the principal street, precisely as is done by the Mahomedans. There is also a sort of market held daily in the principal street, attended by all classes of people. It will thus appear that the street in question is a public street and a public highway.

I beg now to mention that an objection has been raised to the marriage processions of the Shanars and Pariars passing along this street. When Christians are married, they go to the station where the Missionary resides and are married there, and in doing so, they necessarily go in an orderly and becoming manner, in a sort of procession, but without tom-toms, flags, or any insignia that might cause irritation. As the residence of the Pariars is in the Eastern part of this village, and as Edeyengoody, the station at which I reside and where alone marriages are performed, lies some miles to the westward, it is necessary for Pariar Christians in the event of their getting married, to go from East to West through the village, and then to return home from West to East, passing through the village again. There is absolutely no other road along which they can go in that direction. North of the village there are fields and hedges, but no road East and West. South of the village there is the *téri*, or range of red sand hills, but again no road East and West.

There can be no conceivable objection to the marriage procession passing along the public street to and from the Church, except the objection that the public street is inhabited mainly by Mahomedans and that the marriage party are Pariars.

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I beg also to state that on several occasions already Pariars and Shanars have passed through the public street in question in marriage procession without hindrance, and even without an objection being expressed.

On the 29th November ultimo, an instance of this sort occurred, when the Mettu peon of this place was present to keep order, by the directions of the Police Amin of this Division, that of Padukkapatt. On that occasion every thing was perfectly quiet. It has been arranged that a marriage shall take place on the morning of Tuesday, the 21st instant. The Bridegroom is a Christian Pariar of this place, the Bride a pupil in the Female Boarding School at Edeyen-goody. On its becoming known that this marriage was about to take place, the Mahommedans of the village signified their intention of preventing the marriage procession from passing along the public street. Hearing this, I have come to the place and sent for the Mettu peon and the Village Munsiff to request them to take measures to protect the wedding party and keep the peace on the occasion. The peon is the very person who was present on the occasion of the former marriage, but he now raises an objection. He is before me as I write, and these are his words: "I should be very happy to give my help as before, but a new proclamation has appeared, which has altered the previous law. Here is the proclamation (or Notification) of the present Collector, dated December 17th, 1859, which forbids all processions of the people of one caste in streets inhabited by people of other castes." I have questioned the accuracy of his interpretation of the Notification. I have informed him that there will be no music, and that the "procession" will consist merely in a number of people walking to Church in an orderly manner, one of them mounted on a poney, but his reply still is, that in the face of that Notification, he cannot allow Pariars to walk, even in the humblest sort of marriage procession, through a street inhabited by Mahommedans.

Under other circumstances I should have called upon the Police Amin of the Division to protect the marriage party in their lawful use of the public street, but as it is a Notification issued by yourself which is put forth as the ostensible ground of the prohibition, I beg to bring the matter at once to your notice.

May I beg the favor of your issuing an order in the matter as soon as possible, for the marriage cannot take place prior to your decision being made known, without endangering the peace.

If my application as a Missionary in behalf of his people should be considered out of order, I beg to add that I stand to the Bride in loco parentis, she being an orphan pupil in my Boarding School.

Translation of Order issued by J. SILVER, Esq., Magistrate of Tinnevelly, to Deloyets, dated 20th February 1860.

Order to Huzoor Deloyets, Ranga Swami Naik and Suppa Naik.

Whereas it has come to my knowledge that it is the custom for the people who are connected with the Missionary, in the village of Taruvei in the Panjamahl Taluq, when a marriage takes place amongst them, to go to and return from the bungalow of the Missionary by way of the public street of the said village; that hitherto there has been no hindrance to their doing so; but that, with reference to a marriage that is to take place to-morrow, the Mahommedans of the said village are now intending to hinder the marriage party from passing along the said street; and that the Mettu peon, who says that there was no hindrance on former occasions, is himself a party to the objection that is now newly made.

You are therefore to go hereupon to the said village, inform all the people distinctly that no sort of hindrance may be offered by any person to the passing along the aforesaid public street and give me information of what has taken place.

MAGISTRATE'S OFFICE,
TRICHENDOOR,
20th February 1860.

(Signed) J. SILVER.

(An exact translation, R. CALDWELL.)

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From J. SILVER, Esq., Magistrate of Tinnevelly, to the Reverend R. CALDWELL, dated 24th February 1860, No. 51.

On receipt of your letter of the 18th instant, I sent two trustworthy Deloyets to Taruvei with instructions to see that no obstacle was offered to the marriage procession of your people, and also to enquire of the Villagers what objections they could raise to it. My Deloyets have reported, that having questioned the principal inhabitants in the presence of some of your people, they stated they never had the slightest objections to the marriage party passing along the street and whoever had informed you that they had any wish to oppose it, had misrepresented the case to you. The Village Munsiff fully confirms this. The Mettu peon on being sent for and questioned by me, denies that he considered the Notification of 17th December last, as in any way interfering with the contemplated marriage procession. The street in question is perfectly free and open to your people, as to any one else, without any previous intimation to the Native Police authorities being required. Should any actual obstruction be offered, you would of course receive the necessary aid from the authorities.

From the Reverend R. CALDWELL, to J. SILVER, Esq., Collector and Magistrate of Tinnevelly, dated Tuticorin, 15th March 1860.

I beg to offer you my best thanks for the prompt and obliging manner in which you took measures to prevent my people from being deprived of the free use of the public street or highway in the village of Taruvei, in accordance with the request contained in my letter of the 18th ultimo.

The objections which were raised, or anticipated, proceeded from the misapprehension of your views with respect to the freedom of streets, and the assurance that was given me by the Mettu peon that an order from you would entirely remove any objection that was felt, turned out to be correct.

I have also the honor to acknowledge the receipt of your letter of the 24th ultimo, in which you informed me of the report made to you by the Deloyets and of the statement of the Mettu peon.

With respect to the report made to you by the Deloyets, I beg to say that I am perfectly content that the denial of the principal Mahommedan inhabitants of Taruvei that they felt any objection to the marriage procession should be accepted. It appears to me, however, that the readiness with which they stated that they had never entertained any objection of the kind must have been owing in some degree to the order which you were so good as to issue.

With regard to the denial of the Mettu peon, on being sent for and questioned by yourself, "that he had considered the Notification of the 17th December, as in any way interfering with the contemplated marriage procession," I beg to say that I should have felt a good deal of surprise if he had admitted in your presence, that he had attributed to a Notification of yours a meaning of which you did not approve, and on account of which he found that you had ordered him to be sent for. It is not quite apparent to me why you inform me of his denial. It was so natural that a Native peon under those circumstances should shift his position, that it scarcely appears to be necessary for me to reiterate the assurance which I formerly gave you, that in my own presence, and in the words reported in my letter, he stated to me his belief that the Notification in question rendered the intended marriage procession illegal. He read to me the Tamil translation of the Notification, and in reply to my arguments, founded on what I supposed to be the law of the case, as finally settled by the decision of Government, and on what I conjectured that your intentions must have been, he adduced various expressions contained in the translation, which he believed to prove the accuracy of his view. He repeatedly stated that if an order were issued by you to the effect that the procession might take place, all difficulty would be at an end, and that he should then be happy to do as I wished. As it was evident that the peon was fully persuaded in his own mind that his interpretation of the Notification was the correct one, I did not feel myself at all aggrieved by the line he took, and for this reason, when the Deloyets

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arrived with your order, and it appeared probable from the expressions used therein that the peon had incurred your displeasure, I requested them to inform you in my name, that I hoped you would not be severe with him, seeing that his error, whatever it was, appeared to have been unintentional.

I am much obliged to you for the assurance you have given me, in your letter of the 24th ultimo, that "the street in question is perfectly free and open to my people or any one else, without any previous intimation to the Police authorities being required." From the tenor of your Tamil order to the Deloyets, of which I append an exact translation into English, and in which the legality of the procession was based wholly on the ground of usage, I had feared that the accuracy of the Mettu peon's interpretation of the Notification had been confirmed.

Though you have been so kind as to give me an assurance in your letter of the 24th ultimo, of the legality of the particular procession which was contemplated along the particular street referred to, yet as the reason assigned in your Tamil order to the Deloyets for conceding your permission was not that of the lawfulness of this use of the public streets, but merely the circumstance (which I had incidentally mentioned) that similar processions had taken place before the publication of your Notification, and had not then been objected to; as the reasons by which you state in your letter to me that you have been influenced in coming to this conclusion will not be apparent to the Native inhabitants of the District; and as the interpretation of the Notification which was given me by the peon is generally held to be correct, there appears to be reason to apprehend that disputes and collisions respecting the right of way may continue to take place from time to time between rival castes. There is a place in my own neighbourhood in which I regard it as perfectly certain that any attempt on the part of the lower castes to follow the precedent set them in Taruvei, so long as usage and caste are supposed to determine what is lawful, will lead to a collision. From the day that the Notification was published, every Native whose opinion of it I have been able to ascertain has fallen into the error of the Taruvei peon. Probably also this is not the first instance you have met with of a similar misapprehension being entertained, either by Natives or by Europeans. I trust therefore you will be so good as to excuse the liberty I take in suggesting to you the propriety of issuing some explanation of the Notification which may have the effect of removing existing misapprehensions. The Native officials employed in your own Cutcherry may be preserved from error by your oral explanations, but the vast majority of the inhabitants of the District, including all minor officials, will be obliged to look for guidance to the Notification itself, the text of which, especially in its Tamil shape, will be found, I fear, to favor too much the pretensions of caste.

Permit me to show how the case appears to me to stand. The following extract from a Despatch from the Secretary of State for India to the Madras Government, dated 28th July 1859, was published by order of Government in the Tinnevely Gazette as late as October last, only two months before the appearance of the Notification.

"3. Your decision in support of that of the local authorities to the effect that 'the public high streets in all towns are the property not of any particular caste, but of the whole community, and every man, be his caste or religion what it may, has a right to the full use of them, provided that he does not obstruct or molest others in the use of them,' has the entire approval of Her Majesty's Government.

"6. Her Majesty's Government have perused with great gratification your report that *** throughout the whole District the question of the right of all classes to a common use of the high streets and roads is considered finally settled."

This decision has justly been regarded as the charter of the liberties and rights of the lower castes, and it was naturally supposed by some persons that the question which had been declared both by the Madras, and by the Home Government to be "*finally settled*" would not require to be debated again. Caste, however, was too tenacious of its ancient ascendancy to yield to a single defeat.

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The preamble of the Notification, which was issued on the 17th of December ultimo, states that "great misapprehension seems to prevail throughout the District, regarding the recent orders that people of all castes and religions have equal right to the use of the high roads and public streets in all towns, and many disputes have arisen and references been made to the Magistrate ("by Officers of Police" in the Tamil version) in consequence of such misapprehension." As it is too notorious to require proof that the decision of Government was extremely unpalatable to the Native officials, and that they were anxious to obtain a pretext for getting it laid on the shelf, it may be assumed as certain that the spirit in which those repeated references were made was hostile to the decision.

It will be admitted that there is a clause in the decision which it would soon be found necessary to interpret in practice, viz., the clause which provides that "the right of every man, be his caste or religion what it may, to the full use of the public high streets in all towns" is conditional on his not "obstructing or molesting others in the use of them." It would be found necessary to define what was meant by "obstructing or molesting others in the use of the public streets," and probably it was for the purpose of furnishing the heads of Police with an authorized interpretation of this claim that you issued the Notification.

It appears to me that in defining this clause of the decision of Government, it would be particularly necessary to take care that the definition should be in harmony with the spirit of the decision itself. I think it will be admitted by every one who carefully studies that decision, taking it in connection with the circumstances out of which it arose, that the scope and spirit of it would be set aside if the clause were interpreted to mean, either, first, that it was not the nature of the use which was made of the public streets and highways which constituted a "molestation of others," but the caste or creed of the parties that made use of them, or secondly, that usage or custom, which in India has always favored the higher castes and oppressed the lower, was that which determined what should, or should not, be regarded as a "molestation." It appears to me that these are the very errors which both Governments desired to banish for ever; and therefore in defining what was meant by "obstructing or molesting others in the use of the streets," it would be necessary to take care that a question which was regarded as "finally settled" was not revived.

Permit me now to lay before you the Tamil version of the Notification, which was issued by you on the 17th December ultimo.

I give an exact re-translation of the Tamil version into English, in preference to the English original itself, partly because it is the Tamil version, not the English one, which must influence the actions of the people in a Tamil District, and partly because, as it appears to me, the author of the Tamil translation has, perhaps unintentionally, restricted within narrower limits the liberty conceded by the original.

"Notification for the information of all."

"It has become known that the inhabitants of this Zila do not clearly understand the meaning of the recent order that people of all castes and religions have equal right to the use of the highways and the public streets in all towns. Hence many disputes have arisen, with reference to which several Officers of Police have requested that they may be made acquainted with the orders of the Magistrate. The Magistrate, therefore, now publishes the following order which is to be obeyed by all.

People of all castes and religions have equal right to the full use of the high-roads and public streets in all towns and villages for their usual occupations and for things which cannot be avoided.

But hostile proceedings which have not heretofore taken place and which are not connected with customary affairs, (marriage) processions, and other goings along the street, if they give offence to the opposite party and cause disturbance, such things must not take place.

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People of one caste must not go in (marriage) processions with palanquins and music in the streets occupied by people of another caste, to give them offence and annoyance and contrary to the custom which has heretofore prevailed. Castes wishing to have such (marriage) processions must have them only in the streets occupied by themselves or in roads outside towns and villages.

Innovations either causing, or tending to cause, a breach of the peace will be immediately stopped and those who are concerned therein immediately punished."

Before I make any remark on the Notification itself, allow me to call your attention to two particulars in which the original has been narrowed in the translation.

1. The original declared that the equal right of all castes to the use of the high-roads and streets was restricted to "the ordinary avocations of life and all necessary purposes." It may be doubtful whether marriage and funeral processions are prohibited by this clause. The expressions used are so wide that I think both might be regarded as included within their range; but it cannot be doubted that they are prohibited in the translation. The Tamil translation restricts the right of way to people's "usual occupations (or business) and to things which cannot be avoided (or cases of emergency)" Now as marriage is not an emergency which cannot be avoided, and as it cannot be supposed that either being married or being carried out for burial are part of any person's usual occupation or business, I think every one must be convinced that, according to the Notification, the public streets can no longer be used by all castes alike for marriage and funerals.

The ordinary Native definition of a public street is *manam-um pinam-um pógira vidi*, "a street along which marriages and funerals pass." When a dispute arises as to whether a street is public or not, it will almost invariably be found to have originated in either a marriage or a funeral. With the exception of Brahmin streets, I have not heard of any streets whatever that are closed against "ordinary business." The dispute out of which the decision of Government arose was with respect to the funeral of a Christian Pallan, and the very first fruit of this Notification was, as you are aware, a dispute which bid fair to assume serious dimensions, respecting the funeral of a heathen Keikilavan. According, therefore, to the Native definition of a public street, which appears to me to be a correct one, the effect of the Notification is to convert all public streets into private ones.

2. It appears still more distinctly from the subsequent clauses of the Tamil translation, that marriage processions are not included either in the "ordinary occupations" or in the "things which cannot be avoided" for which the public streets are to remain free.

The original declares that "parading the streets with palanquins and music" and "processions" are to be lawful or otherwise according to usage and caste, and it represents the object or result (it is not apparent which) of the processions which it prohibits as being the "giving offence and annoyance to the opposite party." A reader of the English version alone might possibly have supposed that the processions here referred to, were those of rival sects, such as the Tengalei and Vadagalei Brahmins of Conjeveram, or the demonstrations of the right and left hand castes, "giving offence and annoyance to the opposite party" being the very purpose for which some of those processions and demonstrations are got up. The Tamil version, however, is fatal to this interpretation. The word which it repeatedly uses for "procession," or "parading," is *pattana pravésam*, a word which ordinarily means a "marriage procession" and does not denote any religious ceremonial whatever. This word originally means "a King's entry into his Capital," and secondarily "the public entrance of any great personage into a town." The Hindoo Bride and Bridegroom being accustomed throughout the marriage ceremonies to mimic royal state, the word has come also to denote marriage processions; and as these processions are of every day occurrence this is now by far the most common use of the word. It is not used to denote any religious ceremony. The only quasi religious ceremonial to which the name is applied is that of the marriage procession of a god. In a proclamation defining the uses to which the public streets might, or might not, be put, if this word is used, as it is in the Notification, without qualification, the mass of the people will necessarily suppose that marriage processions are

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distinctively referred to. It cannot therefore, be doubted that the marriage processions of people of one caste along a public street occupied by people of another (and higher caste,) though they should merely proceed in a direct line from the house of the Bridegroom to that of the Bride, and though they should be conducted in the most orderly and peaceable manner, are to be regarded henceforth as unlawful. Funeral processions and marriage processions are thus alike prohibited, except when they happen to be in accordance either with caste or usage.

I am far from supposing that the use of a word signifying especially a "marriage procession," instead of some more general word, is to be regarded as an intentional mistranslation, for as there is a reference made in the original itself to the accompaniment of "palanquins," which are especially made use of in marriage processions, the translator may honestly have supposed that marriage processions were especially referred to. Still it is undoubted that the translation is aimed more distinctly against marriage processions than the original, and it cannot be overlooked by any person who is acquainted with the Natives that this is exactly in accordance with their feelings on the subject.

There is, it is true, no sort of procession which is conducted so peaceably in general as a marriage procession. A disturbance at a marriage procession is regarded as rendering the marriage unlucky and is scrupulously avoided. Every Magistrate well knows that it is the party demonstrations of rival sects that give him most trouble.

Notwithstanding this, the processions which Natives would like to see prohibited are not sectarian processions, but marriage processions, they are not the religious processions of rival sects, but the marriage processions of castes lower than their own, and I apprehend that a Native studying the text of the translation would conclude that he saw his own views and feelings in this matter reflected therein.

According to Native ideas, marriage is the very kernel of all questions affecting caste precedence. The marriage procession, moreover, occupies a much more important position amongst the Hindus than amongst our own race, constituting as it does an essential part of the marriage ceremony and a most effectual check upon clandestine marriages. The mode in which the marriage ceremony is conducted and the privilege of passing along the public street in procession and using a palanquin, or otherwise, are regarded as the turning points of social respectability.

It were well if the higher castes were content with the privilege which they have always enjoyed of conducting their own marriages as they please, but unfortunately it belongs to the essence of their ideas of caste respectability that they should be able to prevent the castes that are lower than their own from conducting their marriages in a similar manner. This devolves in them a spirit of tyrannical interference with the affairs of the lower castes, and not infrequently brings them into direct collision with the spirit of our laws, by which equal rights and liberties are conceded to all.

Hence arose the delight with which the higher castes generally hailed the Notification, which they interpreted as defining that the marriage processions of the lower castes along the public streets, which had been authorized for a time by order of Government, were again to be restricted within the ancient limits of custom and caste.

There are some points in the Notification, common to the translation and to the original, which appear to me to be opposed to the spirit of the decision of Government, and to which I would now take the liberty of soliciting your attention.

1. It might have been expected that the obstructing or molesting of others in the use of the public streets, which is prohibited by Government would have been explained in the Notification to mean monopolising the use of the streets, or preventing traffic and a free thoroughfare, parading offensive party insignia before the occupiers of the street, drumming at unreasonable hours of the night, or some of those things which are in their own nature obstructions. But on looking at the Notification, amongst other definitions of the line of conduct that is prohibited, it would appear that "innovations" are to be regarded as obstructions, and that whatever causes

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"excitement or annoyance" is to be regarded as a molestation. It appears to me that this is to make the caste feelings of a caste people, who always feel "excited" and "annoyed" by innovations, the test of what is lawful.

2. Permit me to say that usage appears to me to occupy too important a place in the Notification.

It appears to be laid down in the Notification that if a procession has usually gone along a public street it is to be regarded as lawful, but that if it has not gone that way before, how peacefully soever it may be conducted, and what reason soever there may be for its going that way, it is to be regarded as unlawful. I beg to submit that this rule, if carried into effect, would convert all public streets into the private property of the particular castes by whom they happen to be occupied, which is the very inconvenience that the decision of Government was intended to prevent. It is the "custom of the country" for the higher castes to monopolize the right of inhabiting the principal and most public streets in all towns and large villages. It has been their custom to compel all the lower castes, though they should be only a shade lower than themselves, to live in by-lanes or in little hamlets adjacent to the town. It has been their custom to take their own processions through all the streets and roads, wherever and whenever they chose, and being the higher castes they did this with impunity and without objection. And it has also been invariably their custom to prevent the lower castes from following their example herein, and to compel them to restrict their processions within the limits of their own lanes and hamlets. The lower castes have not objected, and do not object, to the universal processionizing of the higher castes, and hence the Notification legalizes the high caste usage, but the higher castes object most decidedly to the marriage and funeral processions of the lower castes passing along their streets, (which are everywhere the most public streets, corresponding to high-roads), and in consequence of this objection processions of the lower castes along those streets have not been usual. The Notification accordingly prohibits such processions, and thereby elevates custom, which in caste questions means the custom of the higher castes to oppress the lower, into the position of law.

If the Government had approved of this one-sided freedom, if the usage of one class of castes had been intended by Government to be regarded as determining what was lawful or unlawful, it appears to me, that they would not have stated at the close of their decision their gratification at learning that "the question of the right of all classes" (including the lower castes) "to a common use of the high streets and roads" (a right which the higher castes had resisted to blood) "was now considered throughout the District as finally settled."

The reference to "palanquins" in the Notification will be interpreted, I fear, in a caste sense. The lower castes are not only not allowed to go in their marriage processions through the public streets inhabited by the higher castes, but they are not allowed to make use of palanquins at all. Usage is decidedly against it. In the District in which I reside only one attempt has been made by the lower castes to make use of a palanquin during the past eighteen years. In that instance the castes which felt themselves "excited" and "annoyed" by this "innovation" did not think it proper to put it down by force, but within a few weeks afterwards the person who had the audacity to ride in a palanquin contrary to usage felt himself duly punished for his audacity when he found himself standing his trial on a false accusation of murder. I regret the reference to palanquins in the Notification, because it will necessarily be regarded as a blow aimed against the lower castes. I cannot perceive indeed, what other reference the clause can have, for the higher castes have always been accustomed to go in palanquins along any street they pleased, and have always been allowed to do so.

If usage, indeed, were to have the force of law, it would be necessary to restrict the freedom of streets a good deal further than the Notification has done. Usage requires every low caste man to humble himself openly and visibly in passing through a high caste public street. If he is on horseback or in a cart he must get down, if he is on foot he must take his slippers off. A low caste man is not allowed to pass through a Brahmin street on any terms at all; and in the

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same way the lowest caste of washermen are not allowed to pass through any street whatever, not even a Pariar street. If usage is to be regarded as law, and if every thing that gives annoyance to caste feelings is to be prohibited, it may soon become necessary to prohibit low caste persons, who are daily rising in the world and becoming more ambitious, from violating these caste rules.

Already low caste persons have risen to respectable positions in the Medical, the Educational, and the Engineering Departments of the public service. The Civil Service has also been thrown open to them by Her Majesty's proclamation, and some of them have passed creditable examinations for Uncovenanted Civil Service appointments. Supposing a low caste man of good abilities and upright character to gain admission into the lower ranks of the Judicial or Revenue service, it is not unreasonable to fancy that he might eventually rise to the position of a District Munsiff or a Tahsildar. On that supposition, supposing also that the Notification still continued in force, you would be called upon to adjudicate in a remarkable case. The low caste Munsiff or Tahsildar on taking charge, would probably proceed to his Cutcherry, like the rest of his brethren, in a palanquin. That "parading" of the public streets by a low caste man in a palanquin, with or without music, being decidedly "unusual," and calculated to give "offence and annoyance" to the higher castes, would most certainly be resisted. An appeal would be made to you for protection; and I apprehend, that you would then be under the necessity of informing the newly appointed official that he must not cause "excitement" amongst the respectable inhabitants of the town, including his own high caste subordinates, who have inherited by usage the right of riding in the public streets in a palanquin, but must be content, like his ancestors, to go on foot. If this should be regarded as an extreme case, I beg that it may be remembered that it is extreme cases which test principles.

3. Allow me to call your attention to the importance which is attributed to the caste of the offending parties in the definition of an obstruction of the streets contained in the Notification.

According to the decision of Government and the spirit, not only of English law, but of the Indian Regulations and enactments, caste is neither a recommendation nor an offence. A crime is criminal irrespective of caste, nor is it more criminal when committed by a low caste than by a high caste person. The question which elicited the decision of Government was that of the disputed right of a low caste funeral to pass along a public street inhabited by the higher castes, and the substance of the decision was, as it appears to me, that the caste of the parties had nothing whatever to do with the lawfulness of the use which was made of the public streets, seeing that people of all castes and creeds had a common and equal right to the use of them. It could not therefore be the opinion of Government, that a use of the streets which was lawful and orderly for one caste should be regarded as unlawful for another. If any particular use of the streets was lawful, it was lawful for all castes. If it was an "obstruction" and a "molestation" it was equally so for all.

On the other hand, according to the Notification, that which is lawful for one caste does not appear to be regarded as lawful also for others. Lowness of caste is regarded, it would appear, as involving legal disabilities as well as social dishonour. "People of one caste (that is, of lower caste, for otherwise there would be no dispute,) are not to go in procession in the streets occupied by people of another (that is of a higher) caste, to give them offence, and annoyance." It is not evident that the offence and annoyance here referred to consist wholly in the caste of the parties itself? There would be neither offence nor annoyance if the procession were connected with people of their own caste or with people of a higher caste. It is an intolerable "offence and annoyance," it raises "excitement," it is an "innovation tending to cause a breach of the peace," that the procession should be conducted by people of a lower caste than their own. Caste constitutes the offence. Alter the caste and the offence disappears.

I beg to explain that in the remarks I have made I do not ask that the lower castes should receive any preference or favor whatever. What is desired is equal justice to all, whatever be their caste or creed. To do equal justice to all castes may possibly excite some irritation for a

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time in those towns and villages where the higher castes have been accustomed to claim exclusive privileges, but all this will work itself right ere long, as in Madras and similar places where such distinctions have ceased to be observed. Equal justice to all will prove, I have no doubt, to be the safest and wisest policy in the end. It will also be found to be an easier and more intelligible policy than that of yielding to prejudice, which will necessarily entail an infinite variety of misapprehensions and inconsistencies.

I have hitherto considered this question of the right of way irrespective of the religion of the parties concerned; but I may be permitted here to add that the Notification appears to me to bear particularly hard upon Native Christians.

Heathens have, or may have, separate burial or burning places for every caste, and may thus be enabled to avoid the necessity of passing along a street occupied by people of a higher caste than their own. The marriages also of Heathens are performed not in a temple or in any public place which is common to all, but at the house of the Bride's father, and hence, when the wedding party go in procession from the Bridegroom's house to the Bride's, or vice versa, it may happen to be unnecessary for them to leave the street which is inhabited by their own caste.

When Hindus become Christians, however, though they continue to reside in their own street and amongst their own people, yet their marriages and funerals are no longer capable of being restricted within such narrow limits. All Christians, whatever their caste may be, are married in the Christian Church, and in like manner Christians of all castes are buried in one and the same burial ground. Christian Hindus cannot evade the difficulty, like Heathen Hindus, by having separate Churches and separate burial grounds for each caste, for it is a part of our religion that distinctions of caste and rank have no place in matters of this kind. Now, the Church and the burial ground may be situated in a high caste street or at the other end of the town, and the marriage or funeral procession must proceed thither from the house of the parties, wherever that may happen to be. This will render it necessary for the procession to pass along the public streets. If the caste of the parties concerned is the same as that of the people who occupy the public streets, no objection will be made; but if they happen to belong to a caste which is supposed to be lower, the procession is liable to be objected to and resisted; and in that event, supposing that the Notification continues in force, it appears to me that except they can prove that people of the particular caste to which they belong had gone in procession along that street before without exciting umbrage, they cannot hope to be protected in their right to make use of the public streets for these purposes.

In this respect, therefore, Native Christians are placed at a disadvantage, in comparison with Heathens, inasmuch as they will necessarily be brought more frequently than they into collision with the Notification.

In the particular case of the marriage procession in Taruvei, which I brought to your notice, you were so kind as to remove the anticipated difficulty. The remarks which I have now taken the liberty of making are, therefore, wholly free from personal feeling. Whilst I have freely criticized the Notification, considered as a public document, and on public grounds, I trust that the respect I feel for your office has prevented my making use of any expression which could give you offence.

On the 29th October, ultimo, the then Acting Magistrate, V. H. Levinge, Esq., cancelled an order of a preceding Magistrate, to the effect that "Keikilavan's funerals were not to go through a particular street" in the town of Tinnevely, on the ground that that order was "opposed to the decision of Government," which order he then again made public, and stated that it had been recently "upheld and confirmed" by a Despatch from Her Majesty's Secretary of State for India.

On the 17th December following, you issued the Notification on which I have commented, and in which, according to the opinion of every person with whom I have conversed on the subject, an opinion in which I feel obliged to coincide, an opposite policy was initiated. Under these circumstances it appears to me to be unadvisable to rest contented with the conflicting decisions of individual Magistrates. In so important a question of public right it is absolutely

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necessary to ascertain the views of the Government itself, prior to ascertaining which the inhabitants of this District have not the means of knowing what the law really is.

I beg to state, therefore, that it is my intention to lay a copy of this correspondence before His Excellency the Governor in Council.

No. 948.

Referred to the Magistrate for early report.

By order,

(Signed) L. FORBES,
Deputy Secretary to Government.

FORT SAINT GEORGE,
11th April 1860.

No. 39. From J. SILVER, Esq., Magistrate of Tinnevely, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 23rd April 1860, No. 136.

As directed by Endorsement dated the 11th April, I have the honor

* *Herewith returned.* to report on the accompanying letter* from Dr. Caldwell.

2. On receipt of Dr. Caldwell's letter of the 18th February, I sent two of my Deloyets to Taruvei, 16 miles from where my Cutcherry then was, to see that no obstruction was offered to the marriage party, and to enquire into the circumstances and report to me.

3. The marriage procession took place, no one interfered with, or seemed to care the least about it. My Deloyets questioned the principal inhabitants in presence of some of the Mission people, and they said they supposed the Missionary's Catechists had made him believe, they wanted to obstruct the marriage, but for themselves, they had no desire to do so. The Village Munsiff and Mettoo Peon whom I sent for, stated, the first, that he was called and questioned by the Missionary if the people of Taruvei wanted to obstruct the procession, that he assured him they had no such thought, that the marriage might take place whenever he pleased, on which Dr. Caldwell had pronounced him "a deceiver," and he replied, that "the Missionary's own people would speak to his character, if he were a deceiver or an honest man." The latter, who had also been called by Dr. Caldwell and informed of the intended marriage, denied quoting the Notification as opposed to the same. He said, the Missionary and his Catechist were talking together about it, and as they wanted to know the exact date, he handed a copy he happened to have with him, to the Catechist, but as Dr. Caldwell states he did quote it as opposing the marriage procession, I can only suppose that the man had got confused, and did not understand it.

4. Before leaving the Coast, the Police Amin of the District waited on me to pay his respects. He is a Mahomedan, and a very respectable man. On my asking him what he thought of this, he replied, that it was absurd to suppose the Mahomedans of Taruvei would object to the marriage procession from any feeling of caste; but as they were mostly weavers, and the street in question was generally blocked up with their looms, if any of them had really told the Catechists they objected to the procession, it must have been not to have their looms disarranged. In the report of my Deloyets, they refer to this very circumstance of the people moving their looms to each side of the road-way, to make room for the party to pass. Had Dr. Caldwell instead of sending for the village authorities, just told his people to conduct their marriage like their neighbours, no one would have interfered with them.

5. Dr. Caldwell says this affair, which he terms of small importance, has led to a correspondence on the meaning of the Notification of 14th December. But the correspondence is all on one side, for I have not discussed the matter. I now lay before Government a copy of the Notification, the original in English, the translation in Tamil, and proceed to state the circumstances under which it was issued.

6. The disturbances in the town of Tinnevely occurred in December 1858, and on the 18th February 1859, within two months afterwards, the then Acting Magistrate Mr. Levinge informed the Government, "that towns and villages which were always in a chronic state of feud and disturbance owing to the pretensions of certain castes, have been quieted, and the question of the right to use the high streets and roads, disposed of and submitted to." The announcement was a gratifying one, and as such was acknowledged by Government in their Pro-

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ceedings of 12th March 1859. But Mr. Levinge was premature. I send with this report a list of complaints and disputes regarding processions and the right of way, preferred to the European Magistracy, from January to October 1859. The Government have only to look at this long list, to see how far the question was from being "finally settled," when I resumed charge of my District in the beginning of November last.

7. These disputes were still going on, and one of the first cases I had to deal with, was one left in a partly unfinished state by Mr. Levinge, copy of whose sentence dated the 4th October 1859 I append to this letter, to show the Government the policy pursued by him in dealing with such cases, and which is precisely that laid down in the Notification of 14th December. As however Mr. Levinge had not given the direct sanction of his authority for the "Eluvers" to use the right of way, both "Brahmins" and "Eluvers" were loud in appeal to me. After looking over a plan of the ground, and hearing the Tahsildar who came to me to report verbally on the subject of dispute, I upheld the right of way claimed by the "Eluvers."

8. Under the circumstances above detailed, and with reports coming in from one part of the district that some of the lower castes were attempting to force their processions through private streets, and from another part of the district that the higher castes were combining to prevent the lower castes from using the thoroughfares they had a right to traverse, I considered it expedient to send Circular orders to all the Police throughout the District, regarding this vexed question, and the Head Jewabnevis of my Cutchery prepared the draft of a Circular order under my instructions accordingly; but after full consideration, I deemed it preferable to issue a public Notice for the information and guidance of all, and accordingly drew up the Notification of 14th December in the spirit, and as nearly as possible in the very words of Order of Government of 26th March 1859, circulated for the guidance of all Magistrates, and which ought to have been generally made known in the District as soon as it was received.

9. The people were informed, that all had common right to the use of the public roads, and the thoroughfares in towns and villages for all the ordinary business of life. They were the common property of all classes of the community. Processions were not to be taken through streets, not public thoroughfares, where the people inhabiting them objected, unless such had formerly been usual; and demonstrations not relating to the ordinary avocations of life, and in which the public welfare and convenience were not concerned, were prohibited, if tending to create a disturbance. It might have been supposed that all reasonable people would have been content with the full liberty accorded for all lawful purposes, with the needful restrictions that it should not be abused into a means of one party giving annoyance to another, so necessary, when the feelings of the people are strong on these points.

10. I leave Dr. Caldwell's letter in the hands of Government, to compare it with the Notification he animadverts upon, and to decide if by any possibility, such exaggerated and distorted meaning could be put on the Notification. Every page exemplifies the prejudice under which he labors. In the re-translation which he has given of the Notification from the Tamil, the word "marriage" which he has inserted thus between brackets (marriage), is an interpolation of his own, it is not to be found in the Tamil. "Pattana Piravasam" the term used in the Tamil version to denote our English word procession, does not signify *exclusively* a marriage procession, as Dr. Caldwell well knows. The procession of a boy when first sent to school, or when the sacred thread is tied, or the procession of a priest through the streets, with many others, all are "Pattana Piravasam."

11. But after all, the clauses in which processions are spoken of, are separate and distinct from the first, which relates to public thoroughfares, though Dr. Caldwell mixes them all up together. Had he been content to take the Notification as it stands, sentence by sentence, with its plain obvious meaning, no such construction as that he labors to put on it, could be found. He asserts, that in the Tamil version, marriage and funeral processions are prohibited; this I affirm is not the case, and no such meaning can be extracted from it. But when I turn from the Tamil to the English original, and find the writer of this letter expressing himself as doubtful whether marriages and funerals pertain to "the ordinary avocations of life," and to "all necessary purposes," and consequently that he does not feel quite certain, whether or not I have pro-

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hibited these processions; and again affecting to discuss, that "marriage is not an emergency which cannot be avoided," and whether "being married or carried out for burial is a part of any person's general occupation or business," I feel, that the writer has answered himself. Government will decide, whether such strained and distorted meaning could be justly put upon my words, any more than that a low caste Munsiff or Tahsildar would be prevented under the Notification, from coming to his Office in his Palanquin.

12. Dr. Caldwell asserts that too great importance is attached to usage, in the Notification. Such is not the case. He states that "it appears" to be laid down in it, that a procession would only be allowed to traverse a thoroughfare, if such had formerly been the custom. He arrives at this conclusion, by taking a line from the 3rd clause of the Notification in which alone is there any reference to usage, and connecting it with the 1st clause, from which it is distinct. There is no writing that ever was penned that is not capable of being inverted, and the meaning turned upside down, by picking out a passage without its context, or adding it on to another passage, from which in the original it stands distinct. Parties desiring to have lawful processions, have the thoroughfares open to them, and their own streets, precisely as in the rule adopted by Mr. Levinge in his decision, copy of which I have sent as an example. If they wish to carry their processions elsewhere than through the common thoroughfares, they must show that they have formerly had the right to do so.

13. When Dr. Caldwell's letter of the 15th March, which to me, he dated from "Tutacorin," and to the Government from "Palamcottah," both on the same date, reached me, I was considerably surprized to find in it a translation of my own order to my two Deloyets. Dr. Caldwell having neither applied for nor obtained the same from me. On sending for the Deloyets and questioning them, they told me Dr. Caldwell had asked them if they had any written order, and had then expressed a desire to look at it. On their giving it him, he carried it into his house leaving them outside, and did not return it for the space of a Tamil hour, but that they had no idea that he had been taking a copy of it. This circumstance alone shows that Dr. Caldwell was even then meditating some such letter as he subsequently wrote. When Dr. Caldwell's letter of the 18th February reached me, it was handed to a Jewabnevis to prepare an order to the two Deloyets, and as Dr. Caldwell had so particularly mentioned that processions of this kind had formerly traversed this street, the Jewabnevis naturally enough entered in the order, that formerly no hindrance had been raised. Even this minute trifle Dr. Caldwell eagerly catches hold of, and tries to shew that I had ceded the permission only from usage, and not from the right so clearly and distinctly shewn in the 1st paragraph of the Notification. This well exhibits the spirit in which he writes.

14. The publication of the Notification has been attended with the best effects. In the four months, from 15th December to 15th April, only eight cases of disputes regarding processions and the right of way have come before the Magistracy; and of these eight, one was Dr. Caldwell's Taruvei case, which after all, can hardly be called a dispute, for there was no interference. In the settlement of any question of this kind all I find it necessary to do is, to determine whether the road or street over which the party wishes to pass, is a public thoroughfare; if it is, and the procession is a lawful one, no obstruction is allowed to be raised.

15. Before closing this letter I beg to draw the attention of Government to a proceeding of Dr. Caldwell himself, in connection with this question. He does not explain, why in November last, before the Notification he cavils at was written, and when as he considered, liberty of the streets was freely enjoyed, he thought it necessary to announce to the Police Amin of his district, that a marriage was about to take place among his people, and to ask him to issue formal orders to the village authorities about it. As long as class distinctions of this kind were allowed, and orders from Government Officials were applied for and given for the ceremonies of one sect, that were not given for another, so long would party disputes more or less continue. This I have therefore put a stop to, for the public thoroughfares are open to all alike. I leave it for the Government to decide whether in the letter on which I have now reported, the construction Dr. Caldwell has endeavoured to put on the Notification, is a fair and honest, or a strained and exaggerated one.

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ENGLISH—ORIGINAL.

1. As great misapprehension seems to prevail throughout the District, regarding the recent orders, that people of all castes and religions have equal right to the use of the high roads, and public streets in all towns, and many disputes have arisen and references been made to the Magistrate, in consequence of such misapprehension. The Magistrate now publishes the following Order, which is to be obeyed by all.

2. People of all castes and creeds have equal right to the full use of the high roads, and public streets in all towns and villages, for the ordinary avocations of life, and for all necessary purposes.

3. But demonstrations and processions hitherto unusual, and not relating to the ordinary avocations of life, when such are calculated to give offence and raise excitement, will not be permitted.

4. People of one caste are not to parade in the streets occupied by people of another caste, with Palanquins and music, to give them offence and annoyance, when such demonstration has not been hitherto usual. Processions of this kind will be confined to the streets occupied by the castes wishing to make them, and to roads outside towns and villages.

5. Innovations either causing or tending to cause a breach of the peace, will be promptly stopped, and the offending parties as promptly punished.

(Signed) J. SILVER,
Magistrate.

14th December 1859.

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*List shewing the number of instances in which disputes arose and complaints were made to the
Magistracy regarding Processions and the right of way from January till October 1857.*

No.	Parties who complained.	Date.	Purport.
		1859.	
1	Valasobramany Ausari (a Gold Smith) of Ambalanapooram in Vullyoor Taluq.	14th Febry...	Certain Vellalers prevent his marriage procession.
2	Appavoo Ausari of Palamcottah.	24th do....	Certain persons endeavour to prevent his son's procession on the occasion of "Oobanoyna Kaley-anum" or the ceremony of wearing caste thread.
3	Veeraragoo Ausari, Vakeel, on behalf of Sunkerlingum Ausari and others of Suttamully in Nelliambalum Taluq.	9th March...	For orders to be permitted to go in procession in Palankeens on the above occasion.
4	Pichen Chetty, Vakeel, on behalf of Sawmy Chetty and others Oil-mongers of do.	13th do....	That measures may be taken to prevent any disturbance during their marriage processions.
5	Certain Naickmars of Ahvartir nagery in Streevigoontum Taluq.	13th April....	Certain Cummalers (Smiths) prevent their processions on auspicious occasions (Soobasobanum.)
6	Arnachellapanicken of Carysoondamungalum in Shermadany Taluq.	16th do....	Certain persons prevent the marriage procession of his brother.
7	Appavoo Ausari, Vakeel, for the Smiths of Nauganary Taluq.	20th do....	That the villagers may not interfere with their marriage processions.
8	Pichen Ausari and others of Cockeracolum and Vunnarpettah in Nelliambalum Taluq.	27th do....	Certain persons intend to prevent their marriage procession.
9	Sunkerlingum Ausari and others of Alwartir nagery.	do....	For orders to prevent any interference with the procession on the occasion of "Oobanoynum" or the ceremony of wearing caste thread.
10	Appavoo Ausari, Vakeel, for the Smiths at Vullyoor Taluq.	30th do....	For a proclamation to be published that they are at liberty to go in marriage procession in Palankeens.
11	Vakeel Pichen Chetty of Nelliambalum.	3rd May.....	That the people of his caste may be permitted to ride on Palankeens on special occasions.
12	Appavoo Ausari, Vakeel, for the Smiths at Punchamaul Taluq.	4th do....	That certain persons intend to prevent their riding on Palankeens on special occasions.
13	Do. on behalf of the Smiths at Streevigoontum Taluq.	7th do....	Certain Naickmars intend to prevent do. do.
14	Soobramanya panicken of Suthamully in Nelliambalum Taluq.	do....	For orders that the people of his village may not prevent do. do.
15	Soodalamuttu Ausari and others of Trichendoor.	9th do....	Do.
16	Veeravagoo Ausari, Vakeel, on behalf of Arnachellum Ausari of Tutacarin.	13th do....	For orders to prevent interference with their marriage procession.
17	Peria Armoogapanicken of Streevigoontum Cusbah.	17th do....	Do.
18	Pichen Chetty, Vakeel, for certain Oilmongers at Shermadany Taluq.	18th do....	Seetaramien and certain others prevent their processions made in Palankeens.
19	Ramasamy Cone of Palamcottah.	20th do....	For orders to prevent interference with his marriage procession.
20	Parangery Nadan and others of Virdooputty in Sauttoor Taluq.	25th do....	Do.

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List shewing the number of instances, &c.—(Continued).

No.	Parties who complained.	Date.	Purport.
		1859.	
21	Soobyapanicken of Privily-cottah in Ottapedarum Taluq.	27th May.....	For orders to prevent interference with his marriage procession.
22	Arnachellapanicken of Trichendoor.	2nd June.....	Certain Shepherds prevent his marriage procession.
23	Arnachellum Chetty Vakeel for Pichenchetty of Sauttencole in Puchamaul Taluq.	9th do.....	For orders that their marriage procession may not be interfered with.
24	Poolamaden Ausari and others of Coolasagrapatam in Princhamaul Taluq.	9th do.....	Do.
25	Arnachellamooppen, Vakeel, for Arnachellum Chetty and others of Cusbah Shenkernsuarcovil.	11th do.....	Do.
26	Sunkulingapanicken of Singathacoorchey in Vidogramum Taluq.	16th do.....	Do.
27	Pichenchetty, Vakeel, on behalf of Nullacunnoochetty and others of Tencausey.	16th do.....	Do.
28	Vellyanasary and others of Virdooputty in Sauttoor Taluq by Vakeel Curpapillay.	29th do.....	Do.
29	Pichenchetty Vakeel of Iyempermaul Chetty and others of Shermadavy.	2nd July.....	For orders to go in a Palankeen in procession.
30	Ramasamy Nadan and others of Manaloor in Shenkerninarcovil Taluq.	16th do.....	Sennappa Reddy and others prevented their marriage procession.
31	Elengamany Nadan and others of Manaloor in Shenkerninarcovil Taluq.	18th do.....	Sennappa Reddy and others prevented one of their party passing along the high road to Shenkerninarcovil on horseback in a marriage procession.
32	Curpapillay, Vakeel, on behalf of Velliapanicken of Virdooputty in Sauttoor Taluq.	26th do.....	Certain persons attempt to prevent their marriage processions.
33	Curpana Nadan of Caloogoomalay in Ottapedarum Taluq.	30th do.....	Do.
34	Theckoo Vandanuttam of Ottapedarum Taluq.	do.....	Do.
35	Shaikadam Abdul Nabee of Shermadany.	1st August..	Certain Bramins attempt preventing the celebration of their festival through the public streets.
36	Pakeery Rowten and certain others of do.	4th do.....	Do.
37	Carpa Nadan of Keelaearyl in Ottapedarum Taluq.	8th do.....	That his marriage procession may not be prevented by others.
38	Viswasa Nadan Vakeel of Sudalamootoo Nadan of Marthandumputty in Yettiapoorum Zemindary.	10th do.....	Do.
39	Manacoondoo Ramasamy Panicken of Alwartirngery in Streevigoontum Taluq.	11th do.....	Do.
40	Palavasa Panicken of Poothanery in Vedoogramum Taluq.	15th do.....	Do.

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List shewing the number of instances &c.—(Continued)

No.	Parties who complained.	Date.	Purport.
		1859.	
41	Samy Panicken, Vakeel, for Andony Nadan of Vadooverndanuttum in Ottapedarum Taluq.	23rd August..	Sittama Naicken and others are attempting to prevent his marriage procession.
42	Soobramanya Ausary, Vakeel, for Ninan Ausari of Maurauday in Bremmadassum Taluq.	do.....	For orders that his procession in a Palankeen may not be prevented.
43	Soobramanayan Ausari, Vakeel, for Sunkerlingum Ausari of Poodoor in Shermadany Taluq.	do.....	Do.
44	Veeraragoo Pillay, Vakeel, for Soobramanica Mooppen and other Oilmongers of Trichindoor in Pungamaul Taluq.	29th do.....	Do.
45	Parangery Nadan, Vakeel, on behalf of Parangery and certain others of Virdooputty in Sauttoor Taluq.	do.....	For orders that they should not be prevented riding in a Palankeen.
46	Parangery Nadan Vakeel for Annamalay Chetty and certain others of Virdooputty in Sauttoor Taluq.	do.....	Do.
47	Parangery Nadan of Virdooputty in Sauttoor Taluq.	2nd Sept....	That no obstruction may be made to carrying corpses through public thoroughfares.
48	Trichitumbalum Pillay of Ottapedarum.	8th do.....	That his procession may not be prevented by his opponents.
49	Kistnamoorty Mooppen of Cottayoor in Shenkerninarcovil.	10th do.....	That his marriage procession may not be prevented.
50	Mutusamy Naicker Vakeel for Pichandy Josier of Shevaramapettah in Tencausey Taluq.	14th do.....	That the Oilmongers of Bremmadassum Taluq may be permitted to go in procession riding Palankeens.
51	Velliapanicken of Pottelputty attached to Sennelgoody Zemindary in Sauttoor Taluq.	17th do.....	For orders that his marriage procession may not be prevented.
52	Mutusamy Naicken, Vakeel, on behalf of certain Oilmongers in Ottapedarum Taluq.	19th do.....	That their riding in Palankeens may not be prevented by others.
53	Mutusamy Naicken on behalf of certain Oilmongers residing at Streevigoontum Taluq.	22nd do.....	That their marriage processions may not be prevented.
54	Sunkaranaroyasary of Tencausy Cusbah.	do.....	Syed Rowten, &c., attempt to prevent the marriage procession of his son.
55	Veeraragoo Pillay, Vakeel, for Samy Chetty and certain other Oilmongers of Ottapedarum Taluq.	24th do.....	That their marriage processions in Palankeens may not be prevented.
56	Do. do. for do. of Sauttancolum in Punjamaul Taluq.	24th do.....	Do.
57	Do. do. for do. of Perungolum in Streenigoontum Taluq.	do.....	Do.

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List shewing the number of instances, &c.—(Continued)

No.	Parties who complained.	Date.	Purport.
58	Appavoo Ausar, Vakeel, on behalf of certain Smiths of Tinnevely and other Villages.	1859. 29th Sept.	That their marriage processions in Palankeens may not be prevented.
59	Padagalingum Pillay, Vakeel of Ramasamy Nadan, &c., Trittengaul in Sauttoor Taluq.	1st October.	That their marriage processions may not be prevented by their opponents.
60	Mylerumpermal Pillay, Vakeel, on behalf of Velacoorchy Pundaram in Bremmadasum Taluq.	7th do.	That the people of Tiroovadoothoray Matum prevent his passing in a Palankeen to the river with the usual honors.
61	Madacunnoo Nadan of Vangayecolum in Bremadasum Taluq.	12th do.	The renter prevents a marriage procession in Palankeen.
62	Curpanadan of Shencoondapoorum in Sauttoor Taluq.	15th do.	That his opponents prevent his Daughter's marriage procession.
63	Parangery Nadan of Verdootputty in do.	26th do.	That the Pavaly Zemindar and his people prevent his marriage procession in Palankeen.
64	Parangery Nadan, Vakeel of Sinnacalay Nadan and others of Munnarcotta Zemindary.	26th do.	That the Zemindar prevents their marriage procession in Palankeen.
65	Iyasamy Moodeliar of Trittengaul in Sauttoor Taluq.	do.	That the Shanars should be prevented from going in Palankeens contrary to usage.
66	Cunnappa Pillay, Vakeel, on behalf of certain Shanars in Calacattacoorchey in Ottapedarum Taluq.	do.	That other caste people prevent their processions in Palankeen on auspicious occasions.
67	Palanyasary of Venkatasoorapoorum in Sauttoor Taluq.	31st do.	That the villagers attempt to prevent his son's marriage procession in Palankeen.

TINNEVELLY,
23rd April 1860.

(Signed) J. SILVER,
Magistrate.

Appellants.

Palavasapanicken and others of Poothary in Vidugramum Taluq by Vakeel Gopalapanicken.

Respondents.

Uppiengar and others.

The Acting Magistrate having read the decision of the Deputy Magistrate cannot concur in the justice of the fine which was imposed on the Defendants, and therefore orders its return, the processionists did not go in the Brahmin's street, nor in any land which is shewn to be the private property of the Brahmins—the line they passed over is an open unfenced path over waste, and there is nothing to show that the Brahmins had any right to prevent their passing over it, and the Brahmins had no right to take the law into their own hands, and try and prevent the passage of the Defendants over it.

The Magistrate will not order that the Appellants may pass over the disputed ground, as he does not know and there is nothing in the proceedings to show, whether it is private property or not, or whose it is, that part of the Deputy Magistrate's Order which directs the petitioners

*Proceedings of the Madras Government, Judicial Department,
for the month of May 1860.*

not to pass by the path is also reversed—the Brahmins may prove by a suit in the Civil Court that the Appellants have no right to pass through it, they may undoubtedly go on the public high way and their own streets.

(Signed) V. H. LEVINGE,
Acting Magistrate.

TINNEVELLY,
4th October 1859.

(True Copy.)

(Signed) J. SILVER,
Magistrate.

No. 40. ORDER THEREON, 26th May 1860, No. 653.
In his letter of 15th March last, the Reverend R. Caldwell addressed Government on the subject of an Order, dated 14th December 1859, issued by the Magistrate of Tinnevely on the question of the right of way.

2. Doctor Caldwell had applied to the Magistrate to prevent opposition being offered to the passing of a marriage procession along the main street of a village. The order was promptly given; no opposition was made, and it seems doubtful whether any was ever intended.

3. Doctor Caldwell next wrote to Mr. Silver a letter on the general question of right of way, in reference more particularly to a Notification which the latter had promulgated in the month of December last. Dr. Caldwell furnished a copy of this letter to Government, who called upon the Magistrate for his remarks upon it. His report is recorded above.

4. The chief Order of Government on this subject generally, is that of 26th March 1859, Judicial Department, No. 413.

5. In his present letter (23rd ultimo) Mr. Silver explains the reasons which led him to issue the Notification. He states, paragraph 14, that its publication had been attended with the best effects, and that whereas prior to his rejoining the district in October last year, there had been a great number of disputes and complaints about processions, &c., there have, since the Notification appeared, been hardly any.

6. His Excellency the Governor in Council having given the subject his full consideration, does not think that any orders on the part of Government are required, or that it would be advisable to interfere with the course of action which the Magistrate is now pursuing. It seems to him that Mr. Silver may best be trusted to carry out his Notification of 14th December last, with temper and judgment, and in the spirit in which (as appears from his letters now before Government) he intended it to have effect.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

No. 10. C. Livingston Esquire,
Collector of Madras

The humble petition of
Blagynnamy Naidoo,
labourer transferred to the
Fettership of Kangoonary
Labugan

Most Honoured Sir,

I beg leave most respectfully to
inform your honour that I was Naidoo
headman in this District and
Mr Thomas knowing me to be a deli-
gent and honest man, appointed
me as a Naidoo in the year 1848,
while I was discharging the said duties
Mr Bird understanding my ability
promoted me in 1853 to the position
of Naidoo. I held this
appointment for a period of 5 years
conducting myself in the discharge
of my duties to the satisfaction of

my superiors which I dare say, your
honor is well aware of and besides,
the certificates granted by Messrs Calcutt,
Swinton, and Arthur Threlkeld, will show
that I was very diligent and honest.

I was appointed in the year 1858
by the Acting Collector
Mr. Mayne as Tahsildar of Ootacampooram
Taluk which office I held without any
complaints against me. Your honor
is not only aware of this but also
personally expressed to me in ~~1861~~
last when your honor came to Mysore
for the distribution of Pottahs that
your honor is pleased with me as
the ryots have not complained any
thing against me.

In April last a breach of
peace was likely to occur in Tuticorin
owing to the objection raised by the
different caste people to allow the
marriage processions of Kummalaris
I preserved the peace as per orders
and Mr. Ames sent me a letter com-
municating your honors approbation
of my conduct in that case.

Even after Mr. Ames returned
from England I was in a safe

possession were performed by
Caste people in the streets without any
disturbance what so ever, according to
your honors orders and that officers
but ~~but~~ ^{when} a ~~sham~~ ^{sham} procession was
attempted within the limits of Mysore
"procurum" ^{gimindary} about 2000 armed
people collecting together objected to
it and were likely to cause a serious
breach of the peace when I came to
know this I went to the place myself
and finding that my promises and
threatenings were of no avail. I first
sent an S. D. Officer and then a warrant
bearing leaders having been appre-
hended I caused the procession to be
carried through the public streets, as per
your honors orders and reported the result
to the Magistrate. Whereupon the Magistrate
issued an order to the effect that
the order issued by your honor on the subject
was not just one, one caste people cannot
make processions through the streets oc-
cupied by other caste men contrary to
custom. But if they do so they must
be considered as the creators of the
disturbance, and that such people
will be apprehended and subjected to
punishment in the Police Department.
Consequently I had to explain the
decision passed by me for releasing

persons apprehended on warrant, caused
of their apprehension and release all ^{the} ~~the~~
thinking that had obtained the Sahibship
from your honors hands transferred
since without any cause to the ^{the} ~~the~~
Salang which is about to be abolished.

But fortunately, as your honor is
come to Madras I am only fully desirous
of saving your honor there but also hope
that my eldest son will get a berth
from your honors hands, where your honor
was collector of this district your honor was
pleased to appoint him first to act for me
Hooroor Comartah for a period of 3 months
and then to act as Surdar of Sijjamonjannam
in Mullayor Salang. As it is our fortune that
your honor ^{came to} district so near to this district
first of all to send my son there and humbly
request your honor will be pleased to confer
on him at least a trifling post when
opportunity for so doing should occur,
and to protect us.

For this act of charity
and benevolence I shall be duly honored
and ever remain your
devoted servant
1860.

Madras May 11th

My dear Sir

13
For I have in making
a report to you regarding
processions in streets
&c in summary I said that
I reported that the question
was set at rest & the orders
of post submitted to had that
I was premature & he sent
a long list of complaints
to prove that my statement
was false. If the post
think it worth while
to start for the complaints

alliance to I think it was
be found that almost the
whole of them were nothing
more than jests representing
that a marriage procession
was to take place & request
orders to the Police to prevent
interference by other castes.
These jests I unvaryingly dis-
closed to the H.D. of Police
or Police Commission to take
steps to prevent any breach
of the Peace, the consequence
was that hundreds of per-
sons performed their marriages

without prohibition who
could not have done so
before, I can only remember
4 cases in which breaches of the
peace were reported & in those
cases the conflicts were between
high & middle classes
& not with the very lowest
classes & it is certain that
in 3 or 4 hundreds of superior
& middle caste people
performed their marriages
in public streets & took
their dead for burial
along the high roads.

Who expect to dare not
appear in the streets under
such circumstances. When
I wrote there was perfect
peace & it was understood
that the streets were open
& of that time pretensions of
tation had ceased & marriage
processions passed the
public roads where they
could not have gone before
but I did not mean to say
that no breach of the peace
would ever occur again
the complaints or petitions

referred to by Mr. Selwyn were
merely applications to the
Magistrate to obtain more
assurance of safety & to act
as warnings to others not
to interfere. Besides they were
so poorly & I am here
length on Tuesday since
4.3 & it was a common
thing for parties to claim
the protection of the Mag.
& for some parties to
call on the Mag. to per-
amb lower caste persons
marriages on the public
streets. There was not a
man posted anywhere

little squabbles & breaches
of the peace. I believe they
never lost an S. of them in
any previous year. certainly
they were considering the
number of low water
processions compared
to former years.
I am certain the people
were prepared to submit
& that the feeling of many
a jealousy on the subject
would have died out
but for the persons
own policy at least.

if the information I have
gained from many
German people is
true - I am informed
that when an application
was made to Mr Silver
strictly after he found
in order for protection
instead of taking the
letter & enclosing it
to the Police officer
to take care he
of the peace occurred

He pushed it on our
sides refusing it saying
that in his day they
(they) should not be
such order, this whether
true or false flew
over the whole district
at once I heard it as I
passed out of the
district & the impres-
sion of the people was
that they would not
be allowed the pardon
now granted & that

they would not be per-
mitted to have possession
of the report of Mr. Loomis
conduct is true. He
has been the cause of
all the new difficulties
He tries to make out
that I misrepresented
matters & that there was
a great deal of disturbance
but of the fool wide
suggestion of Mr. Phillips
who was Sessions
Judge - Mr. C. C.

Roberts - For Amos
- For A. McPigg
I know it will be found
that I wrote & have
written the truth
I hope his Excellency
will excuse my trusting
him with this book
I consider for those
unhappy East
Indians against
me & it is a subject
on which I must feel

anxious besides its
deplorable the state
of feeling that has
been excited

Yrs faithfully

W. L. G.

J. D. Bowditch
Secty to Socy

1. I am the one who
Ma dura May 17
and 18

Sir I find that Mr. [unclear] in his
letter to [unclear] dated the 23 April
[unclear] I say that I left a case of
disputed right of way unfinished
I forwarded a copy of my
decision in that case.
[unclear] to say I disposed of that case
fully as far as I [unclear]
might could. The [unclear] [unclear]
[unclear] end of that case was that
I was called upon to sign copies
of my decision for the parties. They
[unclear] [unclear] [unclear] [unclear]
[unclear] the case with [unclear]
[unclear] the road over which the [unclear]
[unclear] right of way [unclear]

The Primmer contended was
not a street - public road
or high way it was a mere
path or track across a
field or garden near the
Primmer house - Had it
been either of the 3 first
I should have pronounced
decisively that the Slaves
might go over it. But I
had no evidence before me
to show that the Kibber had
right of way over it. Therefore
I refused to pronounce on the
claim of either party fearing
perhaps I might lay myself
out the Slaves gave to an action

has the pass & I left the point
to the Slaves. I have by a
civil suit. I feel confident
that was all I could do safely
in the case. Of this I am certain
that whether the Slaves had
right of way or not the
Primmer had no right to an
assault. I am
as far as I can remember
live Silver is wrong in
the last of para 8 of his letter
in that he says the writers of
looked at the deed of was not
under known as the right of way
I am confident the
writer has substituted the

district Jajeta & looked
upon that view of it as the
one on the question raised
by J. B. Ketchum as issued
more for the purpose of
that might than any thing else
but I am sure every officer of
police who has been in the
city & perfectly well
known by every police officer
& in habitant & the meaning
thoroughly understood & do
not think the Police
Officers (including the
Jamil Proclamations) had
any doubt about the meaning
or what they were to do in

the district Jajeta. They think
that they may have made
many references to him
after he took up the
Magistracy again.
Since my arrival I have
seen many & many
riots & they all tell me
that Mr. J. has done
a proclamation that
every thing is to go on
according to the old custom
meaning the old custom
of our caste & profession

There, it is incredible
that on two occasions
his own Police have
unlawfully interfered.
Thinking they were acting
in conformity to
his orders but what
other opinion can the
people form that
Mr. Stowe wants to restore
the old order of things
when they see the
manner in which the

322
Mr. Stowe of Ottawa
has been treated by her
I have no objection what
he calls my order & that
of Mr. Stowe would
his duty in a troublesome
situation in his household
is not one that is of
he done away with
the new arrangements
a Mr. Stowe
transferred to his
place who was once

Put up these
with the other papers in Sil-
about 1000 up at or
~~around~~ in Calcutta
letter



English Original

1- As great misapprehension seems to prevail throughout the District, regarding the recent orders, that people of all Castes and religions have equal right to the use of the high roads, and public Streets in all towns, and many disputes have arisen and references been made to the Magistrate, in consequence of such misapprehension- The Magistrate now publishes the following order, which is to be obeyed by all.

2- People of all Castes and Creeds have equal right to the full use of the high roads, and public Streets in all towns and Villages, for the ordinary avocations of life, and for all necessary purposes.

3- But demonstrations and processions hitherto unusual, and not relating to the ordinary avocations of life, when such are calculated to give offence and raise excitement, will not be permitted.

4- People of one Caste are not to parade in the Streets occupied by people of

Innovations either causing or tend-
ing to cause a breach of the Peace, will
be promptly stopped, and the offending
parties as promptly punished.

Tamil Translation.

பெரும்பாணாத்தமிழ் எல்லாப் பட்டணங்
களிலுமுள்ள மஃமனிக் குவர்த்தியார் யும் சுகல
ஜாதிக்காரர்களும் சுகலமதஸ் துர்க்கனும் 2ப
யோகமபடுத்திக் கொள்ள சமஸாரபாத்திய
தை 2வர் டென்பதாய் கொஞ்சநாள்க்கிமுன்
பிறந்திகுக்கிற 2த்திராவித்தாற்பரியதை
யாததிலிலலாவினுள்ளவர்கன்றன் அய்-அநி
நனா கொள்ளாமலினக் கிறதாய்த் தெரியவ
ருகிறது அதனாலே அநேக விவாதங்கள் சிறமிட்
டு அதுதகிக் குறித்து மேஜஸ்த்திரோட்டுதலா
யவர்களுடைய 2த்திராவி தெரிய வேணுமென்று
சிலபேரல்கு அது சிசார்கள் கேட்டிருக்கிறார்கள்

கொல்லா சிவனாம்.
எல்லா சிவாதிக்காரர்களும் எல்லா மகிழ்தா
ளும் வளக்கொணர்வு வல்லுக்குந்திராதிகாரி.
யுங்களுக்கும் பெரும்பாடடைகியும் எல்லா மட
டனாபுங்களுக்கும் கிளம்புகளிலு முன்னப்பனிக்கு
உதிக்கியும் பூவுயரம் உயரொகப்படுததிக் கொள்
ள சம்பர்த்தியத்தியுடையவர்களாய்க்குங்க
ர்கள்

கருமனஸ்தாபமும் வகுத்தமுண்டாடும்படியானவனாயினும் நடந்துவந்தவனக்கத்திக்குவிஞ்
தமாய்நடியார்கள் குடியிடுக்கிற் தெருவனியாக
பல்லக்கைள் மேளதாளங்கள் சித்திமாய்ப்பட்
டண்ப்மரவேசங்கள் போகக்கூடாது அப்போர்
ப்பட்டபட்டணப்மரவேசங்களைச் செய்யலிடும
புகிறசாதிக்காரர் அவர்கள் குடியிடுக்கப்பட்
டதெருக்களிலும் பட்டணங்களுக்கும் கிருஷ்ண
களுக்கும் வெளியேயிடுக்கிற ரஸ்தாகுகளி
லுமாத்திராஞ்செய்யுகொள்ளவேண்டும்.

கனகசபை
அமர்த்திராஞ் செயது கனகாநா
சிவசமாந்தான விரொத்தந்த உன்ரு
பன்னகி அலலது உன்ருபன்னகி
தஞ் கேதுவாயககி தாதன மான
காநியபகந். ச்செயதாலதை உடனாநி
தெத்திப் போடப்படுவது மன்றி அதில்
சம்மந்திப் பட்டவர்களை யும் உடனே

சென்னை 17 5 5 5 5 5 5 5.

சென்னை 17 5 5 5 5 5 5 5.

(Signed) J. Silver
Magistrate

(True Copy and Translation)

J. Silver
Magistrate

A. Govindoo
A. J. Manager

Page 11-808

Copy of the English
Notification dated the
14 December 1859 and
of its Tamil Translation
referred to in the above
letter.

Enclosure No 1 in a letter
from the Magistrate of
Sinnamelly dated 23 April
1860. No 136

1860 Department

List

Judicial Department.

Proceedings of the Madras Government.

Read again letter from
The Rev. R. Caldwell L.L.D. } (Dated 15th March 1860)
Palanestab.

Read also the following letter
from the Magistrate of Sinnamelly } (Here enter 23rd April 1860)
Sinnamelly.

Order thereon 26 May 1860, No 153.

In his letter of 15th
March last, the Reverend
R. Caldwell, addressed
Government on the subject
of an Order dated 14th
December 1859 issued by
the Magistrate of Sinnamelly on the question
of the right of way.

Doctor Caldwell
had applied to the Magistrate to prevent opposition being offered to the passing of a marriage procession along the

the main street of a village. The order was promptly given; no opposition was made, and it seems doubtful whether any was ever intended.

3. - Doctor Caldwell next wrote to Mr. Silver a letter on the general question of right of way, in reference more particularly to a Notification which the latter had promulgated in the month of December last. The letter was sent to the Magistrate for his remarks, and this report upon it is recorded above.

4. - The chief order of Government on this subject generally, is that of 26th March 1859, Judicial Department No. 413.

5. - In his present letter (23rd Ultimo) Mr. Silver explains the reasons which led him to issue the Notification. He states

states - para. 14 - that its publication had been attended with the best effects, and that whereas prior to his rejoining the District in October last year, there had been a great number of disputes and complaints about processions &c. &c. there have, since the Notification appeared, been hardly any.

6. - His Excellency the Governor in Council having given the subject his full consideration, does not think that any orders on the part of Government are required, or that it would be advisable to interfere with the course of action which the Magistrate is now pursuing. It seems to him that Mr. Silver may best be trusted to carry out his Notification of 14th Decr. last, with

with temper and judgment, and in the spirit in which (as appears from his letters now before Government) he intended it to have effect.

J.F.

Judicial Department

653

27-C

Memorandum

From the Magistrate of Timnevelly } dated 23rd April 1860
19.136.

The Reverend P. Caldwell, Missionary of Timnevelly, has addressed Government on the subject of an Order dated 11th December 1859 issued by the Magistrate of that District on the question of the right of way. -

I informed Mr. Silver when I met him at Madras that I doubted the expediency of his Public Notice because it was undesirable to again to disturb the Public Mind which had ^{been} begun to subside on this exciting topic and for the same reason I would not now interfere with the Notice - and the more so as it is evident from the concluding part of

Doctor Caldwell had applied to the Magistrate to prevent opposition being offered to the passing of a Marriage procession along the main street of a village. The order was promptly given no

To the Magistrate of Timnevelly }
Rev. R. Caldwell Esq. } (Signed) J.F.

J.F.

Mr Silver's letter that
he is disposed to apply
the Rules in a liberal
sense. L. L. Mumfry
Madras 9 May 1860.

The Council suggest that
in para 7 & 8 of the
Memorandum should be followed.

I think it too late
to be presented
28th January 1859. P. 38 only.
26th March 1859.
6th June 1859.

& Mr Silver clearly
shows that his in-
structions were fairly
to carry out the views
of the Council & that
that spirit he held
with his particu-
lar instructions.

W. L. L.

no opposition was made,
and it seems doubtful
whether any was ever
intended.

3. Doctor Caldwell next
writes to Mr Silver, a
long letter on the general
question of right of way
in reference more parti-
cularly to a Notification
which the latter had
promulgated in the
month of December last.

4. The orders of go-
vernment on this subject
are noted in the margin
and should be read care-
fully. The date is that
of 26th March 1859.

5. Mr Silver in his
present letter explains
the reasons which led
him to issue the Notifi-
cation. He states - para 4 -
that its publication has
been attended with the
best effects, and that
whereas prior to his re-
joining the District in

October

October last year there
has been a great num-
ber of disputes and com-
plaints about procees-
sions &c. there have,
since the Notification
appeared, been hardly
any.

6. Doctor Caldwell's
remarks, I must say,
seem to me captious
and overstrained. It
would scarcely be
possible to lay down
any rules on so diffi-
cult and delicate a
matter, in which holes
could not be picked
if criticized in such
a spirit.

7. Under such cir-
cumstances the Govern-
ment may consider
whether it be advisa-
ble to interfere - and
whether even supposing
that the Notification
may not be perfect
(and I do not see much
fault to find with it)
more

See order of 12th Novr 1859
and Minutes by the Presi-
dent.

more harm would not
be done than good by
stirring the question
now - or by any attempt
to modify or explain
the Notification - whether
it had not better be left
to stand as it is, and
Mr. Silver be trusted to
carry it out with
temper and judgment,
and in the spirit in
which he seems to have
intended it. -

8. - In such case Dr.
Baldwell might be in-
formed that the Govern-
ment had consulted
the Magistrate of the
District on the subject
of his letter and that
they did not see grounds
for interfering with the
course which he was
taking. -

JF

RPK

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