

EAST INDIA (TORTURE).

RETURN to an Order of the Honourable The House of Commons,
dated 29 May 1857;—for,

COPY “of all LETTERS, or EXTRACTS from LETTERS, relating to Cases of alleged TORTURE in *India*, which have been received by the Court of Directors of the East India Company since the 12th day of September 1855; together with a Copy of any INSTRUCTIONS issued by the Court of Directors of the East India Company on the same subject.”

East India House, }
9 June 1857. }

JAMES C. MELVILL.

(*Mr. Seymour.*)

Ordered, by The House of Commons, to be Printed,
22 June 1857.

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East India House,
9 June 1857.

J. S. Mill,
Examiner of India Correspondence.

COPY of all LETTERS, or EXTRACTS from LETTERS, relating to Cases of alleged TORTURE in *India*, which have been received by the Court of Directors of the East India Company since the 12th day of September 1855; together with a Copy of INSTRUCTIONS issued by the Court of Directors of the East India Company on the same Subject.

Government of India.

Government of
India.

Home Department, 22 September (No. 15) 1855.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

THE Honourable the President in Council having inquired whether any proceedings on the subject of torture should be taken by the Government of India, "with reference especially to the possibility of such practices existing in the other Presidencies, and to the necessity for taking special measures for their suppression," I have the honour to solicit the orders of your Honourable Court on the subject.

2. That torture, in one shape or other, is practised by the lower subordinates in every native state of India, and in every British province, I have long ceased to doubt. I do not believe, however, that it is practised for the extortion of revenue, or in any other than police cases, within our provinces generally; and I am very certain that the practice is an object of abhorrence to British officers everywhere, as much as to those who most loudly denounce the abuse, and that civil officers do their utmost to prevent it.

3. Holding this belief, I need hardly add that I am of opinion that every special measure which can be devised for the suppression of so odious a practice should be set in motion, and should be vigorously and constantly put in execution.

4. If an Act of the Legislature should be necessary, in order to enable the several Governments to inflict an adequate punishment on those who may be proved guilty of acts of torture for any purpose, such an Act will be passed without delay.

5. Regarding the questions from this point of view, and believing for my own part that the abuse does exist, and is occasionally practised in every part of India, I must feel that inquiry into the existence of an evil, whose existence I acknowledge, would be superfluous.

6. If, however, your Honourable Court should be of opinion that a formal inquiry should be instituted in Bombay and Bengal, as it has been in Madras, steps will be immediately taken for that purpose; and any inquiry that may be instituted will be conducted by a mixed Commission, as at Madras.

7. I have the honour to request that your Honourable Court will send an immediate reply to this letter by return mail.

Ootacamund, 22 September 1855.

I have, &c.
(signed) *Dalhousie.*

Legislative Department, 21 November (No. 12) 1855.

Our Governor-General of India in Council.

1. THE Governor-general, in his letter (No. 15), 22d September 1855, Home Department, requests an immediate reply to the question therein submitted, whether
117—Sess. 2. A

Torture.

whether

Government of
India.

whether a formal inquiry concerning the practice of torture shall be instituted in Bombay and Bengal as it has been in Madras?

2. We concur with the Governor-general in thinking that further inquiry into the existence of the evil would be superfluous, but that every practicable measure should be devised and vigorously executed for its suppression. We shall accordingly approve the immediate passing of a legislative enactment for the speedy and effectual punishment of all persons guilty of the practice of torture, if the present state of the law should render such a measure necessary.

London,
21 November 1855.

We are, &c.
(signed) *E. Macnaghton.*
W. H. Sykes.

Cases of alleged Torture.

Bengal.

B E N G A L.

— No. 1. —

BY DEPENDENTS OF THE RAJAH OF JHULDA.

EXTRACT Bengal Narrative, dated 27 March (No. 24) 1856, transmitted in India Judicial Letter, 30 April (No. 39) 1856.

Chota Nagpore. Regarding a case of murder by torture committed at Jhulda. Para. 11. THE accompanying papers contain explanations called for and received from the Commissioner of Chota Nagpore, on certain points relating to a case of murder by torture, which occurred in the zemindaree of the Raja of Jhulda, in the Maunbhoom Division. Jud. Pro., 6 Sept. 1855, No. 312. Jud. Pro., 27 Sept. 1855, No. 441. Jud. Pro., 6 Dec. 1855, No. 254 to 258.

12. Mr. Allen was informed, in reply, that the Lieutenant-governor, upon a careful consideration of the circumstances disclosed in the correspondence, was constrained to remark that the proceedings of Captain Oakes, the Principal Assistant in charge of Maunbhoom, in this most atrocious case, had evinced a great want of vigour and efficiency, and were by no means creditable to him.

13. With regard to the measures to be adopted towards the Raja, the Lieutenant-governor concurred with the Commissioner, and directed that he should be at once divested of all police functions, and that the salaries of the requisite police establishment should be paid out of the collections of the zemindaree.

14. It was further intimated to Mr. Allen, that the Lieutenant-governor was of opinion that no allowance at all should be made to the Raja until he should either deliver up his brother Benimadhub, one of the principal offenders, or prove that he had really done his best to secure him, and that it was out of his power to effect it; and further, that there did not appear to his Honor any sufficient reason why the Raja, though he had been acquitted of participation in the actual crime, should not now be summoned before the magistrate and questioned regarding the absence of his brother, and his share in concealing him.

No. 312.
Judicial.

EXTRACT from the Proceedings of the Government of Bengal in the Judicial Department, under date 6 September 1855.

(No. 1467.)

LETTER from the Secretary to the Government of Bengal to the Commissioner of Chota Nagpore.

Sir,

Fort William, 28 June 1855.

Government and
Padsbai Tanti, pro-
secutors, versus
Baluck Das, and
others, defendants.

THE Lieutenant-governor's attention has been attracted to a report of a case of murder by torture decided by the Sudder Court on the 2d March last, and entered at page 315 of that month's number of the Court's Criminal Reports.

2. The facts disclosed in this case are of a very atrocious nature, and it would seem that not only the local subordinate police, but also the Raja of Jaldah

and

and his relatives participated in the course. The conduct of the Raja is expressly stated by the presiding local judge to have been "highly criminal." He was, Major Hannington writes, "at the time in charge of the police," and it was "clear that he was cognizant from first to last of the atrocious proceedings carried on within the precincts of his dwelling-place, and that his dilatory reports to the senior Assistant were intended to deceive that officer." And in confirmation of this it is stated that the information which Haribon Degoria reported to the Raja on the 30th April 1854, was not laid by him before the senior Assistant before the 8th of May, and that he replied to orders of that officer of the 1st May so late as the 13th idem.

Bengal.

3. The Lieutenant-governor wishes to know whether any steps have been taken towards punishing the police, or noticing in any way the conduct of the Raja and his brother; and it appears to the Lieutenant-governor to demand particular explanation why neither the Raja nor his brother Benimudhub Sing were committed to take their trial (especially the latter), whom the evidence seem to implicate as having taken a direct part in the atrocious proceedings recorded at the trial.

I have, &c.
(signed) *W. Grey,*
Secretary to the Government of Bengal.

(No. 160.)

LETTER from the Commissioner of Chota Nagpore to *William Grey, Esq.,*
Secretary to the Government of Bengal, Fort William.

No. 255.

Sir,

Chota Nagpore, 5 November 1855.

I HAVE the honour to acknowledge the receipt of your letter, No. 1467, dated the 28th of June last, calling for an explanation regarding certain circumstances connected with the case of murder and torture committed at Jhuldah, in the Division of Maunbhoom, in April 1854.

2. A full account of all the particulars of this atrocious case will be found in the 148th paragraph of my police report for the year 1854. I have therein stated that there were, in my opinion, two errors of judgment in Captain G. N. Oakes' proceedings in this case, first the prisoners Baluck Doss, and 19 others, were committed for trial on a charge of "culpable homicide," when they ought to have been charged with murder; secondly, the Raja was fined 200 rupees for neglect of his police duties, when he ought to have been committed for trial before the court of sessions on a charge of privity or accessoryship to this cruel murder.

No. 95, dated
9 June 1855.

3. The first error was corrected by the Deputy Commissioner, who directed all the prisoners to be arraigned on a charge of murder; the second error, which might have been rectified by the Nizamut Adawlut when the proceedings were before them, was not apparently noticed either by that court or the Deputy Commissioner, although the latter, in his remarks on the trial, has observed, that he considers "the conduct of the Raja, who had at the time charge of the police, has been highly criminal."

4. After the record was returned by the Nizamut Adawlut, I sent for it, and carefully considered the Principal Assistant Commissioner's proceedings. I was of opinion that the punishment of the Raja was altogether inadequate for his offence, but I did not think that any further proceedings against him at that time would have been attended with any advantage. Perhaps I might have been able to induce the Nizamut Adawlut to quash the senior Assistant Commissioner's conviction of the Raja, and then Captain G. N. Oakes would have been in a position to take up the case again and to commit the Raja to the sessions court; but when I considered what had taken place at the sessions, where only four out of 20 persons committed were convicted, I was of opinion that it was too late to bring the Raja before the court of sessions. A new trial, resulting in the acquittal of the Raja, was, if possible, to be avoided, because it would in all probability have weakened the evidence against the principal offender Benimadhub Singh, who is still at large, and whose guilt, as the case stands, seems to be clearly proved.

Bengal.

5. It will be seen from my report that very liberal rewards have been offered for the apprehension of five persons who are the principal offenders, two of whom have been apprehended since my police report was written, but I regret to state that the Raja's brother, Benimadhub Singh, and the two others have not yet been arrested.

One mohurrir and
four burkundauzes.

6. All the subordinate police officers serving under the Raja at the time of the occurrence of the crime have been dismissed from office.

Darogah, 30 rupees
per mensem;
4 burkundauzes, at
4 rupees, 16 ditto.

7. As soon as I was informed of the Raja's misconduct, I directed the senior Assistant Commissioner to place him upon his trial, and to prohibit him from exercising any police authority in the pergunnah till further orders, and the police establishment noted on the margin was employed temporarily to conduct the police duties of the estate; the cost of these policemen has been defrayed from the collections of the pergunnah, which is attached for the payment of the Raja's debts, under the Government orders of the 13th of October 1854.

8. I have no doubt that Raja Hurrihur Sing was fully cognizant of the atrocities perpetrated in his "gurh," by his brother Benimadhub Sing and his dependants; but I do not think that he personally took any part in them. It is well known that Benimadhub Singh is wandering about the Jhuldah jungles, where he could not remain for a day unless he was protected by the Raja, who has been repeatedly called upon to produce him.

(No. 95.)

No. 349.

EXTRACT LETTER from the Commissioner of Chota Nagpore to *William Grey*, Esq., Secretary to the Government of Bengal, Fort William.

Chota Nagpore, 9 June 1855.

148. DURING the night of the 27th April 1854, an idol and its ornaments, valued at 241 rupees, were stolen from the family residence of Raja Hurreehur Singh, who is the police ellakadar of pergunnah Jhalda. Benimadhub Singh, the Raja's brother, Manick Oopadhya, and other dependants of the Raja, seized Sadhoo Churn, Tantee Kangla Bhokat, and six others, whom they suspected of the robbery, took them to the Raja's "gurh," and there tortured them with the view of extorting confessions, and of procuring restoration of the stolen property. Sadhoo Churn and Kangla, upon whom apparently rested the strongest suspicion, were most brutally tortured in the following fashion: their fingers were tied tightly together, and then pieces of split bamboo were driven forcibly between them; their toes were operated upon in a similar manner; boiling oil was poured on the palms of their hands and on their feet by order of Benimadhub Singh; the testicles of Sudhoo Churn were squeezed by a pair of pincers, made of two crossed sticks, till he was emasculated; they also tortured him otherwise in the most cruel manner. Sadhoo Churn died from the effects of this maltreatment on the 11th May 1854. The Raja of Jhaldah, in a report dated the 1st May 1854, apprised the senior Assistant Commissioner of the robbery, but stated that as the informant did not desire inquiry, none had been made. This report did not reach the senior Assistant Commissioner till the 8th of May 1854. On the 1st of May 1854, Choomtoo Malito and Sibuh Pan appeared before the senior Assistant Commissioner, and deposed that several of their friends and relatives had been seized by Benimadhub Singh and his people, and had been put to torture in this idol case. In reply to a communication made to him by the senior Assistant Commissioner, the Raja declared that no violence had been used, and that Ramdhun and others had been apprehended on this charge, but had been released for want of proof. The senior Assistant Commissioner deputed, first, the jemadar, and then the peshkar of his office, to conduct the mofussil investigation into this case; he subsequently proceeded himself to Jhalda and superintended the inquiry in person. Twenty defendants were apprehended and committed for trial to the sessions. The senior Assistant Commissioner made the commitment for culpable homicide, but the Deputy Commissioner very properly ordered the charge to be amended, and the prisoners were tried for murder; sixteen of them were acquitted by the Deputy Commissioner, the remaining four* were referred to the Nizamut Adawlut. They were found guilty by that court of being accomplices in the murder of Sadhoo Churn, and were sentenced to imprisonment for life in transportation.

*1. Baluck Des.
2. Khedna Ghassi.
3. Shadeb Myra.
4. Kara Khol.

transportation. The rewards as specified on the margin have been offered for the capture of the principal offenders, who I regret to say are still at large; they are, I understand, wandering about the jungles of pergunnah Jhalda and the neighbouring zumeendaries. The senior Assistant Commissioner fined the Raja of Jhalda 200 rupees in this case, for neglect of duty and wilful concealment of this crime. Although the Raja does not appear to have taken an active part personally in this murder and torture, he must certainly have been cognizant of it; he was at home, and must have known what his brother and servants were doing within the precincts of his petty fort. After the death of Sadhoo Churn, he falsely reported, in his capacity of head of the police, that no violence had been used; for criminality of this complexion a fine of 200 rupees is in my judgment a very inadequate and improper punishment; the evidence appears to me to be such as to warrant the commitment of the Raja on a charge of accessoryship to the murder; as, however, sentence has been passed, it would be, I think, contrary to law to take any further proceedings against the Raja now; it is clear, however, that he is a person altogether unfit to be entrusted with any police authority. I have, therefore, directed the senior Assistant Commissioner to suspend all his police functions till further orders, and to take the management of the police of pergunnah Jhalda into his own hands as a temporary arrangement. After the nature of the Raja's police engagements has been inquired into and ascertained, I shall do myself the honour to submit a report to Government, in regard to the measures which are considered necessary for the future management of the police of pergunnah Jhalda.

Benimadhub Sing,	500 rupees.
Manick Oopodhya,	250 "
Kannye Mahallee	50 "
Kokah Bheesnia -	50 "
Madhoo Rajwar -	50 "

EXTRACT Judicial Letter to India; dated 28 January (No. 12) 1857.

22. THE attention of the Lieutenant-governor appears to have been drawn to this atrocious murder by the perusal of the report of the trial of the case before the Sudder Nizamut Adawlut. It is in evidence that some of the Raja's idols having been stolen on the 27th April, certain persons (among whom was the deceased) were arrested and cruelly tortured. The deceased was treated with especial barbarity, as one suspected of the theft, and his death was the consequence. The Raja, who was vested with police jurisdiction, reported on the 6th May to the Assistant Commissioner, that certain persons had been apprehended on suspicion of stealing the idols, but discharged for want of evidence. Complaint had, however, been made to Captain G. N. Oakes that the persons alleged to have been released had been subjected to torture, and on the 13th the body of the deceased was brought in with marks of violence sufficient to account for death. From the evidence it appears that the Raja, though not present, must have been perfectly cognizant of the ill-usage (which took place within his own dwelling-house), and that his brother Beni Sing was present at the infliction of the torture. Chota Nagpore.

23. Captain Oakes, after investigation, committed the prisoners on the charge of culpable homicide, and fined the Raja 200 rupees for neglect of his police duties. As remarked by the Commissioner, Captain Oakes greatly erred in both these proceedings. The prisoners should have been committed for murder, and the Raja on a charge of privity to the crime.

24. It is satisfactory that the prisoners have been sentenced to transportation for life, and we hope that the energetic measures taken to ensure the capture of Beni Sing may be successful. He will, of course, if evidence be forthcoming, be committed for murder.

25. We entirely approve the withdrawal from the Raja of police powers and the suspension of his allowance until he shall have done his utmost to give up Beni Sing to justice; the intimation made to the Commissioner regarding Captain Oakes' misconduct was also proper.

BY THE POLICE OF CALCUTTA.

EXTRACT Bengal Narrative, dated 14 November (No. 53) 1855, transmitted in India Judicial Letter, 5 December (No. 62) 1855.

Para. 22. THE annexed papers contain a report submitted by the chief magistrate of Calcutta, relative to two cases which had formed the subject of comment in the public papers, with reference to the alleged use of torture by the police in Calcutta for the purpose of extorting confessions. The Lieutenant-governor considered that the explanation afforded was satisfactory, and approved of the measures adopted by the chief magistrate to prevent all abuse of their power by the subordinate police.

LETTER from Chief Magistrate of Calcutta to the Secretary to the Government of Bengal, Judicial Department, Fort William.

Sir,

3 June 1855.

THE attention of the public has lately been attracted by the Calcutta newspapers to the alleged torture for the purpose of extorting confessions of certain prisoners in custody of the Calcutta police, and so much has been written on the subject, that I think it my duty to submit for the information of the honourable the Lieutenant-governor, the following observations in regard to the two cases more especially referred to.

2. In the first of these cases, Mr. Allen, an European inspector of the second class, and two of the native police, have been convicted by the senior magistrate of assault on two prisoners in their custody on a charge of theft, but the offence committed cannot reasonably be called that of torture, the assaults were not of a serious nature, and the senior magistrate, who carefully inquired into the whole case, did not think the parties concerned to be deserving of any severer punishment than moderate fines, in addition to the loss of their situations, which he believed would follow.

3. I confess I was surprised at the amount of punishment awarded, and I immediately addressed the senior magistrate, in order to ascertain whether in his opinion the more serious part of the charge, viz. that the assaults were committed with a view to extort confessions, had been proved, for if so, I observed it would be my duty to dismiss the inspector and native police from the force; whereas, on the other hand, if the assaults were simple ones, arising from other causes, it would be wrong in me to deal with unnecessary harshness towards my subordinates; that the lightness of the punishment had left me in doubt as to what had been proved, and what course it was my duty to pursue.

4. The senior magistrate informed me in reply, that the assaults were not in themselves of a cruel nature, though aggravated by the motives which led to their being committed, viz. to extort confessions, and that the leniency shown was owing to his opinion being that the proper punishment for the offence was dismissal from the force.

5. On receiving this information, I at once dismissed the police officers from the force, and I confess it is to me a matter of regret that their offence was not visited with a more severe punishment.

6. In the second case, four men have been convicted before the Supreme Court of passing base metal for gold, and so defrauding a gentleman of 300 rupees; one of them in his defence stated that he had been ill-used by the police, but did not bring forward a single witness to substantiate his statement, which could be disproved by the evidence of many persons, and is utterly destitute of any foundation.

7. A learned counsel, who defended another of the prisoners, has remarked strongly on the extraordinary delay which occurred in bringing the prisoners before a magistrate, and on the circumstance of their having been taken to several

several places in the first instance, and has argued there from that the admission made by them must have been from terror of ill-usage.

8. There was unusual delay in bringing up the prisoners under circumstances which I will now explain. One of the principal parties who had eluded capture for upwards of a fortnight was arrested at 9 P.M. of the 16th of May. He had previously passed himself off as a serang or petty officer of a vessel in the river, and on being taken, he denied *in toto* being the person accused; he was, however, recognised and locked up for the night; on the 17th, in consequence of information received, he was taken to the house of correction by permission of the deputy superintendent with a view to inquiries being made as to his being an old offender in a similar case of fraud, his real name, &c.—there he was recognised. He was on the point of being taken to the Allipore gaol for a similar purpose, when knowing further concealment of his previous conviction and bad character to be hopeless, he suddenly made what is called a clean breast of it, and came out with the whole story, and offered to point out his associates; these he said belonged to the labouring class and would not be at home during the day; they also resided at some distance from town; their houses were pointed out by him, and they were arrested at 11 P.M., and thus the inspector was engaged throughout the whole of the 17th in prosecuting his inquiries.

9. The case ought to have been brought up on the following day, *i.e.*, the 18th, but it could not be done, as further information and further inquiries were necessary; the fourth prisoner was arrested on this day, and on the morning of the 19th the case was sent by me before the division magistrate, who, finding the evidence clear against the prisoners, committed them to the sessions, where, as already observed, they were all convicted, and have been sentenced to various periods of imprisonment in the house of correction.

10. That in the course of these inquiries any torture or other maltreatment was committed by the deputy superintendent of the division, or the first-class inspector, or by others with their connivance, I utterly and entirely disbelieve, and it was impossible that any torture could have taken place without their knowledge.

11. In regard to the future, I have given clear and distinct warning to every officer of the force, European and native, that I will on no account allow of their in any respect outstepping the limits of their duty; it is not my wish to prevent inquiries into the official conduct of my subordinates; on the contrary, it is my anxious desire to afford every facility to such investigations, and that merited punishment should follow on conviction.

12. To avoid the possibility of any prisoner being again detained without being brought before a magistrate for his orders, I have directed the deputy superintendents to exercise no discretion in the matter, but invariably to bring their prisoners before myself or the division magistrate, at the next sitting, in the event of my office being closed owing to a holiday or Sunday. I will take care that no prisoner is kept in charge of the police without my sanction.

13. I have also requested the division magistrates to take notice of all cases in which prisoners before them appear to have been in the hands of the police for an unreasonable time, and further to make particular and searching inquiries in regard to the conduct of the police officers in every case in which any prisoner is said to have made any admissions or dismissions of guilt.

14. I trust, by the adoption of these measures, that all further cause of complaint will be removed.

I have, &c.

(signed) *G. F. Cockburn*, Chief Magistrate.

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(No. 1244.)

LETTER from the Secretary to the Government of Bengal to the Chief Magistrate of Calcutta.

Sir,

Fort William, 9 July 1855.

I AM directed to acknowledge the receipt of your letter No. 732, dated the 30th ultimo, submitting, for the information of the Lieutenant-governor, a statement respecting two cases which have formed the subject of recent comment in the public papers, with reference to the alleged use of torture by the police in Calcutta for the purpose of extorting confessions.

2. In reply I am directed to say that the Lieutenant-governor considers the explanation afforded by your letter to be satisfactory, and he trusts that the measures adverted to in paragraphs 11 to 13 will prove effectual to prevent all abuse of their power by the subordinate police.

I have, &c.

(signed) *W. Grey,*

Secretary to the Government of Bengal.

EXTRACT Judicial Despatch to India, dated 14 January (No. 9) 1857.

Para. 17. IN the first case the prisoners were assaulted with a view to extort confessions, by an European inspector and two native police. The punishment, a moderate fine, imposed on these police officers, appearing too lenient, Mr. Cockburn, the chief magistrate, made an inquiry, from which it appeared that they had not been severely punished, in the expectation that they would be dismissed, as they in fact were, from the force. In the second instance, Mr. Cockburn was decidedly of opinion that no ill-treatment had taken place, and that any delay which had occurred in taking the prisoners before a magistrate was necessary and justifiable. He had, he added, warned his subordinates not to overstep their duty, and would see that prisoners were not unduly detained.

18. This assurance is satisfactory, as is the explanation which accompanied it, as far as Mr. Cockburn is concerned. We see, however, with some surprise, and very deep regret, a European officer, though only a subordinate, implicated in such a transaction.

— No. 3. —

BY THE POLICE OF THANNAH NAWABGUNGE, 24 PERGUNNAHS.

EXTRACT LETTER from the Commissioner of Circuit, Nuddea Division, to the Secretary to the Government of Bengal; dated 11 July 1855.

Para. 15. AMONG the miscellaneous crimes there is one requiring notice, viz., the conviction of a police darogah for torture. It appears that Mr. Vans Agnew of the civil service was proceeding up country, when in crossing the river at Puttah, he heard screams on the left bank. The boatmen having put back, Mr. Agnew found that the screams came from a police station (the Nawabgunge thannah), where the police had tied up a man to a transverse bamboo supported on two upright posts. The victim's arms were tightly bound with a cloth, to which a rope was attached, by which he was suspended, his legs being about a couple of feet from the ground. On seeing Mr. Agnew, the whole of the police at once deserted the thannah, and he had to let the man down with his own hands, and afterwards, not knowing what to do with him, and afraid to leave him again to the tender mercies of the Nawabgunge police, Mr. Agnew brought him on in his carriage to Hooghly. The left arm of the man, named Ram Saha, has a slight mark in it.

Mr. Fergusson immediately proceeded himself to the thannah and commenced an inquiry. It appeared that a valuable watch had been stolen from Captain Ross, Assistant Adjutant-general at Barrackpore; suspicion fell upon the chowkeedar of the house, and the sirdar bearer, and the darogah took this method of extorting a confession and discovery of the stolen property. The parties

parties concerned were convicted before the sessions judge, and sentenced. The darogah to four years' imprisonment and a fine of 500 rupees, and his assistant, two jemadars and three burkundauzes to two years' imprisonment, and a fine of 100 rupees; every individual therefore concerned in the case has been prosecuted to conviction, and the example will doubtless have a most beneficial effect on the conduct of the police in general.

EXTRACT Judicial Despatch to India, dated 4 March (No. 18) 1857.

Extract para. 14 But we observe with deep regret a case of torture by the police, whose conviction and punishment were satisfactory

— No. 4. —

BY THE POLICE OF KIDDERPORE, IN THE 24 PERGUNNAHS.

EXTRACT Bengal Narrative, dated 14 May (No. 38) 1856, transmitted in India Judicial Letter, 25 June (No. 57) 1856.

Para. 57. THE officiating Commissioner of Nuddea submitted copy of a correspondence respecting a case of torture at Kidderpore, in the 24 Pergunnahs, in which a police mohurrer and three burkundauzes had been convicted and sentenced by the additional sessions judge to various periods of imprisonment, and he recommended the dismissal from the service of Government of first-grade darogah Syud Mughur Ali, of the Kidderpore thannah, for his conduct in connexion with this case.

58. Having carefully considered the circumstances disclosed in this correspondence, as well as the several petitions presented to the Commissioner's office and to this Government, the Lieutenant-governor entirely concurred in the opinion expressed by Mr. Stainforth, and the magistrate of the 24 Pergunnahs, that the darogah was no longer worthy of confidence, and directed accordingly that he should be dismissed from his situation.

59. His Honor further determined, that the thannah mohurrer should be publicly declared incapable of serving Government in future in any capacity, and a circular was issued to the Commissioners of the several divisions, directing that in future the chief resident police officer of any police station at which torture was proved to have occurred should be liable to dismissal.

LETTER from the Commissioner of Circuit, Nuddea Division, to the Secretary to the Government of Bengal.

Sir,

Allepore, 13 November 1855.

I HEREWITH beg to submit, for the perusal of the Lieutenant-governor, copy of a letter from the magistrate of the 24 Pergunnahs, No. 1057, dated the 7th instant, respecting a case of torture at Kidderpore, in which a police mohurrer and three burkundazes have been convicted and sentenced, by the additional sessions judge to various periods of imprisonment.

2. His Honor will perceive that the magistrate has recorded his opinion that Syud Mughur Allee, the first-grade darogah of the thannah, should be dismissed.

3. Mr. Fergusson is of opinion, that unless special reasons to the contrary be shown, the chief resident police officer should be dismissed in every case of torture, whether he be actually present during the infliction of the torture or not; applying this rule to the present case, he remarks that no such special circumstances have been elicited in favour of the darogah, but that on the con-

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trary, there is irresistible presumption of his connivance, arising firstly from the fact of the tortured man having been illegally detained at the thannah for no assignable cause which can be credited, than intention to force him to give information whereby the property he was supposed to have stolen would be traced.

4. Mr. Fergusson further comments on the circumstances of the tortured man having given a confession before the darogah on Saturday, after denial on a previous day, of the torture having been carried on within a hundred yards of the darogah's house, and of the tortured man having borne marks of the ill-treatment to which he had been subjected, as facts rendering supposition of the darogah's ignorance of the torture unreasonable, and he notices that the darogah was living upwards of 50 yards from the thannah in direct disobedience of his order.

5. I submit the enclosures of the magistrate's letter, *i.e.* the darogah's defence, and a letter from the Collector of the 24 Pergunnahs, complaining of his having purchased jotes in the vicinity of the thannah.

6. I see nothing in the defence which can be held to exonerate the darogah. Old offenders never confess excepting under undue influence, or in rare instances, on exhibition of circumstances rendering a denial useless, and as such circumstances were not present in the case under notice, I have come to the conclusion that the darogah, who is an old police officer, could not have taken down the tortured man's confession without consciousness that it was not a free and voluntary confession, but was one which had been obtained by improper means.

7. Again, it seems to me incredible that the mohurrir would presume to make use of the cruel torture which he has been convicted of ordering, without the direct consent of the darogah, unless the practice of torture had previously had his sanction in other cases, and on either supposition no further confidence can be placed in the darogah, to whose dismissal I have assented.

8. The Lieutenant-governor will, I doubt not, recognise with high approval the prompt and efficient manner in which the case has been treated by the magistrate.

I have, &c.
(signed) *H. Stainforth*,
Officiating Commissioner.

LETTER from the Magistrate of the 24 Pergunnahs to the Commissioner of Circuit, Nuddeah Division.

Sir,

7 November 1855.

I HAVE the honour to report upon the case of torture in order to extort a confession at thannah Kidderpore. It took place on Friday night, the 26th October. I heard of it on Saturday night, investigated it on Sunday, and committed the accused on Monday. The case was disposed of by the additional judge this day, and sentence passed as per margin.*

2. My reasons for commitment give full particulars of the case in the following words:

"Late in the evening of Saturday, the 27th instant, Mr. Floyd, keeper of the Allepore goal, verbally reported to me that a thief named Muntoo had that afternoon been sent from Kidderpore thannah, that he complained of having been tortured by the police, and that he was passing blood from the fundament. I directed Mr. Floyd to ascertain whether the man's life was in danger, in order that I might, if necessary, record his deposition without delay. Shortly afterwards, Mr. Floyd wrote me the note marked A., which being so far satisfactory, nothing further could be done that night.

" Early

* Prisoner No. 1, seven years with labour; No. 2, five years with labour; No. 3, one year, fine of 25 rupees or labour; No. 4, five years with labour; No. 5, acquitted.

“ Early next day I went to the hospital ; I there found Muntoo, who told me he had been tortured by the mohurrer, and some burkundauzes of Kidderpore. I observed marks of ill-treatment on his person, particularly on the shoulders, loins, and posteriors. I also saw a quantity of clotted blood, which I was informed had been passed by Muntoo at stool.

“ I then got into my buggy, and taking a mohurrer with me, drove to the thannah. Muntoo was conveyed there in a palanquin. On arrival, his deposition was recorded on oath.

“ He stated that he had been suspended by the arms, beaten by three burkundauzes, and otherwise tortured, in a house at the south-west corner of the tank behind (or east of) the thannah, and that during the torture, the thannah mohurrer’s servant, a boy, and a Brahmin cook, were present. On hearing this, I at once went to the house indicated. It proved to be the residence of the thannah mohurrer (Prisoner No. 1). In that house, and employed in their domestic duties, I found the boy Teencouree (Witness No. 2), and the Brahmin, Sumbhoo (Witness 3). As was to have been expected, they became greatly alarmed and were very unwilling to give evidence against their employer. But after patiently cross-questioning them separately, I succeeded in eliciting the truth.

“ Muntoo further stated, that after being suspended for some time he was let down and again tortured by having a bamboo pressed across his body. He pointed out prisoner 1, Prosunno Coomar, as having ordered the torture, and prisoners 4 and 5, as having inflicted it. He also stated that prisoner 3 was an accessory, and that another burkundauze (whose personal appearance he minutely described), had also severely beaten him ; on this statement prisoner 2 was summoned from Budge Budge, and, on seeing him, Muntoo swore to him as his third tormentor.

“ At my desire Muntoo then led the way to the house in which he had been tortured, as stated above ; it proved to be the residence of prisoner 1, situated 105 paces from the thannah lock-up, at some distance from the public road, and surrounded by the houses of police dependents.

“ On entering this house Muntoo at once, and without any survey pointed out a bamboo rafter, stating that he had been thereto suspended and beaten. On examining the said rafter, at the spot indicated, I found a clear, unmistakable mark of a rope having been tightly drawn round it. This was a greasy, glossy rubbed mark, such as is often made in a bamboo by the pendulous motion of a rope tightened by having a heavy weight attached. I also found in the said house a rope and a bamboo, which were recognised by Muntoo as the instruments of torture.

Here follows the evidence of witnesses.

For the above reasons, I commit the prisoners for trial, this 29th day of October 1855.

4. In this case Syud Moghur Ally, darogah of Kidderpore, has been suspended, and I have now to state how far he must, in my opinion, be held responsible for the cruel treatment of Sheek Muntoo. As a general rule, I consider that whenever torture is proved to have been inflicted at any police station, the chief resident police officer should be dismissed from the Government service, whether he was actually present at the torture or not. This wholesome rule should never be departed from, excepting for special reasons. No such reasons exist in the present instance. All the evidence, indeed, shows that during the torture the darogah was in his own dwelling-house ; but he is, notwithstanding, exceedingly culpable, and the presumption of his connivance at the torture is irresistible.

(signed) H. Fergusson, Magistrate.

LETTER from the Under-Secretary to the Government of Bengal to the Commissioner of Circuit, Nuddea Division.

Sir,

Fort William, 17 December 1855.

I AM directed to acknowledge the receipt of your letter (No. 124 A), with enclosures, recommending the dismissal from the service of Government of first-

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grade darogah Syud Muzhur Ali, of the Kidderpore thannah, for his conduct in connexion with a case of torture recently committed within the jurisdiction of the said thannah.

2. The Lieutenant-governor having carefully considered the circumstances disclosed in this correspondence, as well as the several petitions presented to your office and to this Government, entirely concurs in opinion with yourself and the magistrate of the 24 Pergunnahs, that the darogah is no longer worthy of confidence, and directs accordingly that he be dismissed from his situation.

3. The Lieutenant-governor further determines that the thannah mohurrer, Prosono Coomar, who has been convicted at the sessions, be publicly declared incapable of serving Government in future in any capacity, and this will be notified in due course.

4. Mr. Fergusson's conduct of the case, I am desired to add, merits high approbation. The Lieutenant-governor would wish you also to intimate to Mr. Floyd, keeper of the Allepore gaol, the sense he entertains of his very commendable interposition on the part of the prisoner Muntoo, and that you will also make known to Rajnarain Gooplo, the sherishtadar, and to Ramkanai Ghose, nazir of the magistrates' court, and to Mahomed Summee, jemadar, and Kodrut Ullah, naib jemadar of the Balaghustee guard, that the Lieutenant-governor has viewed with much satisfaction their voluntary and praiseworthy exertions in aid of the magistrate's inquiries.

5. Adverting to the 4th para. of Mr. Fergusson's letter to your address, I am directed to state that the Lieutenant-governor greatly approves of the general principle therein laid down, namely, that except for special reasons to be clearly shown, the chief resident police officer of any police station at which torture is proved to have occurred, should at once be dismissed, and on this point a circular letter will be issued from this office to all magistrates for communication to all darogahs.

I have, &c.

(signed) *A. W. Russell,*

Under Secretary to the Government of Bengal.

EXTRACT Judicial Despatch to India, dated 22 April (No. 27) 1857.

Para. 44. VERY high praise is due, and was justly awarded to Mr. Fergusson, the magistrate of the 24 Pergunnahs, for the great promptitude shown by him in investigating this case, which is one of great barbarity. The dismissal of the darogah (who was already liable to that punishment for purchasing land within the jurisdiction of his thannah) has our approval, there being no reasonable doubt that he was cognisant of the infliction of the torture. The mohurrer was properly declared incapable of serving Government; the darogah, the greater offender, is similarly disqualified, though it is not stated that this fact was notified, as in the case of the mohurrer.

45. We concur with the Lieutenant-governor in the opinion he had expressed in regard to the praiseworthy conduct of the following officers: Mr. Floyd, keeper of the Allepore gaol; Rajnarain Goopto, sherishtader; Rain Kani Ghose, nazir; Mahomed Summee, jemadar, and Kodrah Oollah, naib jemadar.

46. The recommendation of the magistrate and Commissioner, that, as a rule, the head resident officer of a thannah, where a case of torture occurs, should be liable to dismissal, was properly acceded to. The widest publicity should be given to all cases in which adequate punishment is awarded for the offence of torturing.

NORTH-WESTERN PROVINCES.

North-Western
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— No. 1. —

CASE OF TORTURE—MURDER OF DUSOLA CHUMAR.

EXTRACT from Judicial Criminal Narrative, No. 5, dated 13 March 1855.

Agra Division.

Para. 256. AN inquiry originating in a communication from the Mynpoory sessions judge, certifying misconduct of the police in the case of murder of Dusola Chumar, in May 1854, left no doubt on the Commissioner's mind, that Ram Narain, deputy magistrate of pergunnah Lucknah in this district, was with his subordinates concerned in the illegal detention of two prisoners, one of the prisoners having evidently been tortured, and part of the deposition of the deceased Dusola, bearing date the 28th February, having been added on the 3d March, with mention of names and circumstances not at first stated. For these reasons, the Commissioner having applied to Government for the necessary sanction, to the dismissal of Ram Narain, his Honor replied, that the circumstances detailed were such as fully to warrant the measure, which was accordingly confirmed.

Collection No. 144,
Mynpoory District.
Dismissal of Ram
Narain, Deputy
Magistrate.

EXTRACT from the Proceedings of the Honourable the Lieutenant-Governor of the North-Western Provinces in the Criminal Branch of the Judicial Department, under date 15 May 1854.

(No. 53 of 1854).

No. 222.

LETTER from *H. Unwin*, Esq., Commissioner, Agra Division, to *W. Muir*, Esq., Secretary to Government, North-Western Provinces.

Sir,

I HAVE the honour to request that you will lay the annexed correspondence before the honourable the Lieutenant-governor, with a view to obtaining the necessary sanction to the dismissal of Ram Narain, deputy magistrate of pergunnah Lucknah, zillah Etawah.

2. The inquiry originated in a communication from the Mynpoory sessions judge certifying misconduct of the police in a case of murder of Dussola Chumar in May 1853, and left no doubt in my mind that the deputy magistrate was concerned with his subordinates in the illegal detention of two prisoners, after one confession dated 28th February, until 2d March, the date of other confessions, one of the prisoners having evidently been tortured, and part of the deposition of the deceased Dussola, bearing date 28th February, having been added on the 3d March, under the former date, with mention of names and circumstances not at first stated.

3. The order for dismissal was passed without due advertence to section 5, Act XV. of 1843, which requires the sanction of Government in the case of deputy magistrates.

Commissioner's Office, Agra Division,
26 April 1854.

I have &c.
(signed) *H. Unwin*,
Commissioner.

COPY of Remarks on the Acquittal Statement forwarded by the Sessions Judge of Mynpoory, under date 16 May 1853.

No. 223.

THERE was evidence against the prisoners in the shape of their mofussil confessions, on the day after the night on which Dussola was wounded, and in his positive indication of such, which led to the arrests as well as the discovery of a sword pointed by Chidda in some kurhee of Sona's, while there was, at the same time, a foudary confession, dated 4th March, before Mr. Brown, duly attested at trial by the subscribing witnesses; there were also clear indications of an attempt to criminate one of the zemindars of the prisoners' village, Buchoolee, as an accomplice, in the first confessions, and in the latter, a

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zemindar of Juktowlee, Dussola's village, was substituted; there was also a manifestly perjured statement of these alleged eye-witnesses, whose names were, as the mohurrir admitted, first mentioned by Dussola on the 3d March, though, by the direction of the tehsildar and thanadar, he inserted the mention in a deposition dated 28th February. Still as all this tampering appeared to be to injure first one zemindar, then the other, of hostile villages, and not directed against the prisoners, who, moreover, made no statement in their own vindication, I did not concur with the assessors in their acquittal, and with a strong impression of their guilt, was about to refer the trial. Sona had (as is not uncommon) pleaded that he had been tortured, and shown some marks, to which, on the evening of the 29th, I did not attach much importance. On consideration, however, on the following morning I directed him to be sent to the civil surgeon, whose report, that the marks were from branding, at once induced me to change my opinion, and acquit the prisoners. Examination of the Foujdary record leaves no doubt in my mind that Sona was tortured, and probably on the 2d March, on which date a confession communicating Ghumbhere Sing, zemindar of Juktowlee, instead of Manck Sing, zemindar of Burcholee, named on the 28th February, is recorded, but its witnesses were not included in the calendar. On that date, the thanadars sent the prisoners to the (tehsildar's deputy magistrate), fearing, he says, to exceed the limit of detention. The tehsildar then sent back on the same date; this evasion of the law was utterly needless, so far as can be seen, and the real cause was probably the difficulty of producing Sona before Mr. Brown so soon after branding him; no reliance could be placed on any portion of evidence under such indications.

The evident misconduct of the police has been duly certified under sect. 10, Regulation VII. of 1831, to the Commissioner, and I must add, for the Court's information, that the tehsildar seems to be the same officer whose manufacture of evidence was so conspicuous in a case of dacoity committed by Mr. Boldero, and tried by me in February 1852, of which I furnished a detailed report at the time.

(signed) *H. Unwin*, Sessions Judge.

No. 227.

LETTER from *W. Muir*, Esq., Secretary to Government North-Western Provinces, to *H. Unwin*, Esq., Commissioner, Agra Division.

Sir,

Nynce Tal, 15 May 1854.

Judicial Department.

I AM directed to acknowledge the receipt of your letter dated the 26th ultimo, No. 53, with enclosures requesting sanction to the dismissal of Ramnarain, deputy magistrate of pergunnah Lucknah, zillah Etawah.

2. In reply, I am desired to remark that the circumstances stated in the correspondence are such as fully to warrant your order for the dismissal of Ramnarain, tehsildar and deputy magistrate, and that order is approved and confirmed accordingly.

3. The enclosures of your letter are returned, copies having been retained for record.

I have, &c.

(signed) *W. Muir*, Secretary to the Government,
North-Western Provinces.

EXTRACT Judicial Letter to India, dated 2 July (No. 30) 1856.

66. It appears to be almost certain that these prisoners* were tortured by the police, and that Ram Narain the tehsildar, and Syad Wagoooloddeen the thanadar, were privy to it. Both these officers were dismissed; but as Mr. Unwin, the Commissioner, appears to have been satisfied of their guilt, they as well as the police, ought to have been put upon their trial, and if convicted, severely

* Criminal Narrative, dated 13 March (No. 5) 1855.—(256.) Dismissal of Ram Narain, deputy magistrate, for illegal detention of two prisoners in connexion with the murder of one Dusola. Petition for re-instatement rejected.

severely punished. It is the duty of the Government to prosecute in all such cases when the nature of the evidence is such as to hold out a probability of conviction, and if this is the case in the present instance, these persons should even now be apprehended.

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— No. 2. —

MISCONDUCT OF BASUT ALLY.

EXTRACT from Judicial Criminal Narrative, North-Western Provinces,
dated 11 June (No. 7) 1855.

EXTRACT para. 207 The Lieutenant-governor at the same time requested the Commissioner* to furnish, with the least possible delay, a report on the proceedings connected with Basut Ally's conduct in having been directly concerned in concealing the occurrence of a case of very aggravated manslaughter committed by his own personal or official dependents, and in preparing, with that object, a false return as to the character of the occurrence. A similar report was also required in regard to the peshcar Mahomed Jawud, who had been implicated in the same disgraceful breach of duty. The inquiries instituted, in compliance with the above orders, showed that the tehsildar and peshcar had exercised a greater degree of personal interference in the case of manslaughter, referred to, than had at first been supposed. Both officers were accordingly, by order of his Honour, removed from the posts they held. As the charge against Basut Ally was fully proved, he was considered unfit for any further service under Government. But as no direct interference was found on the part of the peshcar, his Honour so far acceded to the Commissioner's and magistrate's joint recommendation for indulgence to him, as not to interdict his continuance in any office under Government, the duty of which might be merely ministerial.

* Benares Division.

EXTRACT Judicial (Criminal) Proceedings, North-Western Provinces,
dated 5 August 1854.

(No. 57.)

No. 59.

LETTER from *W. M'Chlery*, Esq., Officiating Magistrate, Azim Ghur, to
H. C. Tucker, Esq., Superintendent of Police, Fifth Division, Benares.

Sir,

Azimghur, 22 July 1854.

I HAVE the honour to bring to your notice the conduct of Basut Ally, deputy magistrate and tehseeldar of Mahool, in a case of homicide, which occurred in Mahool pergunnah, in the latter end of May.

2. The circumstances of the case are briefly these. A zemindar of village Humzapore, about two miles from Mahool, had obtained a summary decree for arrears of rent against one of his assamees Zeaoo Khan, of a neighbouring village, and for the purpose of executing his decree, sent his karinda to tehseeldar to request that a peon might accompany him. To this the tehseeldar complied, at the same time very improperly deputed a private servant of his own, by name Shorab.

3. They (the karindah of the zemindar, the tehseeldaree peon, and Shorab, the private servant of the tehseeldar), proceeded to the village with the gorait, who pointed out the defaulter Zeaoo Khan. On his refusing payment, they tied him up to a tree near the village, and on the defaulter declining to give some pice to Shorab, was kicked by him, and received several severe blows from the above Shorab, as well as from the other two, who were in company, from the effects of which the poor man died that same night.

4. Notice was given at the thanah, after the death of the defaulter, that he had died of cholera, and the acting thanadar, contrary to the usual custom on a simple case of cholera being reported, proceeded to the village with the mohurrs to investigate the case. On his arrival, finding that the deceased had

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died from the blows inflicted on him by the three persons above named, among one of whom was the private servant of the tehseeldar, he wrote to the tehseeldar, who sent an influential zemindar, by name Khyroollah, who has been notorious during my time of office in this district for being mixed up in criminal cases, and has been previously punished. The thanadar, with the connivance of the above zemindar, and the agent of the decree-holder, succeeded in pacifying the relative of the deceased with money and a grant of land. The thanadar returned to the thana with the police, and the case was only reported as one of cholera. I at once suspected the case, after reading the report of the thanadar, as the circumstances of several men being deputed to serve a decree on the deceased, who was said to have died from cholera immediately after the process was served, were sufficient to create suspicion; I sent for the heirs of the deceased for the purpose of taking their deposition, and having learnt by accident the facts of the case from a conversation with one of my police officers, I deputed Ally Khan, tehseeldar of Koelsa, whose investigation satisfied me of the merit of the case, and the prisoners, five in number, viz., the agent and kharindah of the zemindar, Khyroollah, the zemindar, who acted on the part of the tehseeldar, the tehseeldary peon, and the private servant of the tehseeldar, were committed by me to the sessions, and resulted in the conviction of all.

5. It is clear that the tehseeldar, Basut Ally, at whose instigation this crime was concealed, is not competent to exercise the powers of a deputy magistrate, as he has proved himself on previous occasions untrustworthy, and I would refer you to my annual police report of last year, where his conduct was most reprehensible in a case of murder, which occurred about a koss from Mahool last July.

6. It seems incredible that an officer of some years experience, for such a trifling irregularity (for the fact of his sending a private servant to serve the process cannot be regarded as much more), should connive at concealing a crime which must have come to the notice of the authorities, and should so recklessly run the risk of detection. The tehseeldar, in this instance, is the more culpable, as the acting thanadar had been appointed to officiate for a short time at his recommendation, and for whom he ought to have been responsible, instead of deputing him to cook the case and distort the facts.

7. I would therefore request your orders in this case, suggesting that this officer, whose conduct is now under review, should be divested of the powers of deputy magistrate, and sent on a reduced salary to Deagaon, in the place of Sahib Ally, who has procured his pension from Government; should you deem the above punishment sufficient, I would recommend that the tehseeldar of Secunderapore (whose health has been much impaired at Nuzra, and whose services from such a cause I should be very sorry to lose), should he be transferred to Mahool on the established salary of 125 rupees a month, and be invested with the powers of deputy magistrate, which he is well qualified to exercise.

8. I know of no officer in this district whom I could recommend as tehseeldar of Nuzra in the place of Mahommed Shuffee, but I have applied to the Collector of Goruckpore regarding the capabilities and qualifications of Mehdecool-zumah, whom he pronounces to be an able officer and well up to the work. I should have preferred giving him a trial in a pergunnah nearer the Sudder station, where he would be looked after during his probation; but as I am aware you are averse to changes I have not suggested any further transfers.

9. I am averse to changes myself, but when such an opportunity offers, and now that my successor is soon expected, I should be supposed to know more of the capabilities of the native district officers, after a long experience than a newly appointed collector, and this is my reason for offering the above suggestions before being relieved of the charge of the district.

10. I herewith forward a copy of the remarks of the sessions judge on the conduct of the tehseeldar, by which you will also see that the conduct of the peshkar Mohomed Jaured is also called in question, and from the evidence there

is little doubt that he exerted himself in aiding the tehseeldar to conceal the facts of the case.

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I have, &c.
(signed) *W. M. Chlery*,
Azimgurh Magistracy, 22 July 1854. Officiating Magistrate.

EXTRACT Judicial Letter to India; dated 12 November (No. 47) 1856.

137. WE are glad that the persons implicated in this atrocious case have been convicted and punished.* The servants of Government who were concerned in the suppression of the facts were most properly removed from office. We think that the dismissal of Basut Alee was an insufficient punishment, and that an interdict against his re-employment should have been duly notified in the Gazette.

— No. 3. —

DEATH OF TWO CHUMARS FROM VIOLENCE.

EXTRACT Judicial (Criminal) Narrative, North-Western Provinces; dated 18 August (No. 9) 1855.

Benares Division; Azimgurh District.

207. A REPORT, with his remarks thereon, was received from the Commissioner, on the death of two chumars, in consequence of illegal violence inflicted on them by the thanah establishment, with the view of extorting confessions, as it was suspected that the deceased possessed white arsenic for poisoning cattle for the sake of the hides (see paras. 200 and 201 of this narrative). Homicide of two Chumars who were subjected to illegal violence by the thana establishment.

208. It seemed that Deehul Chumar, seized by Roshum Ally, thanadar of Beluriagunge, on suspicion, was willing to confess, but the thanadar insisting on his producing some of the poison, his arms were tied behind him, and he was half suspended from a tree and expired in about six hours. The thanadar immediately sent in the corpse, and admitted the tying to a tree, but declared the deceased had swallowed the arsenic instead of producing it. The medical officer, on examination, found this assertion to be false; the intestines were totally empty; there were no marks of beating or anything of that kind, but there were marks on the arms as of ropes tightly tied; and it appeared that the deceased had a short time previously been ill, and, being seized in the morning, with a totally empty stomach, sunk under the illegal duress by 2 p. m. Mr. Bax was immediately deputed to make strict investigation on the spot. The thanadar was committed to the sessions, and convicted of culpable homicide, and sentenced to three years' imprisonment.

209. In the second case, upwards of a seer and a half of white arsenic had been found on some chumars in the thanah of Bheenpoorah; their statement so far implicated Kodye Chumar, of thanah Secunderpore, that a requisition was sent, to have his house searched. This was done, but no poison was found; Kodye

* Criminal Narrative, dated 11th June (No. 7) 1855.—(207.) Consideration of the Commissioner's recommendation for the grant of deputy magistrate's powers to the tehseeldar of Massool appointed on the removal of Basut Ally, tehsildar, and Mahomed Jawud, peshkar. It appears that a servant of the tehsildar accompanied a zemindar to enforce a decree for arrears of rent, together with the tehsildaree peon, whose duty it was to see to the execution of the decree. The defaulter who was unable to pay having been tied to a tree and severely beaten, his death ensued in consequence of the injuries he received. On the tehsildar's being informed that his servant was the party chiefly implicated, he sent a thanadar, appointed by his recommendation, to report on the death, which was returned as one from cholera. On investigation all the parties implicated in the ill-usage were committed for trial and convicted. The case of Basut Alee being brought to the Lieutenant-governor's notice, further investigation was ordered, which, though no legal proof was obtained, greatly strengthened suspicion of complicity against the tehsildar and his peshkar. They were removed from office and the re-employment of the former interdicted.

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Kodye denied all complicity, and the charge, as against him, fell to the ground. In spite of this, Mahomed Allee mohurir, the acting thanadar, two days afterwards, went a second time to his house, seized him, and insisted on his producing arsenic. It appeared that for some time the mohurer and burkundaues beat him with sticks until he fainted, and died on his way to the thanah.

EXTRACT from the Proceedings of the Honourable the Lieutenant-Governor of the North-Western Provinces in the Criminal Branch of the Judicial Department; under date 30 December 1854.

(No. 171.)

No. 438.

LETTER from *H. C. Tucker, Esq.*, Commissioner Fifth Division, to *W. Muir, Esq.*, Secretary to Government, North-Western Provinces.

Sir,

It is with deep regret I submit the two accompanying reports (No. 114 and 115), dated 9th instant, from the magistrate of Azimgurh, relative to the death, by illegal duress, on the part of two thannadars, of two chumars, supposed to be in possession of white arsenic for poisoning cattle.

2. In the first case mentioned in report No. 114, four prisoners confessed to having received arsenic from Deehull; he was seized by Roshun Alee, thanadar of Beluriagunje, and was willing to confess, but the thanadar insisting on his producing some of the poison, his arms were tied behind him, and he was half suspended from a tree, and expired in about six hours. The thanadar immediately sent in the corpse, and admitted the tying to a tree; but declared the deceased had swallowed the arsenic instead of producing it. The medical officer, on examination, found this assertion to be false. The intestines were totally empty; there were no marks of beating, or anything of that kind; but there were marks on the arms, as of ropes tightly tied: and it would appear that the deceased having been recently ill, and being seized in the morning with a totally empty stomach, sunk under the illegal duress of the thannadar by 2 p.m. Mr. Bax was immediately deputed to make strict investigation on the spot; the thannadar was committed to the sessions, and has been convicted of culpable homicide, and sentenced to three years' imprisonment.

3. The other case does not possess the same extenuating circumstances of the prisoner's confession, immediate report of death and duress, and apparent absence of actual beating. Upwards of a seer and a half of white arsenic having been found on some Chumars in the adjoining thanna of Bheempoora, their statements so far implicated Kodye Chumar, of thanna Sekunderpoor, that a requisition was sent to have his house re-searched. This was done, but no poison was found. Kodye denied all complicity, and the charge as against him fell to the ground. In spite of this, Mahomed Alee, mohurrer, the acting thannadar, two days afterwards went a second time to his house, seized him, and insisted on his producing arsenic. It appears that for some hours the mohurrer and burkundazes beat him with sticks until he fainted, and died on his way to the thanna. The mohurrer then got up a case as of accidental death by falling from a tree; he reported accordingly, and made away with the corpse. On the return of the thannadar, who was on bad terms with the mohurrer, he discovered and reported the true state of the case, which was proved on local investigation by the acting tehseeldar. Mr. Campbell is displeased with the tehseeldar's not having put himself more prominently forward, but it has not been customary for tehseeldars to act in the first instance as darogahs, the thanadar being present, but rather to superintend the investigations of the latter officer, and countersign the evidence, &c., &c. Mehn-deooll Zuman, is not a bright or active man, and I have doubts as to his fitness for a tehseeldarree, but I do not consider him actually to blame in the present instance. Had he believed it to be his duty he would have been only too glad to take the credit of the case. Mr. Campbell is desirous of a local investigation by a European officer, before committing the acting thanadar and his accomplices to the sessions, and I think he is right.

4. These two deaths are very lamentable; but it is very difficult to prevent native police officers running amuck as it were, when they think they know a course

course of conduct which will display their zeal and intelligence, and ingratiate them with their superiors. Upwards of 700 persons had been seized for cattle poisoning; it was known that Mr. Campbell was very anxious to ferret out all the criminals, and that orders had been received from Government to "root out thoroughly a system so hurtful to the property and interests of the agricultural community." The police were, therefore, all on the *qui vive*, and Roshun Allee, who had been previously fined for remissness, and Mahomed Alee, who wished to illustrate his acting appointment, carried their duress to a point which either directly caused or else accelerated the death of their unfortunate victims. The speedy commitment and punishment of Roshun Ali will show that the European officers will not encourage such practices; and if the punishment of Mahomed Ali be such as he richly deserves, it will be a most useful warning to the police of the district and its neighbourhood.

5. The absence on leave of Mr. M'Chlery, joint magistrate, has greatly fettered Mr. Campbell's powers of locomotion and personal supervision, but I can bear witness to his earnest desire to have the heavy subject of cattle-poisoning investigated in the most regular, fair, and proper manner.

I have, &c.

(signed) *H. C. Tucker,*
Commissioner.

Commissioner's Office, 5th Division, Camp Byreea,
Zillah Goruckpore, 11 December 1854.

EXTRACT Judicial Letter to India; dated 4 February (No. 13) 1857.

141. In both these cases* the native officer in charge of the thannah having received information of the possession of poison by the deceased persons, resorted to illegal violence of a description so severe as to result in death, with a view to extort it from them. Both the cases occurred, though at different thannahs on the same day, and the chief defendants being in both cases committed for culpable homicide were punished in the former by three, in the latter by seven years' imprisonment. We perceive from the correspondence forwarded with paragraph 11 of the present narrative, that the Sudder Court consider the sentences in both cases as totally inadequate, and that the defendants ought to have been committed for the higher crime of murder; in this opinion we entirely concur. The necessity of effectually putting down the practice of torture or violence by officers of police by punishing with great severity all who are convicted of the crime, whether the result be fatal or otherwise, cannot be too strongly impressed upon the judicial authorities. In the event of the death of the sufferer being the consequence of such atrocities, the crime is murder, and it should be punished accordingly.

142. We have already remarked that the sentences in both cases were far too lenient. In the first case the sentence being below five years' imprisonment, the defendant was entitled by law to have labour commuted to a fine; but in the second we think that labour should have been added to the tannahdar's imprisonment.

143. In all such cases as are here brought to our notice, labour should, we think, form part of the sentence, and the punishment be of such severity as will effectually operate as an example, and serve to deter our police officers from the Asiatic custom of coercion of their prisoners by the employment of most unwarrantable means.

144. The executive government cannot prescribe to the criminal courts the sentences to be passed in trials which may come before them. It is, however, perfectly competent to you to remark upon the sentences passed by them, and should

* (207 to 212).—Death of two Chumars by the illegal violence of the tannah establishment, with the view of extorting arsenic, which they were suspected of possessing for the purpose of cattle poisoning. The thanadar, in the first case, was sentenced to three years' imprisonment, and in the second case, to seven years' imprisonment. The Lieutenant-governor directed the Sudder Court to call for and revise the proceedings in the latter case in connexion with the former, previously referred to them. Their report on both is transmitted in para. 11 of this narrative.

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should the courts continue a course of inadequate punishment in cases of torture for the purpose of extorting confessions, it will be for the legislature to interfere by the enactment of a law prescribing a minimum punishment for such offences.

— No. 4. —

MEASURES FOR REPRESSION OF TORTURE.

EXTRACT from Judicial Criminal Narrative, North-Western Provinces; dated 11 January (No. 2) 1856.

Correspondence regarding the repression of torture and violence used by the police in extorting confessions.

Para. 3. THE Lieutenant-governor forwarded to the Nizamut Adawlut copy of a circular issued by the Judicial Commissioner in the Punjab on the repression of the practice of torture or violence on the part of police officers. His Honor observed, that the extreme frequency of confessions recorded before police officers and magistrates in India, and retracted on the subsequent trial before the sessions court, had often excited attention, and repeated orders had been issued by the Government and by the Sudder Court, in order to provide stringent checks against any abuses in the obtaining of such confessions. In a circular very recently published by the Court, special precautions of a very useful and practical kind had been required to be observed in taking down of confessions when made by prisoners before the magistrates. The true remedy, his Honor observed, against malpractices of all kinds on the part of police officers must be in the energy and vigilance of the district magistrates, and in their firm determination to put down every habit of laxity or oppression. A mere engagement from these officers to abstain from what they already well know to be an absolutely prohibited and criminal act, might not in itself appear likely to give much additional security; but the requisition of such a special paper might also on the other hand serve to mark the earnest attention with which the Government regards the subject, and the measure might therefore be found to be attended with some degree of beneficial effect. The Court were requested to procure the opinions of the several Commissioners of Divisions, and to report them with their own sentiments, on the expediency of directing the execution of a bond to the effect stated, by all superior police officers in these provinces. His Honor intimated, that a copy of this letter would be forwarded to the Chief Commissioner in the Punjab, with a request to favour this Government with a full copy of the circular in question, including the prescribed form of bond, and all its other appendices; and a copy of this letter should also be eventually communicated to all magistrates, so as to aid in maintaining their utmost effort to secure justice and purity of administration in their several districts, while the Court were expected, in every instance coming under their notice judicially, to apportion the sentence to the highly grave character of the offence. His Honor finally begged to be furnished with a statement of the number of cases in which police officers of any grade had been convicted or sentenced in each district for acts of violence of whatever degree in the course of judicial investigations since the 1st January 1853. A copy of the above communication was forwarded to the Secretary Chief Commissioner, Punjab, with a request on the part of the Lieutenant-governor to be supplied with a full copy of a circular, with a bond and appendices, as above stated. The circular above alluded to, complete with all appendices, was subsequently received from the Punjab Government, and forwarded to the Sudder Court, in continuation of former correspondence. In connexion with this subject, the Nizamut Adawlut forwarded copy of a circular issued by them to all magistrates, requesting them to furnish a statement of the number of cases in which police officers had been convicted or sentenced for acts of violence committed in the course of judicial investigations from January 1853 to June 1855, including cases in which sentences were passed by sessions courts. The Court issued a further circular to all superintendents of police and Commissioners of Divisions, requesting their opinion as to the expediency of introducing into these provinces a measure for the repression of torture by police officers.

EXTRACT

EXTRACT from Judicial Criminal Narrative, North-Western Provinces; dated
10 March (No. 5) 1856.

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Para. 8. WITH reference to former correspondence, the Court submitted their sentiments, accompanied by an abstract of the opinions of the several Commissioners and superintendents of police, on the subject of introducing special measures for the repression of the practice of torture on the part of police officers. On a full consideration of the matter, his Honor was of opinion with the Court, and the majority of the authorities consulted, that it would be desirable and proper to take from superior police officers, such as thannadars and first-class jemadars, on their appointment to their offices, an engagement, specifically promising to abstain from all acts of torture or illegal violence in the performance of their duty. Coinciding with the suggestion of the Court, his Honor also considered that this engagement might, too, with advantage, be extended so as distinctly to bind such officers to refrain from other prohibited acts of specially grave misconduct or impropriety. The issue of the order to this effect was, however, reserved until the completion and distribution of the new edition of the Darogah's Manual, then in course of preparation, under the immediate superintendence of Mr. Dashwood, the officiating register to the Court. In furtherance of the proposition of the Court to publish in a pamphlet form, a compendious collection of the several laws and orders which have been from time to time enacted and promulgated for regulating the procedure in regard to suspected or apprehended parties, his Honor observed, that a separate section or chapter in the manual might conveniently be devoted to the purpose. A circular was issued to the magisterial officers, transmitting copy of the present correspondence, and drawing pointedly to their notice the very just and pertinent observations of the Court, demonstrating the inutility of requiring any bond from the police officers unless the magisterial authorities were careful to temper with discretion the punishment of their subordinates, in cases of failure in detecting crime. Proved instances of misconduct or neglect of duty, the Court observed, should be met with prompt punishment, but to have recourse to the often-adopted practice of censuring, threatening, suspending, or superseding by fresh agency police officers who may have been unsuccessful in searching out and exposing crime, would be to enhance those evils which Government is most anxious to eradicate. The Court, intimating their having, in concurrence with the Presidency Court, resolved upon the rescission of Construction 1167, considering commonly that the detention of a prisoner more than 48 hours (which that Construction left discretionary with the magistrates) in the custody of the police, either at the thanna or elsewhere, was not warranted by the imperative terms of clause 16, section 19, Regulation XX. of 1817, and was therefore illegal, and had, the Court stated, been much and habitually abused in practice. His Honor did not doubt that the measure would have a very beneficial effect, and added that measures were in active progress, and had indeed been completed in many districts of these provinces, for securing an important increase to the pay of thannadars, and other higher grades of the police, through the operation of which he trusted that a more trustworthy police agency would ultimately be generally introduced.

Regarding the expediency of introducing special measures for the repression of the practice of torture on the part of the police.

9. The Court submitted, for the information of Government, copy of a circular issued by them to criminal authorities in the North-Western Provinces, notifying the rescission of Construction 1167, which vested a magistrate with discretionary power to authorise the detention at the thanna of persons charged with criminal offences beyond the period specified in section 19, Regulation XX. of 1817.

EXTRACT Judicial Letter to India; dated 3 June (No. 34) 1857.

36. THE papers of this collection bring to our notice certain measures which have been adopted under the instructions of the Lieutenant-governor for the repression of the practice of torture on the part of the officers of police.

Criminal Narrative, dated 11 January
(No. 2) 1856.

(3, and paras. 8 and 9 of the Narrative for the 4th quarter of 1855.)—
Correspondence regarding the repression of torture and violence used by the police in extorting confessions.

37. It appears that the principal police officers in the Punjab are required to subscribe a declaration that they will abstain from all attempts at extorting confessions from persons charged

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with crimes. The Lieutenant-governor of the North-Western Provinces has, after communicating with the Sudder Court, and through them with the Commissioners of Divisions, resolved that superior police officers, such as tannahdars and first class jemadars, shall subscribe a similar declaration on their appointment to office, and shall further bind themselves "to refrain from other prohibited acts of specially grave misconduct or impropriety."

38. We think it probable that the general introduction of a rule requiring the principal police officers to subscribe a declaration, on taking office, of the nature of that which is in use in the Punjab, will be attended with beneficial results. It will indicate the mind of the Government as to the practice of torture, and serve to convince the police officers of its desire and determination to eradicate the evil. We fear, however, that the addition made by the Lieutenant-governor in regard to "other prohibited acts of specially grave misconduct or impropriety," deprives the declaration of any force it might otherwise have had, by putting a resort to torture on a level with other acts which, however culpable, are of a lower grade of guilt. The subject of torture is one which should be dealt with by itself, and for this reason we consider the form of declaration in use in the Punjab to be preferable to that prescribed by the Lieutenant-governor of the North-Western Provinces; at the same time it appears to us an objectionable principle to make any particular class of officers declare that they will abstain from "prohibited acts." Other officers, from whom that declaration is not taken, may suppose that they are not required to abstain from such acts. We are of opinion, that a preferable course would be to take from every police officer a declaration that he is aware that the infliction of torture of any kind, or for any purpose, is prohibited, and that a breach of the prohibition will be visited with prompt and severe punishment, in addition to the loss of appointment.

39. We would again refer you to our despatch to the Bombay Government, dated 5th March 1856, a copy of which was forwarded to you in our despatch of the same date (No. 11), in which it was suggested that darogahs of police should henceforth be directed to abstain from receiving and recording confessions.

40. We entirely approve of the suggestion to devote a separate section of the Darogha's Manual, proposed to be issued to the police officers, to a compendious collection of the several laws and orders which have from time to time been enacted or published for regulating the procedure in regard to suspected or apprehended parties. We trust, however, that that procedure will shortly be greatly modified by the imposition of the restrictions referred to upon the police officers in regard to the examination of persons charged with crimes. The publication of the joint opinion of the Presidency and Agra Sudder Courts, as to the absolute illegality of the detention in the mofussil, by the police, of accused persons beyond 48 hours, will no doubt exercise a very beneficial effect, as will also the measures adverted to by the Lieutenant-governor, as in actual progress, for raising the pay of the higher officers of police, and thereby securing a better and more trustworthy agency in that department.

41. We approve of the orders of the Lieutenant-governor directing the circulation of the correspondence on this subject to the magisterial authorities. We hope to have no further occasion for repeating orders upon the subject of torture, but that prompt and peremptory dismissals of the offenders, and the unerring infliction of punishment, will entirely eradicate its use.

— No. 5. —

CASE BY SHEOBULUK, DAROGAH OF SULEEMPORE.

EXTRACT Agra Judicial Narrative (North Western Provinces, Third Quarter of 1855); dated 11 January (No. 2) 1856.

5. THE Nizamut Adawlut forwarded to Government copy of a correspondence which had passed between the Court and the district officers of Goruckpore, relative to a case of proved maltreatment on the part of the police of that district,

district, on the person of a prisoner named Sheobuluk, subsequently sentenced by the sessions judge to five years' imprisonment with labour in irons, on conviction of burglary. The remarks of the sessions judge on that conviction, and the minute of the senior judge of the Sudder Court, Mr. A. W. Begbie, on the case, in which the other judges fully concurred, were also submitted. It appeared from the report of the civil surgeon that Sheobuluk had received injuries on the right knee and left wrist, both of which limbs were likely to be crippled for life, and that he had been subjected to this torture at thanna Saleempore in order to the extortion of the confession which he there made. The sessions judge referred the case to the Sudder Court, and, in reply, was directed to institute an immediate inquiry, to be conducted by the magistrate or joint magistrate in person, with a view to the arraignment of the party who had inflicted the torture. From the remarks recorded by the joint magistrate, it appeared that the torture consisted of tying up the toes of the prisoner Sheobuluk to his neck, and in that state beating him severely on the knee-joint of one leg, and the wrist-joint of one of his hands, so as to cause inflammation of the tendons around those joints; the result of which was that both those limbs were likely to be crippled for life. It appeared from the reply of the sessions judge to the Court that the joint magistrate had dismissed the naib darogah, convicting him on the two following accounts:—

1. Directing and superintending cruel treatment to procure confession; and
2. Permitting cruel treatment of a prisoner under his immediate care and custody; and had further convicted one Sheo Suhae, who, though not a police officer, was the party who inflicted the torture, and sentenced him to six months' imprisonment with labour in irons, and a fine of 100 rupees. It appeared, that on the report to the thanna at Saleimpore of one Rattun, complaining of his father's house having been robbed of 400 rupees, the houses of Muhungoo and Sheobuluk were searched, and those men apprehended. They confessed to having committed the robbery in company with one Bodee, who was also apprehended, and they all delivered up a portion of the stolen money. These confessions, made at the thanna, and before the joint magistrate, added to the evidence of the witnesses to the identity of the recovered property, and other corroborative evidence, induced the sessions judge to convict the prisoners of the crimes charged against them, and to sentence them each to five years' imprisonment, with labour in irons. In his minute on the case, Mr. Begbie recommended that the prisoner, Sheobuluk, should be at once released, in consideration of the cruel treatment to which he had been subjected by the naib darogah. The confessions extorted from him were believed to be true, as portions of the stolen property and money were found in his house and given up by him, besides other corroborative evidence; but Mr. Begbie proposed to apply to Government for the pardon of Sheobuluk on personal and not judicial grounds. He added, that he could not dismiss the case without expressing his opinion that the joint magistrate had not sufficiently punished the naib darogah by simply dismissing him, and thought he should be committed to take his trial before the sessions court. In reply, the Lieutenant-governor entirely concurred in the view of the case taken by the Court, and was pleased accordingly to pardon and sanction the release of the prisoner Sheobuluk. The Commissioner of Benares was furnished with a copy of the Court's letter, and of Mr. Begbie's minute, and instructed to direct the magistrate of Goruckpore to institute immediate prosecution, if adequate proof of his misconduct should be forthcoming, against the naib darogah, or thannadar, and to report at once for the orders of the Lieutenant-governor, why this obviously right and necessary course was not adopted in the first instance. Mr. Tucker subsequently reported, that he had instructed the magistrate of Goruckpore to proceed against the naib darogah without delay, and enclosed copies of the instructions which he had issued on the subject, and which his Honor entirely approved. Another communication was received shortly after from the same officer, intimating that there was not sufficient proof for the commitment of Oodey Khan Singh, the thannahdar in question, to the sessions, but that a declaration by Government of his incapacity to serve Government again, would have a better effect than running the chances of a commitment on insufficient evidence. In reply, his Honor forwarded to Mr. Tucker a copy of a notification declaring Oodey Khan Singh incapacitated for future service under Government.

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EXTRACT Judicial Letter to India; dated 3 June (No. 34) 1857.

Criminal Narrative, dated 11 January
(No. 2) 1856.

(5.) Case of mal-treatment and
torture inflicted on one Sheobalak, by
the naib darogah of Salempore, in
Zillah Goruckpore.

43. THE injured party, Sheobalak, was arrested, with some others, on a charge of burglary, and on conviction by the sessions court, sentenced to imprisonment for a period of five years, with labour in irons. He had made a confession at the tannah, but there appears to have been evidence to warrant his conviction, independently of such confession.

44. On his arrival at the head station of the district, the prisoner Sheobalak was admitted into the gaol hospital, the cause of his admission being, as stated by the civil surgeon, the severe nature of the injuries under which he was suffering. "The principal injuries he has received," adds the surgeon, "are in the right knee and left wrist, both of which limbs are likely to be crippled for life." The prisoner stated to the surgeon that the injuries had been inflicted at the tannah, for the purpose of extorting a confession from him. That there was no immediate judicial inquiry into the circumstances which led to this crippled condition of the prisoner, indicates, as far as we can gather from the papers of the collection, a striking failure of duty on the part of Mr. Paterson, the officiating magistrate, to which we shall again refer in the sequel. The matter having been brought by the session judge to the notice of the Sudder Court, inquiry was ordered, and was conducted by the officiating magistrate, who reported that he had sentenced the person who actually inflicted the beating on the prisoner, to six months' imprisonment, and that having convicted the naib darogha of directing and superintending cruel treatment of a prisoner, in order to procure a confession, he had dismissed him from his office.

45. The proceedings on the inquiry having been reported to the Sudder Court, were first laid before Mr. Begbie, who very properly remarked that "the offence of which the naib darogha had been convicted was of so grave a character, that the perpetrator should have been committed to take his trial before the session court." He proposed to address the Government with the view of having the naib darogha declared incapable of again serving Government in any capacity whatever, and of procuring for the prisoner Sheobalak a remission of the sentence passed upon him by the session court. The other judges of the Sudder Court concurred in the view of the case taken by Mr. Begbie.

46. The recommendation of the Court in favour of the prisoner was acceded to by the Lieutenant-governor, and he was pardoned. Of this measure we entirely approve.

47. The Lieutenant-governor further issued instructions, through the Commissioner, directing the magistrate to institute an immediate prosecution, if adequate proof of misconduct should be forthcoming, against the naib darogha, and to report at once why this obviously right and necessary course was not adopted in the first instance.

48. The explanation on the last-mentioned point, as given in the words of the Commissioner, Mr. H. C. Tucker, is as follows: "Mr. Paterson taking the tannahdar's previous character and services into consideration, considered that dismissal was a sufficient punishment for the guilt proved against him, and in this I concurred."

49. In regard to the further prosecution, it was stated that there was not a sufficiency of legal evidence to warrant the commitment of the naib darogha.

50. It is alleged that the prisoner Sheobalak was ill-treated on two separate occasions; on the first, by the roadside as he was being conveyed to the tannah, where the maltreatment was not severe; the other at the tannah, where the injuries were inflicted which resulted in his being crippled for life. The officiating magistrate was of opinion that the naib darogha was convicted of having personally directed the beating on the first occasion, but that in regard to the maltreatment at the tannah, the evidence as it affected that individual was considerably at fault. In no other way than on the ground of his acquittal of the graver charge, added to the lamentable degree of indifference with which some district officers have been in the habit of regarding the assumption

assumption of improper authority by their subordinates, can we account for the opinion of the Commissioner and the officiating magistrate that the naib darogha was sufficiently punished by dismissal from office.

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51. We have not the evidence before us, and are therefore unable to pronounce a decided opinion as to its sufficiency or otherwise to warrant the commitment for trial of the naib darogha; but judging from the papers of the collection, we think that the magistrate would have exercised a much sounder discretion had he sent the case for trial before a superior court. There was the evidence to the previous beating on the roadside under the immediate direction of the naib darogha; there was the legally admissible evidence of the injured man and his associates in crime to the subsequent maltreatment at the tannah, which was under the charge of the same naib darogha; and there was the evidence of the civil surgeon to the nature of the injuries, and of course to the fact of injury having been inflicted. It appears to us that whatever might have been the result of the trial, there was ample ground for commitment, with good prospect of a conviction.

52. That the evidence was not so complete as it might have been we think very probable. It is still more probable that it would have been more complete had the case been promptly investigated. This is a point to which the attention of the Lieutenant-governor and of the Suddur Court has not been sufficiently directed. A prisoner is sent in by the police bearing upon his person the marks of injuries recently inflicted, which result in making him a cripple for life, and yet no inquiry as to the cause of those injuries is made until after the prisoner has been tried before the session court. We desire that the magistrate may be called upon for an explanation of this very serious omission. We do not think it necessary at this distance of time to direct the farther prosecution of the case against the naib darogha, especially as a notification declaring him incapacitated for future service under the Government (which in the event of a prosecution should have followed instead of preceding the trial) has been promulgated by an order of the Lieutenant-governor.

— No. 6. —

BY OFFICERS OF THE DACOITEE DEPARTMENT.

EXTRA Agra Judicial Narrative (North-Western Provinces, Third Quarter of 1855); dated 11 January (No. 2) 1856.

46. THE Commissioner, Saugor and Nerbudda Territories, forwarded correspondence relating to a case of torture which had occurred in the Jubbulpore district, the offenders being approvers of the Thuggee department. The facts of the case, as stated by that officer, were briefly these: In December 1854, a dacoity occurred in the above district, and Major Sleeman, general superintendent for the suppression of dacoity, sent a party of his establishment to co-operate with the magistrate and police in tracing the dacoits. The magistrate, Captain Pinkney, had been previously on the spot, and had released the suspected, but the thuggee party again apprehended them, and among them two brothers, Nirmud and Sheoraj, whom they confined and maltreated. Nirmud died of the blows and other tortures to which he had been subjected. Ameer Khan, the duffadar, and Ameer Ali, the mohurrir, of Major Sleeman's party, were found guilty by the sessions judge (copy of whose letter to the Sudder Nizamut Adawlut was submitted) of the culpable homicide of Nirmud, and sentenced each by the Court to 14 years' imprisonment, with labour, while Baldeo, a nujeeb of the same party, had been convicted and punished for maltreating Omrao. The Court's judgment on the case was submitted for the information of the Lieutenant-governor. The inquiry into the misconduct of the thuggee officials was commenced by Major Sleeman; but at the request of Captain Pinkney, the former at once made over the case to the latter. The question of the relative jurisdictions of these two officers in the case was adverted to in the letter of the sessions judge, and commented upon by the

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Sudder Court, who intended to take up the question at an early date, with a view to the issue of some general instructions, so as to remove all doubt, and prevent collision between the two departments; though in the present instance, owing to the right feeling and good sense of the officers employed in the investigation, nothing of the kind had occurred. In consequence of the above, his Honor addressed a letter to Major Sleeman, forwarding copies of the entire correspondence above noticed, and requesting him to state under what rules subordinate officers, with approvers from the Thuggee department, were sent out to act in co-operation with the district police on occasions like that now brought under notice. The Lieutenant-governor had understood that they were deputed only to supply information to the district authorities, and not with any permission to exercise independent powers. The occurrence of this present lamentable case, his Honor observed, proved how indispensable it was to reconsider the whole system of checks at present established, in order to provide against the probable hazard of abuse or violence by the approver parties. One of the entries, his Honor added, in the evidence, marked also that it was important to prevent as far as possible the employment of parties related to each other in the office of the superintendent for the suppression of dacoity, and in the subordinate executive establishments.

EXTRACT Judicial Letter to India; dated 3 June (No. 34) 1857.

Criminal Narrative, dated 11 January
(No. 2) 1856.

Thuggee and Dacoitee.—(46, and
para. 253 of the Narrative for 4th
quarter of 1855.)—Case of torture
and culpable homicide by officers of
the Thuggee and Dacoitee depart-
ment.

95. A DACOITY having occurred in the Jubbulpore district, Major Sleeman, general superintendent for the suppression of dacoity, sent a party of his establishment, headed by a duffadar and a mohurrir, to co-operate with the magistrate and police in tracing the dacoits. Previously to their arrival, certain suspected persons had been apprehended, but after inquiry had been released by the magistrate. These were again arrested by the party belonging to Major Sleeman's establishment, some of whom, with a view of extorting a confession, beat and otherwise maltreated one of the persons apprehended, so as to cause his death. The case was very carefully investigated by Captain Pinkney, Deputy Commissioner of Jubbulpore, and the duffadar and mohurrir were convicted of the maltreatment and "culpable homicide" of the deceased by the session judge, who very properly referred the case to the Nizamut Adawlut, by whom the above-mentioned defendants were sentenced each to imprisonment for 14 years, with labour in irons.

96. We trust that this example will have the effect of convincing our native officers that the Government and the courts of justice are resolved to put down the system of torture for the purpose of extorting confessions which so extensively prevails.

EXTRACT Judicial Criminal Narrative, North-Western Provinces; dated
10 March (No. 5) 1856.

Jubbulpore.

Para. 253. THE Commissioner of these territories recommended the grant of a charitable allowance to the family of Nirmid Bais, in this district,* who met his death by maltreatment from certain native officers of the Thuggee department. From the papers connected with the case it appeared, that certain suspected persons, who had been released by the magistrate of Jubbulpore, were apprehended by a party belonging to the establishment of Major Sleeman, general superintendent for the suppression of dacoitee, from whom one of the apprehended persons, named Nirmid Bais, received blows and other torture, with a view to extort confession; in consequence of which maltreatment he died, leaving a "married" widow, Mussamut Neema, and by her two daughters and a son, all under nine years of age; and also a "dospta" widow, and by her a son and a girl, both under two years of age, who were unprovided for. The correspondence was, by order of the Honourable the Lieutenant-governor, forwarded for the favourable consideration of the Supreme Government. Under the circumstances stated, the Honourable the President in Council was pleased to

to sanction the grant of a compassionate allowance of four rupees per mensem for the support of the family until the two boys both attained the age of 16 years, and then two rupees a month for the life of Mussamut Neema.

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— No. 7. —

PUNISHMENT OF AHMED HOSSEIN KHAN, FOR CERTAIN ACTS OF TORTURE
ALLEGED TO HAVE BEEN PRACTISED BY HIM.

EXTRACT from Judicial Criminal Narrative, North-Western Provinces,
dated 20 May (No. 9) 1856.

171. IN reply to letter dated 22d December 1855, calling upon the Commissioner for his opinion as to the adequacy of the punishment awarded to Ahmed Hossein Khan, jemadar of Boorhanah, in this district,* for certain acts of torture alleged to have been practised by him, that officer reported that the evidence against the jemadar was not sufficient to prove that he had actually beaten the informers in a case of robbery, and that it was even doubtful whether he had suspended them up by the wrist on trees, for which the magistrate had ordered his suspension for four months. It seemed highly probable that the charge of torture was got up by the party suspected of instigating the robbery in the case referred to.

Regarding adequacy of punishment of a jemadar for acts of torture o. his part.
• Moozuffernugger district.

172. Ahmed Hossein Khan had been thrown out of employ on the revision of the police establishment. Under the circumstances reported, the case called for no further notice from Government.

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CHARGES AGAINST MR. BRERETON, LOODIANA DISTRICT.

EXTRACT Political Letter from India; dated 22 December (No. 67) 1855.

45. THE Chief Commissioner submitted a report of the circumstances under which it was thought necessary to supersede Mr. H. Brereton, in charge of the Loodiana district, and to keep that officer in virtual suspension until the pleasure of Government should be known.

1855.
Cons. 27 April,
Nos. 250 to 256.

46. With reference to the charges laid against Mr. Brereton, the Chief Commissioner stated that the report of the Commissioner of the Cis-Sutlej States had shown "that certain native employés, not holding regular offices, had been commissioned, without written orders or directions, or formal responsibility, or any check whatever, to prefer charges, to procure evidence, to make arrests, to search houses, to seize property, to retain persons for long periods in close custody; in short, to hold a separate criminal court, and to exercise magisterial power, while ranging both through the Loodiana district and the neighbouring native states. It showed that these men abused their irregular trust in each and all the proceedings above enumerated, and that in many cases they inflicted cruel torture. It showed that in matters under the immediate cognizance or direction of the Deputy Commissioner himself, houses of wealthy citizens had been causelessly searched; that property seized on such occasions, though neither claimed nor identified, was detained for lengthened periods; that many parties were thrown into prison, and lay there for weeks, without charges being exhibited against them, and without their defence being taken; and that the laws relating to security for bad character had been applied with sweeping and indiscriminating severity. Lastly, it showed that the Deputy Commissioner had been followed about from district to district by certain police officers

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officers and informers, whom he employed wherever he went; and that these men had been the main authors of the recent mischief."

47. The Chief Commissioner and all the local authorities considered that these charges had been completely proved. Mr. Brereton himself did not dispute the accuracy of the main facts which had been alleged against him, but he had made a very full statement and explanation in defence of his conduct.

48. The Governor-general (to whom the report was referred for information and orders) observed, that while Mr. Brereton's statement afforded a full explanation of his conduct, it had neither justified nor extenuated that conduct.

49. The Chief Commissioner submitted, that "when great faults are clearly brought home to an officer, some example is called for, to vindicate the administration before the people, and to preserve it pure from the like scandal hereafter."

No. 97.

(No. 126.)

LETTER from *R. Temple, Esq.*, Secretary to the Chief Commissioner for the Punjab, to *G. F. Edmonstone, Esq.*, Secretary to the Government of India, Foreign Department, Fort William.

Sir,

Judicial Department.

I AM directed by the Chief Commissioner to report, for the information and orders of the most Noble the Governor-general in Council, the circumstances under which it was thought necessary to supersede Mr. H. Brereton in the charge of the Loodiana district, and to keep that officer in virtual suspension, until the pleasure of Government shall be known.

2. During October last, certain vernacular petitions were addressed to the Chief Commissioner by residents of Loodiana, complaining against some proceedings in the criminal department, and inveighing against the conduct and antecedents of some employés of the Deputy Commissioner. These were sent to the Judicial Commissioner, with a request that he would call on the Commissioner, Cis-Sutlej States, for a report, with special reference to the history and qualifications of the employés complained against. Shortly afterwards the Commissioner proceeded to Loodiana to attend the examination, and took that opportunity of inquiring into Mr. Brereton's criminal administration. The result of that inquiry was the transmission of a detailed report, which reached the Chief Commissioner through the Judicial Commissioner, and of which a copy is appended. This report pointed to grave maladministration. It showed that certain native employés, not holding regular offices, had been commissioned, without written orders or directions, or formal responsibility, or any check whatever, to prefer charges, to procure evidence, to make arrests, to search houses, to seize property, to retain persons for long periods in close custody; in short, to hold a separate criminal court, and to exercise magisterial power, while ranging through both the Loodiana district and the neighbouring states. It showed that these men abused their irregular trust in each and all of the proceedings above enumerated; and that in many cases they inflicted cruel torture. It showed that in matters under the immediate cognizance or direction of the Deputy Commissioner himself, the houses of wealthy citizens had been causelessly searched; that property seized on such occasions, though neither claimed nor identified, was detained for lengthened periods; that many parties were thrown into prison, and lay there for weeks, without charges being exhibited against them, and without their defence being taken; and that the laws relating to security for bad character had been applied with sweeping and indiscriminating severity. Lastly, it showed that the Deputy Commissioner had been followed about from district to district by certain police officers and informers whom he employed wherever he went, and that these men had been the main authors of the recent mischief. Such being the substance of the facts alleged, the Chief Commissioner conceived the gravity of the case to be so urgent as to demand prompt interposition. He, therefore, ordered Mr. Brereton to make over charge of his district

district to another officer, to furnish explanation, and to exercise no public functions pending the orders of Government. Mr. Brereton was delayed by sickness in the preparation of his reply, and on the receipt of this document some references on minor points seemed necessary; the replies to the last of these have only just been received, copies of all the English papers are now submitted herewith. The vernacular papers have been examined by the Chief Commissioner, but it is not thought requisite to forward them.

3. It will in the first place be observed from these papers, that Mr. Brereton, in his defence, does not contradict or rebut the facts as arrayed in the preceding paragraphs. He virtually admits the misconduct of his employés; the house-searching, the delays in criminal trials, the constant employment of certain attachés and informers. He, in short, confines himself to extenuation of his own conduct in connexion with these unfortunate affairs. The facts, indeed, may be considered as fully proved. An abstract of the evidence is given in the Commissioner's report. The circumstances alleged are quite borne out by the vernacular depositions; especially the sad instances of torture. As regards the extenuation, the Chief Commissioner cannot say that it appears to him sufficient to exonerate Mr. Brereton from very serious blame.

4. The grounds of this extenuation are entered into at length in Mr. Brereton's defence, and are summed up clearly in paragraphs 75 to 80 of that document, and need not be recapitulated. With a few brief remarks, the Chief Commissioner will leave them to carry such weight as they may. The strongest point, perhaps, is the consideration that the two employés (by name Futteh Jung Khan and Ahmed Yar), who committed most of the iniquities mentioned in my second paragraph, were entertained as special detectives in one great robbery case, known as the "Coop Dacoity." It might therefore appear that the mal-administration was confined to this particular case, and did not extend to the police management generally. Now, the Chief Commissioner is willing to believe that this oppressive system had not spread over the district, nor infected the body of the ordinary police, though indeed a bad example had been set them. But the Chief Commissioner must observe, that there were other cases distinct from those arising out of the Coop Dacoitee, and in these additional cases were some of the worst instances of torture; moreover, the Coop inquiry was unreasonably protracted; it remained as a standing scandal, exciting alarm through a large tract of country. Owing to the disregard by Mr. Brereton, in this case, of the rules regarding returns and reports, supervision on the part of superior authority became impossible, as the detectives worked on only verbal orders (or on no orders at all); they eluded all the unusual checks; and, as the Commissioner remarks, no one knows the number of arrests they made and did not report, and the amount of property they seized and did not account for. It is to be feared also that, this case ended, Futteh Jung would have had some other similar task entrusted to him. His associate, Ahmed Yar, was actually so employed in patrolling the road when the Coop case was drawing towards a close. Much is said by Mr. Brereton regarding the intrigues in his own office to secretly encourage, and then to expose these affairs. The Chief Commissioner does not see that this argument has any real foundation. Press of business at a bad season of the year may have caused some delay and laxity in the conduct of criminal trials, but cannot excuse such proceedings as the incarceration of prisoners for extended periods, without taking their defence, and without confronting them with their accusers. Moreover, as a want of energy and industry cannot be numbered among Mr. Brereton's failings, and as that officer is well versed in criminal law and practice, the Chief Commissioner is constrained to think that this laxity and delay proceeded from the absence of proper care and thought for the men who were lying in prison. Again, Mr. Brereton may urge, and does urge, that the people never complained to him of these malpractices; but the people seeing these things perpetrated by men imported by him, and entrusted with his confidence, must have regarded him as virtually the author of these evils, and despaired of redress from him.* In regard to the system of
duresse,

* The tortures inflicted by Futteh Jung at his quarters in Loodiana, were painfully notorious all over the town. A respectable inhabitant told the Commissioner that the people lying in the same street with Futteh Jung could not sleep at night for the cries of his victims.

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duresse, applied to large numbers of persons, in default of security for good conduct, Mr. Brereton replies, that it was intended to suppress crime. Such may indeed have been the intention; but he was at least aware that this system was not adopted in other districts similarly situated; and if, notwithstanding this knowledge, he chose to introduce it into his own district, he was bound to see that none but bad characters were seized, and that those who had been arrested were promptly and equitably tried; and this he failed to do. Furthermore, he intimates that he is blamed for measures after they have failed; whereas, if they had been successful, he would have been praised. But it is obvious that had success been attained, and the Coop robbers detected, he could only have received credit for that, on the belief that no improper means had been adopted to secure the result. Lastly, Mr. Brereton pleads "misplaced confidence," in reply to the imputation which cannot but fall upon him, from the grievous misconduct of policemen and informers, whom he carried about with him from district to district, as personal attachés of his own; but he should have reflected, that these mén were thereby thrown into temptations which the morals of few or no natives could withstand. He should have been apprehensive of the abuses which would be sure to arise, and which any officer of Indian experience might anticipate. There was no reason whatever for the confidence reposed in these men. The informers had been counterfeit coiners by profession; they might have been useful in the tracking out of gangs of their own class; but to use them in a general capacity as spies upon the population of a district, was unwarrantable.

5. In fine, the Chief Commissioner considers that Mr. Brereton is shown to have introduced a system into Loodiana which was contrary to the dictates of experience, and to the principles of administration, and which he ought to have known would lead to abuses; and that he cannot be absolved from responsibility for the abuses which actually did arise, in an aggravated form. The gravamen is not that he was in any way cognizant of these shocking malpractices; but that he permitted proceedings obviously calculated to produce them, and that he neglected all ordinary precautions against their perpetration. Admitting that he was ignorant of what was going on, the Chief Commissioner must remark, that he certainly took not the slightest pains to keep himself informed, and that not caring to know, he almost shut his eyes to the crimes that were being committed in his name. He has hereby been the virtual though not the intentional cause of many deplorable cruelties and tortures, and much injustice, and has brought disgrace on our administration. The sad details of the torture need not now be dwelt upon; they are sufficiently narrated in the papers. Besides the employment of certain persons also in a most objectionable manner, there were gross irregularities in his own court and gaol, which call for marked censure. Now, if the above circumstances had stood alone, the Chief Commissioner might have recommended that the affair be passed over with a reprimand and a warning, in consideration of Mr. Brereton's services and character for vigorous ability; but the Chief Commissioner is sorry to declare his opinion, that a mere warning cannot be depended upon to prevent any future recurrence of these evils under Mr. Brereton's administration. He seems possessed with a species of infatuation in regard to the use of espionage, the employment of personal attachés, and the application of indiscriminate severity; from this vicious system experience does not seem to deter him, nor advice dissuade. It will be observed from the papers, that some of the very employés now arraigned had attracted some kind of notice in connexion with Mr. Brereton at various periods and places. The late Board had reason to fear that latterly these abuses had even crept into the Thuggee department; of these suspicions Mr. Brereton was made fully aware; indeed a circular* was afterwards issued on the subject. These circumstances, however, seem to have left but a transient impression on Mr. Brereton's mind, and the same men who, as he himself says, have followed him for years, are now figuring in the present report. The Chief Commissioner considers that some mark of the severe displeasure of Government is necessary, which may operate as a stern lesson to M. Brereton, and may serve to keep his judgment straight in these matters for the future. Moreover, the Chief Commissioner would submit, that when great faults are clearly brought home to an officer, some example is called for,

* See No. 88, of 1853, page 292, of Board's Printed Judicial Circulars.

for, to vindicate the administration before the people, and to preserve it pure from the like scandal hereafter. In the disposal of this case a point will arise for the decision of Government, as to what allowances Mr. Brereton should draw, from the date on which he was superseded in the charge of the Loodiana district.

6. The Chief Commissioner would further be disposed to suggest, that after what has occurred Mr. Brereton is not suited for employment in the Punjab. That officer needs more supervision than can well be given by any of our Commissioners, whose duties are so numerous. In the older provinces there are judges to supervise and restrain, as well as commissioners. It has been suggested that Mr. Breton should be appointed to some station which forms the head-quarters of a commissionership. But there are many practical difficulties in this course. Such stations usually require the best officers; and there are usually reasons why those districts should continue to be held by their present incumbents. Indeed, with this very view of securing supervision, the Chief Commissioner had contemplated transferring Mr. Brereton from Loodiana to Lahore; but waived this intention in consequence of the Judicial Commissioner urging that this officer's peculiar system would be particularly mischievous at the capital, as calculated to irritate and distress a large city population. If Mr. Brereton should remain in the Punjab, it will be undesirable, after all that has happened, that he should reassume charge of Loodiana.

7. In conclusion, the Chief Commissioner would submit, that no further commission of inquiry will be needed. As already explained, the facts affirmed have not, in any way, been controverted. Moreover, such a commission might cause unnecessary excitement in the district, and would be embarrassing, owing to the difficulty of finding officers to conduct such an inquiry. Of course, the inconvenience would not be urged, were an investigation really necessary; but the necessity is not apparent.

8. I am to add, that due instructions have been issued for the dismissal of Mr. Brereton's myrmidons, and for the disposal of all cases connected with them, and with these affairs, and especially for the condign punishment of Futteh Jung for the crimes of which, after trial, he had been convicted. The Chief Commissioner would suggest that the Commissioner, Cis-Sutlej States, be authorised to propose, at his discretion, compensation for the parties who are shown to have been victims of the torture, and other oppression described in these papers. Some of these persons will also be found to have suffered much loss of crops and cultivation, owing to their having been detained at harvest time.

I have, &c.
(signed) *R. Temple,*
Secretary.

Lahore, 8 February 1855.

(No. 205.)

LETTER from *G. C. Barnes*, Esq. Commissioner and Superintendent, Cis-Sutlej States, to *R. Montgomery*, Esq., Judicial Commissioner for the Punjab.

No. 3610.

Sir,

Camp, Philour, 10 November 1854.

I HAVE the honour to acknowledge the receipt of your letter, No. 2946, dated 31st ultimo, forwarding a petition presented to the Chief Commissioner by certain residents of Loodiana, complaining of the conduct of Moosahib Khan, acting tchisildar of Jugraon, and of his brother Futteh Jung Khan Perwanah Nuvees.

Judicial.

2. I was at Loodiana when I received your letter, and was able to make immediate investigations on the spot, the result of which will be embodied in this letter.

3. I would beg to premise that before your communication I had visited the gaol, in company with the Deputy Commissioner. I had found all the wards crowded with prisoners, some of whom, for want of accommodation, were placed in tents. I was surrounded by men who complained loudly of the means by which they had been arrested and confined. I had also heard that Mr. Brereton

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maintained informers, some on a fixed salary, who were always with him, and some on special duty, who were only in occasional employ. I heard also numerous complaints against Moosahib Khan and his brother Futteh Jung; and petitions from jemindars of Jugraon, belonging to castes who have not a good name, had been presented to me complaining of the police measures adopted by the acting tehsildar, Moosahib Khan.

4. I was therefore fully prepared to undertake the unpleasant duty of inquiring into the truth of these reports, even before I received your letter; but that despatch at once decided me to commence, and my first act was to send for the accused parties, and to summon those in whose name and behalf the petition addressed to the Chief Commissioner was written.

5. The depositions and defence of both sides are filed in a separate misl, which accompanies this letter. All the documents were written in my presence, without any other suggestion than that they, the deponents, should state unreservedly the whole truth.

6. Deedar Sing and Lukha Sing, in whose names the petition is sent, deny its authorship. But they affirm before me the truth of every word contained therein, as far as they are concerned. They declare that their houses were searched last May, on suspicion of being concerned in the Koop robbery case, but that none of the stolen property was found therein. Nevertheless, all the valuable articles found in their house were carried off to the cutcherry, and still lie there. The property was paraded in the Bazaar, and people were invited to inspect and claim it, if their own. But no man has appeared to identify the property.

7. The search was instituted at the instance of a prisoner in the gaol who had cause of enmity with these sahookars and with the Sirdar of Kuneitch, whose house was simultaneously searched. There appeared to me no sufficient grounds why they were subjected to this indignity, nor any reason why their lawful property has been so long withheld from them.

8. On the same information, the house of Sirdar Chimmun Sing, of Kuneitch, a jageerdar of this district, was searched. On the 29th April last Mr. Brereton commissioned Futteh Jung Khan Perwanah Nuvees, the brother of Moosaheb Khan, to undertake this duty. The Sirdar came into Loodianah, and at my request has furnished a narrative under his own seal of all that occurred.

9. He is a respectable native gentleman, and has always borne a good character. He has the testimony of Lieutenant Lake, then Assistant Agent at Loodianah, that he behaved with great loyalty in the campaign of 1845-46.

10. One evening, late in April last, Futteh Jung Khan came with a posse of sowars and footmen to his residence. The Sirdar was treated with great violence, and shortly after the Deputy Commissioner himself made his appearance and began the search. The floors were all dug up, and according to the Sirdar, his houses at Raepoor were thrown down. All the property found was carried away; he mentions also, that eight respectable zemindars of the village were seized at the same time. They were immediately placed in irons, and made over to Futteh Jung Khan. Three months they were kept in arrest, and subjected to treatment which he "cannot describe."

11. These eight men were also sent for; they are Jâts, and I believe perfectly innocent of this crime; they were severally subjected to torture, and kept in confinement in Futteh Jung's own house, which is in a secluded part of the city. The hair of the head (they are Sikhs) was tied to their leg irons. Wooden pegs were driven into the joints of their elbows and other sensitive parts. Others were merely bound tightly and beaten with fists, so that no marks might remain.

12. I inspected two men, Ram Ditta, and Dittoo; they bear large scars on their elbows and on other parts of their arms. The cicatrix in each wound is recent; and they all solemnly state, that these pegs were forcibly inserted, so as to lacerate the flesh. The man who operated in all these cases was a wretch called Alla Buksh, a servant belonging to Futteh Jung.

13. Ram Ditta and Dittoo were so severely wounded with these pegs that they were sent to the gaol hospital, and were cured there. I annex the civil surgeon's report on their case.

14. Deedar

14. Dcedar Sing and Lukha Sing, shroffs, also depose to the cruel treatment to which these men were subjected, and desired me to send for them. I acted on their suggestion, and the result is given above. They also state that these men were confined at Futteh Jung's house in the city.

15. Eventually, although there was nothing whatever against them, except the malicious testimony of a convict, all these men were required to furnish heavy securities of 200 rupees each, and they were not released till these securities were produced.

16. After I had taken these depositions I went to the Hawalut, where I found 57 men under confinement. In one case of robbery of 8,700 rupees at Raspoor, six men and women were under arrest. Some of these were arrested in August last, and some in September last; yet in two instances only had the defence been taken. The other four did not know on what grounds they had been seized. They had not been called upon for their defence, and had been in Hawalut for many weeks.

17. The arrests were made by Futteh Jung on the information of a single "Goindah." Dewa Sing, one of the prisoners, declares he was tortured by Futteh Jung into a partial confession. On his testimony Hurnam Singh, a Jât of the Puttiala territory, near Thaney-sur, was seized, and also Roopa, his mother. Hernam declares that he was confined at Futteh Jung's quarters in the city. A tent peg was driven into his anus, and eventually he was sent to hospital; he was never confronted with his accuser, nor was his defence even taken. I found him in the gaol hospital, and he appears a young Jât with a countenance that does not indicate crime. There is no proof against him.

18. His mother, Roopa, states that Futteh Jung and Alla Buksh, and a third man, seized her at her home in Puttiala, and wanted to strip her. They placed her under an August sun, and gave her nothing to drink. Futteh Jung tied a bag of filth over her mouth and nose, and endeavoured to get her to confess. Roopa also declares that her house at Puttiala was dug down in the search for stolen property, none of which was discovered. Money found concealed there belonging to herself was appropriated by Futteh Jung.

19. Boodh Sing, Jât, made a partial confession in this case. He declares it was extorted from him by false representations and torture. His statement is that Kheema, an informer, and Sheik Chund, a burkundaz in disguise, came to his house. She entertained them. A month after Futteh Jung came to his village, placed a guard round his house, dug up the floors and walls, and destroyed it. He himself was absent, but was seized shortly afterwards. Red pepper was stuffed in his nose and a peg driven into his anus. In his agony he was induced to make a false confession. He has been under confinement since 27th July, but no order has been passed in his case. He lent out money to his neighbour, and the list of his debtors was seized by Futteh Jung, who realized and appropriated the money.

20. The two men who confessed partially have had their statements taken down. The other four were cast into prison; they have never seen their accusers, nor have their defences been written. They do not all state that they were tortured; Hernam Sing and Roopa state that torture was employed against them in vain; the other two simply state that they were arrested, the reasons thereof know not.

21. I found two men under arrest on a charge of highway robbery, value 48 rupees; there is no proof whatever against them. The extra assistant recommended their release on the 29th October last, but they are still in custody.

22. There were two persons seized by Ahmed Yar Khan, of the same party as Futteh Jung; their offence is alleged bad livelihood. Ahmud Yar is not a police officer; he holds an unauthorized appointment as "provider of supplies" to troops marching; he seized these two men on 12th October last, a month ago; they are in strict arrest; no proof has appeared against them, and their defence has not been taken.

23. I found also four men arrested since 7th August last, at the instance of an informer called Mootsuddie, on the charge of false coining; there is no proof

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whatever against them, and no defences have been recorded, although these men have been under arrest three months.

24. There are other instances of injudicious arrests and illegal treatment among the persons in the Hawalut, but I have noticed only those cases in which mention was made of Futteh Jung and Ahmud Yar Khan, or in which the circumstances were more flagrant than in others.

25. There were six men in the Hawalut at the city Kotwallee. Some of these have been there several weeks, none less than 20 days, and their defence had not been recorded.

26. While I was visiting the gaol four men complained to me of Futteh Jung and Ahmud Yar Khan, and I took their depositions; they are imprisoned for no specific crime, but for alleged bad livelihood. Two of these men are subjects of foreign states arrested by Futteh Jung; and a third is a resident of Dhurm Kote, Zillah Ferozpoor. Their arrest and confinement in the Loodianah gaol on such charges is unjustifiable.

27. Futteh Jung and Ahmud Yar appear to have had a commission to rove in foreign territory. They were at Maleir Kotta, Puttialah, and Nabha, at different periods from last January till the present time. Futteh Jung is perwanah naves in the Fouzdarry office. Ahmud Yar was specially employed in the Koop robbery case on your recommendation, suggesting that a special party should be deputed to investigate the particulars of this crime. No clue whatever has been obtained, and the establishment sanctioned was discharged on the 30th September last; subsequent arrests made by Ahmud Yar were entirely illegal, as he had no police powers whatever.

28. These are the particulars of the cases represented to the Chief Commissioner, in which these men have been employed. Allowing for some exaggeration, I feel convinced that Futteh Jung Khan has held almost unlimited power, which he has grossly and most cruelly abused. Holding a subordinate appointment in the Fouzdarry office, he has been commissioned by Mr. Brereton to investigate crimes, with permission almost to do what he liked, to go where he pleased, and to arrest any one upon whom his suspicion might fall; he has also been allowed to hold a separate court as it were; prisoners have been kept for weeks at his quarters, and as he was directly interested in eliciting confessions, I most firmly believe that he exercised great oppression for this object, particularly in the instance of the zemindars of Kuneitch; I am convinced that the wounds their bodies show were caused by the torture he applied.

29. During his long sojourns in foreign territory it is reasonable to suppose, as alleged by the victims, that such a man, armed with such power, committed many atrocities and levied much money. The chiefs themselves did not complain; it is not etiquette to mention such matters, and oppression might proceed to almost any length before the Commissioner would hear of it from the chiefs themselves.

30. I have taken Futteh Jung Khan's defence, and with regard to the testimony given by the shroffs, Deedar Sing and Lukha Singh, and Sirdar Chummun Singh of Kuneitch, as well as the evidence of the zemindars and others, supported by the letter of Dr. Piethall, the civil surgeon, I am of opinion that the crime of torturing and maltreating Dittoo and Ram Ditta, Jats of Kuneitch, is fully proved. I would inflict a severe punishment upon this man, and recommend that he be sentenced to four years' imprisonment with labour and irons.

31. Futteh Jung Khan entered the district with Mr. Brereton; he had accompanied him for some years; he is own brother to Moosahib Khan, and is a villain of the deepest dye.

32. Ahmud Yar Khan is one of the same clique, but he is no relation to the other two; there are complaints against him, but he appears to be milder and more humane than Futteh Jung; I have no doubt that he has extorted much money in his long forays into foreign territory; but he was not so active nor so cruel in torture as Futteh Jung; he should simply be dismissed from employ, a light punishment for the numerous crimes he has doubtless committed.

33. There

33. There is a third brother, Kuramut Khan, a mohurrir, in the city Kotwallee; there is nothing against him except that he is one of the faction of which his brothers, Moosahib Khan and Futteh Jung Khan, are at the head; I think his employment in this zillah under Mr. Brereton would not be judicious.

34. The antecedents of Moosahib Khan are as follows:—He was the jemadar of a police-station in Mynpoorie when Mr. Brereton was Assistant in that district to Mr. C. Raikes;* he followed Mr. Brereton to Lahore, and became a thanahdar; when Mr. Brereton went to Jullunder, Moosahib Khan accompanied him; when Mr. Brereton was removed to Umballah, Moosahib Khan went there also; in short, wherever Mr. Brereton has gone, Moosahib Khan has followed him, to Sealkote, to Murree, and finally to Loodianah.

* A. D. 1848.

35. At Lahore, Jullunder and Umballah, complaints were preferred against him. He may be, and is, I believe, a good police officer, but he is cruel and harsh in temper. He has earned credit by the capture of Ichhur Singh, the Wuzeer of Juswan, who escaped from the Jullunder gaol, and he possesses some good testimonials as to his value as a police officer; but all his experience lies in the criminal department; he is not fitted to be a tehsildar, nor indeed to hold employment under Mr. Brereton. Under any other master he would probably render good service as a thanahdar or darogah of a gaol; I would rather see him in the last capacity. I have not confirmed his appointment as tehseeldar, nor do I intend to do so, now that I know his history. The correspondence that has passed in his case is submitted for the information of the Chief Commissioner.

36. There have been many complaints preferred against Moosaheb Khan for the surveillance he has imposed upon certain villages in his jurisdiction, supposed to have a bad name. The means employed to prevent the occurrence of crime are very harsh, and the remedy appears far worse than the evil. A burkundaz is stationed in every suspected village; he is ordered to assemble every man, woman, and child residing therein three times a day. A fourth "parade," as the people call it, is taken about 11 at night; any person found absent from these roll-calls is fined two rupees, ten annas, and on a repetition of the offence, he is fined 25 rupees. Moosaheb Khan admits the truth of this account, and gives as his authority the verbal orders of the Deputy Commissioner. He states that on the second offence, not a fine, but a recognizance of 25 rupees is taken. If so, the first fault is punished more severely than the second, which seems unlikely.

37. These villages are inhabited by a race called Harnees, and one or two by communities of men called Rajpoots. They are the proprietors of mouzahs paying revenue to Government, and as far as I know, bear a terrible character. Many of them are in the service of the Raja of Kupoorthulla, and hold high rank on his establishment.

38. Admitting, however, that the race generally is predatory, I think so indiscriminate and severe a system as that enforced by Mr. Brereton and Moosaheb Khan is quite indefensible; a people might be driven into rebellion by measures like these. Harnees, like other men, have legitimate calls upon their time which oblige them to leave their homes; to interdict them, and to deprive them entirely of their liberty is a measure far exceeding the exigencies of the case. Besides, to place a single burkundaz in that position, with leave to compel the attendance of every soul four times within 24 hours, is to give him a license to bully, extort, and plunder at his discretion.

39. Mr. Brereton is actuated by undoubted zeal; he pursues a system which he thinks will suppress crime, and be formidable only to the worst of mankind. But his judgment is entirely defective. In order to punish and prevent crime, he creates a hundred evils, which in my opinion cause more mischief than the offences he would put down. In his pursuit after the dacoits of the Koop robbery he has seized numerous persons quite innocent of the crime. He has allowed men like Futteh Jung to roam over the Protected States without control; he has alarmed the respectable section of the people by the injudicious and causeless searches he has instituted for stolen property; and lastly, he has been entirely deceived in the character of his agents, who have robbed, and tortured, and bullied guiltless men in his name.

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40. Another phase in Mr. Brereton's system is, his dependence upon spies. To hear Mr. Brereton himself speak on the subject, one is impressed with a belief that he is fully aware of the abuses and evils to which a reliance on such sources will lead. Yet he has three informers constantly about him. I may say they are domesticated in his house; they live in his compound, and act occasionally as private servants. Their names are Mootsuddie, Shurfoo, and Jowahir. Mootsuddie has seized several persons, and many unjustly; he has received rewards, and all three draw fixed salaries from Government. They are souars, and I believe, coiners of false coin; they should be remanded to the Thuggie department, and removed from this district without loss of time. I have heard numerous complaints against these men, and especially against Mootsuddie.

41. I have now finished my report; I have entered into full details, because I think the accusations were serious, and the mischief which has already occurred is deplorable; I have endeavoured to give a complete account, omitting nothing, and I believe exaggerating nothing. The duty has been unpleasant, but I have not shrunk from examining and reporting every objectionable feature of the administration which came to my notice. I have regarded this report as a confidential one, and I have told Mr. Brereton that, if necessary, the Chief Commissioner will call upon him for an explanation.

42. I forgot to mention in the body of the letter, that no less than 80 men have been apprehended since the commencement of the year on the charge of "budmashee." Of these, 30 have given in their sureties, and have been allowed to return to their houses, but 50 men still remain in gaol on this charge; I am engaged in looking over the records of their cases. In many instances I have found that the accused have been thrown into gaol on the bare report of the thannahdar. There is no proof whatever against them, and yet they have been imprisoned in default of heavy security, far beyond their means, for one year. They are all in irons, although the law as construed by the Sudr Nizamut expressly forbids this aggravation of their punishment.

43. In the neighbouring zillah of Ferozpoor, with the same aggregate of prisoners, and within the same time, viz., 1st January to 31st October, with much the same population and the same amount of crime, the district officer has arrested only five men; and yet in Loodianah 80 men have been seized.

44. This fact alone indicates the indiscriminate severity with which Mr. Brereton employs the means at his disposal for the criminal administration of his district.

I have, &c.

(signed) *G. C. Barnes,*
Commissioner and Superintendent,
Cis-Sutlej States.

Moosabel Khan, Futteh Jung, and Ahmed Yar, have been removed by me from employ; pending the orders of superior authority, I have directed them to attend my camp.

(signed) *G. C. Barnes,*
Commissioner.

MINUTE by the Most Noble the Governor-General.

Case of
Mr. Brereton,
Deputy Commis-
sioner.

1 I HAVE read the whole of these voluminous papers, with the attention which is specially called for when the official character and prospects of a public officer, as well as the interests of a considerable portion of the public, are involved.

2. The facts are very fully and correctly stated in the Secretary's note. They need not be again recited in this minute.

3. The Chief Commissioner thus states the nature of the misconduct with which Mr. Brereton has been charged. The Report of the Commissioner, he says, has shown "that certain native employés, not holding regular offices, had been

been commissioned, without written orders or directions, or formal responsibility, or any check whatever, to prefer charges, to procure evidence, to make arrests, to search houses, to seize property, to retain persons for long periods in close custody; in short, to hold a separate criminal court, and to exercise magisterial power, while ranging through both the Loodhianah district, and the neighbouring native states; it showed that these men abused their irregular trust in each and all of the proceedings above enumerated, and that in many cases they inflicted cruel torture; it showed that in matters under the immediate cognizance or direction of the Deputy Commissioner himself, that houses of wealthy citizens had been causelessly searched; that property seized on such occasions, though neither claimed nor identified, was detained for lengthened periods; that many parties were thrown into prison, and lay there for weeks, without charges being exhibited against them, and without their defence being taken; and that the laws relating to security for bad character had been applied with sweeping and indiscriminating severity; lastly, it showed that the Deputy Commissioner had been followed about from district to district by certain police officers and informers, whom he employed wherever he went, and that these men had been the main authors of the recent mischief."

4. The Chief Commissioner and all the local authorities consider that these charges have been completely proved. Mr. Brereton himself does not dispute the accuracy of the main facts which have been alleged against him. But he has made a very full statement and explanation in defence of his conduct.

5. I am bound to say that his statement, while it affords a full explanation of his conduct, has neither justified nor extenuated it in my eyes.

6. The Chief Commissioner submits, that "when great faults are clearly brought home to an officer, some example is called for to vindicate the administration before the people, and to preserve it pure from the like scandal hereafter."

• Para. 6.

I think these views are well founded; and I am compelled to pronounce, with pain, that I think a severe example ought to be made in the case of Mr. Brereton.

7. The Chief Commissioner has suggested no specific measure; but he casually hints that he wishes that Mr. Brereton should no longer be employed in the Punjab.

I cannot accede to this wish. The faults and irregularities of Mr. Brereton have no peculiar heinousness in the Punjab. They would be open to the same degree of objection if committed anywhere else in the Indian territories. If Mr. Brereton is unfit to be employed in the Punjab, he is equally unfit to be employed in the North-West Provinces. I should object to his being sent back to those provinces. I do not consider it fit that the rest of the Presidency of Bengal should be used as a preserve whence very many of the best men have been drafted to the Punjab, and that it should be made use of also as a penal district, to which every offending officer in the Punjab should be immediately transferred.

8. It is necessary, therefore, to consider what measure should be adopted in this case.

On the one hand, Mr. Brereton's superiors testify that he is an active and zealous magistrate; that his services in the Thuggee department in the Punjab have been valuable, and that his motives have been good.

On the other hand we have irrefragable proof,—proof, indeed, undisputed by Mr. Brereton himself,—that that officer has been guilty of each item in the heavy catalogue of irregularities and illegalities with which the Chief Commissioner has charged him, and which have brought disgrace on one portion of the British administration, and have subjected a large number of British subjects to gross injustice, to arbitrary imprisonment, and cruel torture.

9. I am most ready to set off Mr. Brereton's services against his faults. But I feel that reprimand and warning would be all too light for such grave faults as have been proved against him, even if we were not told by the Chief Commissioner that warning had already been tried in vain.

Para. 15.

10. I am of opinion that the Government of India, consistently with a due regard to its own character, and to the protection which it owes to those who are

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placed under its charge, cannot consent to leave in Mr. Brereton's hands the power which he has so grievously abused. I am of opinion that Mr. Brereton cannot, for the present, be fitly entrusted with the authority of a Deputy Commissioner; that he ought to be removed from that grade to the grade of a first-class Assistant; and that he ought not to be restored to the grade of a Deputy Commissioner, or to any corresponding authority, until his conduct shall have satisfied his superiors that he better appreciates the responsibilities of a British officer in this country, and can better use the civil powers with which he has heretofore been entrusted.

I think Mr. Brereton should in no case be employed again in the district of Loodiana.

I think that, as the result of the inquiry regarding him has been unfavourable, he should have no higher allowances during his suspension than any other officer suspended from office.

I think, too, that Mr. Brereton should be warned that any future complaints of similar misconduct on his part, if they shall be proved against him, will subject him to entire suspension, and to a submission of his case to the Honourable Court of Directors.

11. Compensation may with propriety be given by the Government to those who were subjected to torture. I do not think it can be extended further.

12. The man, Futteh Jung Khan, should be sentenced to the severest punishment which the law will warrant in his case.

13. I wish that these views of mine should be transmitted for the consideration of the President in Council, by whom the case will, no doubt, be finally disposed of.

(signed) *Dalhousie.*

2 April 1855.

Judicial Department, 13 May (No. 22) 1856.

Our Governor-General of India in Council.

Mr. Henry
Brereton's removal
from the office of
Deputy Commis-
sioner of Loodiana.

PARA. 1. IN your letter in the Foreign Department, dated 22d December (No. 67) 1855, paras. 45 to 59, you have explained the circumstances under which Mr. Henry Brereton has been removed from the situation of Deputy Commissioner of the Loodiana district of the Cis-Sutlej States.

2. This painful case was fully reported by the Chief Commissioner, and still more so by Mr. Barnes, the local Commissioner, and their reports were accompanied by the defence which Mr. Brereton had submitted. The whole papers were referred by you to the Governor-general at Ootacamund, and the minute recorded by his Lordship was embodied in your decision communicated to the Chief Commissioner.

3. The following is extracted from Lord Dalhousie's Minute: "The Chief Commissioner thus states the nature of the misconduct with which Mr. Brereton has been charged. The report of the Commissioner, he says, has shown, 'that certain native employés, not holding regular offices, had been commissioned, without written orders or direction, or formal responsibility, or any check whatever, to prefer charges, to procure evidence, to make arrests, to search houses, to seize property, to retain persons for long periods in close custody; in short to hold a separate criminal court, and to exercise magisterial power, while ranging through both the Loodiana district and the neighbouring native states. It showed that these men abused their irregular trust in each and all of the proceedings above enumerated, and that in many cases they inflicted cruel torture; it showed, that in matters under the immediate cognizance or direction of the Deputy Commissioner himself, that houses of wealthy citizens had been causelessly searched, that property seized on such occasions, though neither claimed nor identified, was detained for lengthened periods; that many parties were thrown into prison, and lay there for weeks, without charges being exhibited against them, and without their defence being taken; and that the laws

laws relating to security for bad character had been applied with sweeping and indiscriminating severity; lastly, it showed that the Deputy Commissioner had been followed about from district to district by certain police officers and informers, whom he employed, wherever he went, and that these men had been the main authors of the recent mischief.'

"The Chief Commissioner and all the local authorities consider that these charges have been completely proved. Mr. Brereton himself does not dispute the accuracy of the main facts which have been alleged against him. But he has made a very full statement and explanation in defence of his conduct.

"I am bound to say that his statement, while it affords a full explanation of his conduct, has neither justified nor extenuated it in my eyes."

4. We entirely coincide in that opinion, and we approve of the decision adopted by you on the recommendation of the Governor-general. Mr. Brereton has accordingly been removed from the situation of Deputy Commissioner to that of an Assistant, and is not to be promoted until his superiors are satisfied of his being fit to be entrusted with higher authority.

5. We have hesitated whether official misconduct so glaring, and the cause of so much injury and suffering, ought to be visited with a punishment less severe than dismissal from the public service.

6. Mr. Brereton's superiors acquit him of any knowledge of the cruelties which were inflicted by the worthless agents whom he employed. We observe his assurance, "So utterly was I in ignorance of the truth, that, even to the last, I could not realize the fact that any atrocities had been committed. When the veil was once lifted from my eyes, I perceived at once the whole occurrence, and need hardly observe the distress of mind and horror which I have suffered at the bare thought of being, however unconsciously, the cause of misery to others." And again, "Cruelty and abuse of power are utterly abhorrent to my nature and principles as a Christian gentleman, and the severest pang of all is, the thought that, by any error of judgment, injustice and misery have been brought on others. Your own heart will confirm this, and bear me witness that my motives have throughout been those of zealous duty. The deep contrition that I feel for errors and irregularities and their consequences is almost a sufficient guarantee that, if my life is spared, such mistakes shall not occur again."

7. However much, therefore, Mr. Brereton is to be condemned for acts in excess and in abuse of legal authority, both on his own part and on that of the unprincipled agents in whom he placed a blind and unlimited confidence, we are nevertheless persuaded that he fully participates in the abhorrence with which acts of wilful cruelty and oppression are regarded by the European officers of Government in India. Under this impression, we are induced to refrain from carrying the punishment of Mr. Brereton's misconduct further than you have done. We desire, however, that you will inform Mr. Brereton that any similar misconduct will result in his immediate dismissal from the public service.

8. We are under the necessity of drawing attention to a point of importance which has escaped your notice. A note, appended by Mr. Barnes, the Commissioner, to the 22d paragraph of Mr. Brereton's defence, is thus expressed; "These two men,* who were so severely maltreated by Futteh Jung as to render medical aid necessary for their recovery, were sent not to the gaol hospital, but to a secluded room in a corner of the gaol. They were under treatment from the 6th May till the 4th and 16th July, two months. They were sent without orders, admitted and released not only without orders, but without the knowledge of Mr. Brereton, as stated by himself." These facts are certified by Mr. Piethall, the civil surgeon, and Mr. Barnes saw the two men, with large scars, the effect of recent wounds. Yet Mr. Brereton asserts that, though these men were attended by the civil surgeon and the native doctor, he had never heard a word on the subject. We presume that the medical officer must have inquired of his patients by what means their wounds were incurred, and must have been able to judge whether they had been inflicted by means of torture. If he arrived at that conclusion, we are wholly unable to acquit him of a most culpable failure in his duty, for not having instantly brought the fact to the Deputy Commis-

* By name Ram Ditta and Dittoo.

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sioner's notice, We desire that there may be a formal inquiry into the conduct of both the native doctor and the civil surgeon, and likewise of those persons who were responsible for the prisoners being placed in a private room instead of the ordinary gaol hospital.

9. We shall expect to hear from you what punishment was inflicted upon Futteh Jung.

We are, &c.
(signed) *W. H. Sykes,*
R. D. Mangles,
&c. &c.

London, 13 May 1856.

(No. 3 of 1857).

Fort William, Foreign Department, 8 January 1857.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

WITH reference to your Honourable Court's despatch in the Judicial Department, dated 13th May, No. 22 of 1856, respecting Mr. Brereton's removal from the office of Deputy Commissioner of the Loodiana district of the Cis-Sutlej states, we have the honour to transmit copies of the correspondence with the Chief Commissioner of the Punjab, noted on the margin,* and to submit our opinion that the explanations furnished are sufficient, and that nothing more need be done in the matter.

We have, &c.
(signed) *Canning.*
J. Dorin.
J. Low.
J. P. Grant.
B. Peacock.

Fort William, 8 January 1857.

No. 463.

(No. 633.)

LETTER from *R. Temple*, Esq., Secretary to the Chief Commissioner for the Punjab, to *G. F. Edmonstone*, Esq., Secretary to the Government of India, Foreign Department, Fort William.

Sir,

Judicial.

IN reference to the concluding portion of the despatch of the Honourable Court of Directors, regarding the case of Mr. H. Brereton at Loodianah, I am directed to forward extract para. 1 of a letter, No. 66 of the 20th April 1855, from the Commissioner Cis-Sutlej States to the address of the Judicial Commissioner, from which it will be observed that Futteh Jung has been sentenced to imprisonment for eight years, with labour and in irons. One of the subordinate agents of Futteh Jung, viz., Allah Buksh, eluded arrest, and has not been yet seized; against another, named Ahmud Yar, no direct participation in torture or extortion was proved; and Kinamut Allee and Moosahib Khan have been declared ineligible for further service.

2. The inquiry directed in the 8th paragraph of the Honourable Court's despatch has been directed to be made by the Cis-Sutlej Commissioner, and the result thereof will be communicated to you hereafter.

I have, &c.
(signed) *R. Temple,*
Secretary to the Chief Commissioner.

Lahore, 4 September 1856.

* To Chief Commissioner, dated 1 August 1856; from Chief Commissioner, dated 4 September 1856; from Chief Commissioner, dated 17 November 1856.

Punjab.

No. 4767.

(No. 300.)

LETTER from *G. Campbell, Esq.*, Officiating Commissioner and Superintendent, Cis-Sutlej States, to *Captain H. R. James*, Officiating Secretary to the Chief Commissioner for the Punjab.

Sir,

Camp Umballa, 8 November 1856.

Judicial.

WITH reference to your letter No. 462, of 4th September, and enclosed copy of orders of the Court of Directors, directing inquiry in a case which occurred at Loodiana in the time of Mr. H. Brereton, late Deputy Commissioner, I have the honour to annex a copy of a report of inquiry made by the officiating Deputy Commissioner under my instructions, and to state, that as Mr. Thompson seems to have well and sufficiently inquired into the matter as far as is now possible, I do not delay to report the result.

2. The pith of the civil surgeon's explanation lies on the simple fact that he had been barely two months in India, and did not understand the language; and as I believe that no linguistic qualifications are required of medical officers on their first appointment, I think that Dr. Piethall may well be exonerated from blame. It will be observed, that he says that he saw and attempted to question the men, but did not discover the cause of their wounds, and consequently did not communicate it to the Deputy Commissioner.

3. The explanations of the gaol darogha and native doctor are much less satisfactory. They admit that they knew the men to be irregularly confined, and the native doctor attended them; and though they deny all knowledge of the cause of the wounds, it is very difficult to believe they were altogether free from any knowledge or suspicion of the truth. Considering, however, the subordinate position of these officials, the time that has elapsed, and the peculiar circumstances of the case, the men having been confined by the direction of a person supposed to enjoy the confidence of the district officer, I do not think that it would be desirable at this time to visit upon them the punishment of concealment of this case, though they may, with advantage, be warned of the personal responsibility which will be attached to them if they in future fail in their strict duty. The case of the gaol darogha may be separately dealt with as regards his general inefficiency. The native doctor is an old, and, in most respects, a very efficient servant, whose general services we could exceedingly ill spare.

I have, &c.

(signed) *G. Campbell,*Off^r Comm^r and Superintendent, Cis-Sutlej States.

EXTRACT Judicial Letter to India.

66. In our despatch, dated 13th May (No. 22) 1856, we directed "a formal inquiry into the conduct of both the native doctor and the civil surgeon, and likewise of those persons who were responsible for the prisoners being placed in a private room, instead of the ordinary gaol hospital." We further inquired what punishment had been inflicted upon Futteh Jung, the person chiefly implicated in the case of torture, brought to our notice in the papers to which our above-mentioned despatch was a reply.

Foreign letter, dated 8th January (No. 3) 1857. (1.) Reply to Court's despatch, dated 13th May (No. 22) 1856, respecting Mr. H. Brereton's removal from the office of Deputy Commissioner of the Loodianah District of the Cis-Sutlej States. The explanations furnished considered sufficient.

67. We are now informed that the civil surgeon, who had recently arrived in the country, and did not know the language, was unable to converse with the men who had been tortured, and that the native doctor and gaol darogha could not ascertain from them the cause of their wounds. The Chief Commissioner of the Punjab "is of opinion that these two officers only acted as almost all others would have done in their position, and he would certainly deprecate their being now punished;" and you add the expression of your own opinion, that the explanations furnished are sufficient, and that nothing more need be done in the matter.

Punjab.

68. Under the explanations now submitted, it appears that the faults and failures to which we previously adverted are to be attributed less to individuals than to a system which admits of the appointment to the charge of a gaol hospital of a medical man who is unable to converse with his patients. We desired that this subject may receive your attention.

69. We are glad to find that the delinquent Futteh Jung has been sentenced to eight years' imprisonment, with labour in irons.

70. We conclude that the case of the gaol deroqah, who is reported as generally unfit for the post he holds, has been separately disposed of.

Fort St. George.

FORT ST. GEORGE.

— No. 1. —

CORRESPONDENCE RELATIVE TO THE AMENDMENT OF THE LAW REGARDING ABUSE OF AUTHORITY BY PUBLIC SERVANTS.

EXTRACT Public Letter from Fort St. George, dated 29 December (No. 43) 1855.

7. A COPY of this despatch has been furnished to each of the late Commissioners appointed for investigating the alleged resort to torture in revenue and police cases.*

In Jud. Cons.
14 November 1855.

8. With reference to paras. 9 and 10, we transmit copy of the letter from the Advocate-general, dated the 21st September 1855, and beg to inform your Honourable Court that, under the considerations submitted by that officer and by the Government pleader, we have acquiesced in their suggestion that the preparation of a draft Act of the tenor referred to, should for the present be suspended. We may add, that the state of the existing law for punishing malversation on the part of revenue servants is one of the subjects that are now occupying the attention of Mr. H. Stokes.

9. In advertence to paras. 11, 12, and 13, your Honourable Court will have been informed, by our despatch in the Revenue Department, dated 25th September, No. 42, of 1855, and by the despatch in the Judicial Department, 20th October, No. 32, of 1855, that applications have been made, under dates 13th and 14th August 1855, to the supreme Government in respect to the large employment in the Madras Presidency of uncovenanted agency, and the improvement of the Police Department.

10. We beg to refer your Honourable Court on the subject of p. 14 to the instructions† issued by us for the reduction of excessive assessment throughout the Presidency generally; as also to the special measures which have been and are being carried out in the districts of North and South Arcot, the dry lands of Trichinopoly, and the well lands of Coimbatore.

11. A copy of para. 15 had been furnished to the Court of Foujdaree Udalt; and to the Government pleader; and they have been requested to give their opinion upon the change in the law suggested by your Honourable Court.

12. The Court of Foujdarry Udalt have been furnished with a copy of para. 16, for communication to all judicial officers and magistrates, who are to be required to report to them, for the purpose of being submitted to us, all cases from time to time occurring of the nature alluded to by your Honourable Court.

* Letter dated 12th September, No. 44, of 1855; Court's observations in the Report of the Commissioners appointed to investigate alleged cases of torture in revenue and police cases.

† Extracts Mins. Cons., 10th July 1854; Extracts Mins. Cons., 23d April 1855 (vide printed selections forwarded with letter to the Secretary, East India House, 26th July 1855); Extracts Mins. Cons., 26th June and 8th August 1854, reported in Revenue Despatch, 17th October, No. 55, of 1854; Extracts Mins. Cons., 6th October 1854, reported in Revenue Despatch, 23d March, No. 14, of 1855, p. 13; Extracts Mins. Cons., 9th November 1855.

Judicial Department, 10 September (No. 14) 1856.

Our Governor in Council at Fort St. George.

1. We proceed to reply to the paragraphs noted in the margin.*

2. In para. 8 you inform us that, under the considerations submitted by the Advocate-general and by the Government pleader, you have acquiesced in their suggestion that the preparation of a draft Act for the amendment of the law regarding the abuse of authority by public servants should for the present be suspended.

Reply to Public Letter, 29th Dec. (No. 43) 1855, paras. 7 to 12.

Amendment of the law regarding abuse of authority by public servants.

3. The considerations urged by the Advocate-general are twofold; 1st, as they relate to the agency by which any new legislative measure must be worked; and, 2dly, to the subject-matter of such measure.

4. Under the first head the Advocate-general observes, that the Mofussil police are "both revenue and criminal police," and that, in order to inspire confidence among the people, it is necessary that any Act on the subject that might be passed by the legislature should be worked, and especially first set in motion, by persons other than members of the very class whom it would be the design of the Act to restrain and punish. He thinks that to compel complainants against native revenue officers to lay their complaints before a "revenue magistrate," is not the course most likely to inspire confidence, and he shows that, for the reasons stated in the fourth paragraph of his letter of the 21st September, 1855, it would be impracticable to commit the working of the Act to the courts of the subordinate Judges and principal Sudder Ameen.

5. Under the second head, the Advocate-general states that the draft Act prepared by him, except as to more fulness of detail, greater severity of punishment, and provision for false and malicious accusations, is very little in advance of Regulation III. of 1819, which is a regulation to provide more effectually for the punishment of extortion, oppression, or other abuse of authority, on the part of native officers of police, and he suggests whether the subject of the proposed Act is not peculiarly one that should be embodied in the forthcoming new penal code.

6. We cannot concur with you that, for the reasons stated by the Advocate-general, the preparation of a draft Act of the tenor referred to should be suspended.

7. We are aware that great changes are required in the entire system of revenue and police administration in your Presidency; but we are not prepared to concede the position that nothing is to be done in the way of legislation to put a stop to the abuses and cruelties which have been brought to light until measures which must necessarily take a considerable time to organize and arrange, shall be carried into effect.

8. To admit to its full extent the cogency of the considerations urged by the Advocate-general, in their bearing upon the existing agency employed in the administration of criminal justice in the Madras Presidency, is to admit that to whatever length the abuse of authority by public servants may be carried, redress is all but hopeless, and prevention all but impossible. We fully recognize the extreme difficulty of working with efficiency any new law of the nature adverted to by means of the members of the body whom it is intended to restrain and punish, and we think, with the Advocate-general, that it would be inconsistent with the constitution and procedure of the courts of the subordinate Judges and principal Sudder Ameen to commit to them the investigation of the cases contemplated by the proposed law. But we fear that the people entertain the opinion that the Government is not thoroughly in earnest in its determination to put a stop to the abuse of authority by its native servants. We believe, however, that

* Public letter, 29th December (No. 43) 1855 (para. 7 to 12); correspondence relative to the amendment of the law regarding abuse of authority by public servants.

Fort St. George.

that where the character of the magistrate and collector is such as it ought to be, those who have been subjected to maltreatment will feel confidence of redress and protection, from their intimate knowledge that the officer to whom they complain is thoroughly conversant with all their relations to the native officers by whom they have been injured. We believe also that the people, if assured of being able to obtain a hearing from the European officer, and of his protection against the vengeance of the party complained of, will act upon their convictions. "All that the people at large seem to desire," say the Commissioners for the investigation of alleged cases of torture, "is, that the Europeans in their respective districts should themselves take up and investigate complaints brought before them: the distances which the natives will often travel at great personal loss and inconvenience to make complaints, even of a very petty nature, to the collector or sub-collector, is of itself a proof of the confidence which they place generally in those officers." The submission of the natives to the maltreatment to which they have been subjected, is to be accounted for by other causes besides want of confidence in the European magistrate, because he is also the collector; or in the collector, because he is also the magistrate. If the measures adopted be such as to afford them encouragement and protection in making known their grievances, the suppression of those grievances will to some extent have been effected; but for this end, legislative measures alone will not be sufficient. The English authorities must meet the complaints of the people half way, must be accessible at all times to such complaints, and must be jealously on their guard against any combination among their native officers to make common cause in extortion, or to shield those who have been guilty of acts of oppression or cruelty.

9. If, as we have a right to expect, such a course be steadily pursued, the fact of the magistrate being also the collector of the district need not stand in the way of immediate legislation upon this important subject.

10. With regard to the suggestion of the Advocate-general, that the subject of the proposed Act is peculiarly one that should be embodied in the forthcoming new penal code, we have to observe, that the penal code is in the hands of the Legislative Council of India, not in those of the Indian Law Commissioners. We think it probable that some of its provisions will meet cases of abuse of authority by public servants; but on this point it will be expedient that you put yourselves in communication with the Legislative Council.

11. We do not think, however, that the insertion of a clause in the penal code, defining the offence, and prescribing the penalty, is sufficient to meet the exigency of the case. It is not enough that the law on this point merely forms part of a general code; the evil is special and peculiar, the remedy must be the same, and the measures to be adopted must be pointed directly at the abuses which they are intended to repress.

12. A Commission was appointed to investigate the alleged use of torture in your Presidency; an Act was passed specially to facilitate its inquiries; its report shows the existence of such torture to an extent of which we were not aware, and which we deeply lament, and it is essential, in order to impress our native subjects with the conviction of our determination to put a stop to the abuses committed by our native officers, to take immediate and earnest steps for the repression of such practices. It is true that the court of the magistrate is now open to receive complaints, and that a Regulation (III. of 1819) is part of the statute law of your Presidency. The terms, however, employed in that Regulation, in describing the offences made punishable by it, do not convey the idea of such aggravated offences as those mentioned in the report of the Commission; its provisions are limited to offences committed by native officers of police; the small amount of punishment which it prescribes has no doubt led to the infliction of sentences often very inadequate to the offence, and the powers of summary trial and punishment conferred by it on the magistrate are much too restricted, and have been too often neglected.

13. On these grounds, therefore, as well as on those above specified, we are of opinion that there is a call for immediate legislation in the direction we have indicated; that in any Act that may be passed no attempt should be made to mitigate the character of the offence to be punished, or to qualify the terms in which

which it is described, and that the magistrate's powers of punishment should be so extended as to admit of his dealing summarily and effectually with all cases, except those which, from circumstances of aggravation, call for the intervention of a superior court. We believe that a new Act, although in reality not perhaps differing much from an old one, is yet likely to be carried out with much greater accuracy and effect. We cannot help repeating that this question has not till lately received from the authorities the consideration which it deserved, and we now insist upon their most earnest attention to the suppression of this crime, by the most effective means of punishment, until we can sufficiently consider a plan for an improvement of the administration which may effectually prevent its commission.

14. We therefore desire that you will again take the subject into your immediate consideration, with reference to the foregoing observations. We do not by any means intend to confine your exertions for the attainment of the object in view to such an Act as that now proposed; but, without diverting your mind from the question of separation of Police and Revenue, we intend you to show your determination to eradicate the evil, and to convince all persons in employment under you that such is your determination.

15. The remaining paragraphs do not appear to call for any remark at present.

We are, &c.

(signed) *W. H. Sykes,*
R. D. Mangles,
&c. &c.

London, 10 September 1856.

(No. 27.—Public Department.)

To the Honourable the Court of Directors of the East India Company,

Honourable Sirs,

WITH reference to the papers noted in the margin,* we do ourselves the honour to forward to your Honourable Court the accompanying copies of Minutes† that have been recorded by our President and by the Honourable Mr. Walter Elliot, respectively.

2. With reference to the concluding para. of our President's Minute, we have further to state, for the information of your Honourable Court, that we have directed our solicitor, in the absence of our Advocate-general, to prepare, for submission to the Legislative Council of India, the draft of an Act for the punishment of abuse of authority on the part of public servants in the police or revenue departments.

We have, &c.

(signed) *Harris,*
Walter Elliot.

Fort St. George, 11 September 1856.

MINUTE by the Right Honourable the Governor.

I BEG to call the attention of Government to the following extract from the report of his speech on the Indian Budget, delivered in the House of Commons, by Mr. Vernon Smith, on the 21st of July last.

It has reference to the subject of torture. "His (Lord Harris's) opinion was, that

* Despatch, Public Department, No. 44, of 1855, 12th September, p. 9; to Honourable Court of Directors, 29th December 1855, p. 8; Despatch to Supreme Government, Legislative Department, No. 12, of 1855, 21st November.

† 4th and 7th September 1856; E. M. Cons., 9th September 1856, No. 1085; to the Secretary to the Government of India, 9th September 1856, No. 1086; from the magistrate of Malabar, 17th July 1855, No. 540; order thereon, 1st August 1855, No. 546; from the magistrate of Bellary, 21st August 1856, No. 1236.

Fort St. George.

that it to a great extent resulted from the high rate of assessments, and that a re-adjustment of assessment would get rid of it. That, however, must be a slow operation; but in the meantime Lord H. had set a careful watch upon this system, and was prepared to punish with the severest penalties (for there had undoubtedly been a want of severity in the penalties hitherto inflicted), and with dismissal from the service, of any person who was convicted of the infliction of torture."

"The Court of Directors, among other instructions, sent out an order that an Act should be passed for the enforcement of severe penalties for this offence. The law advisers thought that such an Act would be useless, and that the only way to suppress this evil was to separate the revenue from the police system. * * *

"He (Mr. Vernon Smith) could not help thinking that Lord Harris had not done right in omitting to pass the Act to which he had referred. * * * He could not help thinking that when Lord H. considered the matter, he would see that if no new Act were passed, the opinion would prevail, that as hitherto no notice had been taken of this system, so no attention was intended to be paid to it in future."

I assume that this report of Mr. Vernon Smith's speech is generally correct; at all events it is evident that it has gone forth to the world that the Court of Directors sent out an order that an Act should be passed for the enforcement of severe penalties for this offence, and that this Government has failed to fulfil those instructions.

I need hardly point out that this Government possesses no power to pass any Act whatever; but can only have one prepared to be sent up to the Legislative Council in Calcutta.

But I have to remark, that no instructions have been received from the Honourable Court to pass an Act of the description mentioned.

So far as I can discover, by reference to the public documents, what has occurred with respect to this subject is as follows:

1. The Commissioners for inquiring into the alleged use of torture in the Madras Presidency, sent in their report on the 16th of April 1855.

In para. 76 they say, "We could not but have our attention pointedly drawn to the state of the law under which such a condition of circumstances as that which the present investigation brings to light could continue to exist; and on this point it will be sufficient for us to state that it appears to us both circuitous in its procedure, and deficient in its provisions, for the prevention and punishment of personal violence illegally administered by an abuse of authority. We have collected the main provisions of the law on this subject, and we deem that we have sufficiently discharged our duty in drawing the attention of Government to its state as it stands, leaving such amendment or alteration, as may be thought expedient, to the better consideration of the Right honourable the Governor in Council."

2. This Government passed orders on this report on the 7th of June 1855, and the following paragraph, No. 21, shows their views on this subject:

"With regard to the remaining cause noticed by the Commissioners impeding the due suppression of Acts of extortion and oppression, viz., the vague and defective state of the law for the punishment of abuse of authority on the part of public servants entrusted with it, and its dilatory and circuitous action, the Right honourable the Governor in Council resolves to request the Advocate-general and the Government pleader to confer upon the subject, and to submit the draft of the Act which they would propose in amendment of the present law, to be applicable to all cases of abuse of authority committed by public servants, or parties assuming to act as such, and either in the police or in the revenue department."

3. On the 21st of September a letter was received by the Chief Secretary from the Advocate-general, in which he stated (to express his views shortly) that he and the Government pleader had in consultation found that grave difficulties existed as to the probability of drafting any Act which could be effective under present circumstances.

4. On the 14th of November the Government resolved, "That the Advocate-general and Government pleader should not for the present proceed further with the

the task of drafting a bill in amendment of the existing law regarding the abuse of authority of public servants."

5. On the 15th February 1856 this Government received a despatch from the Government of India, requesting "that, with reference to the 8th para. of the despatch from the Right honourable the Governor in Council to the Honourable Court, No. 43, dated 27th ultimo, the circumstances under which the preparation of the draft Act, to prevent abuse of authority committed by public servants, either in the Revenue or Police Department, has been suspended, may be reported for the information of the Government of India," and also inquiring whether "the Right honourable the Governor in Council proposes to resume the consideration of the subject at any early or definite period."

6. To this an answer was given, dated 8th March last, to the effect that looking to the difficulties represented by the Advocate-general and the Government pleader, this Government was induced to postpone legislation until the revision of the revenue code should be completed, and until they were apprised of the sentiments of the Government of India with respect to the measures referred to them under dates the 13th and 14th of August last (1855) for the reform of the police, and for the introduction of uncovenanted agency.

7. Nothing further has transpired on this subject. It is apparent, I think, then, from this statement of facts, that this Government received no instructions, to enact a law on this particular subject, but that the initiative was taken of its own free will, and that proceedings were stayed for a time solely with the expectation of being able at an early period to propose a thoroughly efficient law, instead of an incomplete one, which would give scarcely more power to Government than is at present possessed.

I should remark, that the Honourable Court, in their despatch of the 12th September 1855, on the subject of the Torture Commission, approved of the course which this Government had been reported to have adopted, viz., to have called on the Advocate-general for a draft Act; but this approval was not supposed, and does not in its terms in any way bar the discretionary judgment of this Government.

I do not wish to lay any great stress on the fact of not having received instructions; but still I think that it is only right and fair to this Government (for though I alone am individually alluded to in the report of Mr. Vernon Smith's speech, yet it is the action of this Government which is in question), that the circumstances should thus fully be narrated, because there is a wide difference between the position of a Government acting unreservedly on its own judgment, and that of its being limited by instructions from superior authority.

Under the circumstances in which this Government was placed in November last, when it decided on postponing the consideration of the proposed Act, I thought, and I am still of opinion, that it came to a sound judgment:

1st. Because it appears to me that additional legislation is inexpedient where power already exists when such legislation cannot be fully effective, and more especially when there are good grounds for supposing that a law more complete in all its bearings may in a short time be enacted.

Mr. Vernon Smith appears to think that the Regulations of 1816 and 1819 are in abeyance, and concludes that it would be more advisable to pass a new Act than to revive the old ones: he is reported to have said—

"It was true that by Regulations adopted so late as the years 1816 and 1819, very heavy penalties were imposed for acts of torture; but it was clear that these Regulations had never been enforced, and he thought that the passing of a new Act would have more effect than the renewal of the old ones."

There would appear to be some misconception respecting the Regulations in question, No. 11 of 1816, and No. 3 of 1819. They are not only not in abeyance, but in full operation, and constantly acted on. Indeed, it is only necessary to refer to Appendix (H.) of the Report of the Commissioners on the Torture Inquiry to show that this is the case.

A return is attached, showing the number of cases which have been tried under these Regulations, or in which, under other Acts, such as Act VIII. of 1843, the courts have entertained charges for abuse of authority, including the commission of torture for the years 1854, 1855, and the first seven months of 1856.

Fort St. George.

The existing system of police throughout the Madras Presidency was established by Regulation XI. of 1816, and it is in constant, it may be said in hourly operation.

2d. Because it was hoped that this Government would before this have been in a position to have drafted an efficient law on the subject. The revision of the revenue code is nearly complete, and favourable replies were anticipated, perhaps in too sanguine a mood, respecting the measures of police and the magistracy, which are alluded to in the letter to the Government of India of the 8th March last.

3d. Because it did appear to me most important, in a matter of such grave moment, that the action of Government should be simultaneous on all the points involved.

For, be it well remembered, that it was not only the prevention of a cruel practice which was under consideration, but the collection of the public revenue was concerned, and the tone and bearing of Government towards its native servants in a difficult crisis was involved.

It was right and proper, when the charges of the employment of torture were proclaimed, to institute a free and full investigation; I hold that it was the only safe course to pursue. But when the practices were exposed, and the remedies had to be sought, I hold that it was also the only safe course to go to the root of the disease, and to apply the proper remedies, if discovered, at once.

Now, what are the facts? The charges were brought home to the native officials in many instances; it was right they should be exposed, as a preventive not only to future malpractice, but also to that species of agitation which was endeavouring to charge the entire blame on the British Government, and the entire fault on British officers.

But how did these malpractices originate? and how was it they were permitted to continue?

With respect to the first question, it will hardly be contradicted, I imagine, that the practice of torture has existed in all countries in a barbarous or semi-civilised state of society, and, in accordance with this view, it has prevailed generally in India.

With respect to the second, the answer, I believe, is, that the facts of the case had hardly been fully realised; a heavy taxation had to be collected; the sale of lands was discouraged; the native officers were obliged to employ any pressure which would meet the difficulty; their combined duties of police and revenue induced habits which, looking at the circumstances of their position, were hardly to be avoided; and thus a system was in existence which undoubtedly called for reform.

But would the desired object be effected by heaping severe penalties on the officers of Government for their acts,—improper ones, no doubt, and unsanctioned, but still in some degree forced upon them in the performance of their duty? I certainly did think that it would not altogether become this Government to make its native officers, a numerous and influential body, containing some of the wealthiest and most respectable men in every province, the objects for increased censure, and the subjects of heavier penalties, without at the same time giving palpable evidence that they would be relieved from some of the difficulties with which their position was encumbered. I was of opinion that it would be more fitting the policy of a great Government, that a measure which should discourage every species of violence should be accompanied by the evidence of a publicly expressed disposition:

1st. To ameliorate the position of the tax-payers by a fresh survey and assessment. Mr. Vernon Smith is reported to have stated that the Government of India have approved of the measures proposed by this Government on the subject. I have heard privately that such is the case; but this Government has received no official communication to that effect.

2d. By diminishing the duties of the revenue officers by an increase of the magistrature, and a reorganization of the police.

Measures to effect this purpose have been proposed by this Government; but I fear, from the tenor of the Honourable Court's despatch, dated 23d of July 1856, Judicial Department, No. 12 of 1856, that they are indefinitely postponed.

3d. By

3d. By the concurrent passing of an Act for facilitating distraint both on the land and on personalty. An Act for this purpose, which has required time for full deliberation, is now in preparation. Fort St. George.

These were my views, and these would still be my views, were the circumstances the same.

But it appears to be concluded that definite instructions, to draft an Act have been received from the Honourable Court.

It appears also to be considered that the framing such an Act is the test of the earnestness of this Government in the abolition of torture.

I, therefore, think that there is now but one course to pursue, and that it is incumbent on this Government to direct a draft Act against the abuse of authority by public servants, to be framed by the Honourable Company's solicitor, and to be forwarded to the Legislative Member at Calcutta, in order that it may be passed into law.

(signed) Harris.

Government House, 4 September 1856.

(A.)

FORT ST. GEORGE.

STATEMENT of CHARGES against PUBLIC OFFICERS for TORTURE.

Officers, and the Regulations under which they acted.	PERIODS.	In extorting Confessions in Criminal Cases.								In realising Revenue.								REMARKS.		
		No. of Cases.	No. of Persons.	Persons Acquitted.	Persons Fined.	Imprisonment.				No. of Cases.	No. of Persons.	Persons Acquitted.	Persons Fined.	Imprisonment.						
						Not exceeding One Month.	Not exceeding Two Months.	Not exceeding Three Months.	Not exceeding Six Months.					Not exceeding One Month.	Not exceeding Three Months.	Not exceeding Six Months.	Not exceeding Twelve Months.		Not exceeding Fifteen Months.	
Sesoon Court	1856	1	2	2	-	-	-	-	-	2	5	-	-	-	-	-	-	-	-	No cases were tried before the Sesoon Court in 1854 and 1855.
Subordinate Courts, under Sect. 7, Reg. X. of 1816	1854	4	14	8	-	-	-	-	6	2	5	5	-	-	-	-	-	-	-	
	1855	10	21	15	-	-	-	-	5	5	5	2	-	-	-	-	-	-	-	
	up to July 1856	6	16	9	-	1	1	5	1	1	4	2	2	-	-	-	-	-	-	
Magistracy, under ditto, and Sect. 54, Act VII. of 1843	1854	7	14	5	-	1	1	5	2	-	-	-	-	-	-	-	-	-	-	
	1855	3	11	2	1	-	2	3	3	4	16	2	8	4	1	1	-	-	-	
	up to July 1856	5	21	5	-	-	-	8	8	1	2	-	2	-	-	-	-	-	-	
Ditto, under Sect. 32, Reg. IX. of 1816	1854	-	-	-	-	-	-	-	-	5	16	-	16	-	-	-	-	-	-	
	1855	2	5	3	2	-	-	-	-	6	10	1	9	-	-	-	-	-	-	
	up to June 1856	-	-	-	-	-	-	-	-	1	7	5	2	-	-	-	-	-	-	
Ditto, under Sect. 3, Regulation III. of 1819	1854	51	164	134	30	-	-	-	-	20	44	26	18	-	-	-	-	-	-	
	1855	48	203	191	12	-	-	-	-	46	119	103	16	-	-	-	-	-	-	
	up to June 1856	9	35	35	-	-	-	-	-	5	15	15	-	-	-	-	-	-	-	
TOTAL	- - -	146	506	409	45	1	4	22	25	98	248	161	73	4	1	5	2	2	-	

(signed) George, Register.

Although this return is headed "Torture," the laws under which the cases come are for abuse of authority by public servants. The punishments are light, not in consequence of the defect of the law, but from the difficulty of finding sufficient proof in the severe cases when they do occur.

It should be observed, that the extent of punishment which it is competent to the magistrate to inflict in such cases, is imprisonment for six months, with a fine of 200 rupees, commutable, if not paid, to a further period of imprisonment for six months.

This is the law.—Vide Sec. 54, Act VII. 1843, and Sec. 7, Reg. X. 1816.

Fort St. George.

MINUTE by the Honourable *Walter Elliot*, Esq.; dated 8 September 1856.

I HAVE read the Minute of the Right Honourable the President. It gives a clear and complete statement of all the proceedings of this Government in the matter of the report of the Torture Commission. I have only to express my entire concurrence in the views it contains.

I have no objection to the course proposed by his Lordship. But I must own that I do not expect any great advantage from the project of the law, for which application is to be made to the Legislative Council.

Of the complaints of abuse of authority and illegal violence received by the Torture Commission and referred to the local magistrates, and of those which have subsequently been brought to notice in the mofussil, amounting by the last return to about 90 cases, there has not been a single instance for the due disposal of which the existing law has been found insufficient. It is true a large proportion of the charges have been discovered to be groundless, but the number brought home by trustworthy evidence sufficed to test the efficiency of the existing law. I anticipate much greater advantage from the reform of the revenue laws, which has lately occupied so much of our attention. When the process of distraint and recovery has been simplified and rendered applicable to all cases of default, there will be less room for proceeding to illegal practices for collecting the public dues.

7 September 1856.

(signed) *Walter Elliot*.

(No. 1085.)

RESOLVED, That copies of the above Minutes be forwarded to the Honourable the Court of Directors and to the Government of India, by the next steamers.

2. Resolved also, That the Honourable Company's acting solicitor be requested to prepare for submission to the Legislative Council of India the draft of an Act for the punishment of abuse of authority on the part of public servants in the Police and Revenue departments. Mr. Boyson's attention will be given to the papers noted in the margin.* It is observed that a draft to the above effect was prepared by the Advocate-general, but not submitted to Government, for the reasons stated in his letter of 21st September last. If it be still on the records of his office, it might probably be referred to with advantage.

(No. 82.)

LETTER FROM *R. D. Parker*, Esq., Magistrate of Madura, to *T. Pycroft*, Esq., Chief Secretary to Government, Judicial Department, Fort St. George.

Sir,

UNDER the idea that some modifications of the law are under consideration, I have the honour to request that you will lay before the Right honourable the Governor in Council the enclosed statement of charges of abuse of authority by police officers, disposed of by the magistracy of Madura during the year 1854 and the first half of 1855.

2. The number dismissed will be seen to have been immense; and I have no doubt that a considerable proportion of them, besides those entered as false, were made without any foundation. This appears to me an evil of great magnitude. Not only are the persons accused put to much inconvenience, but the witnesses, composing a far greater number, are taken away from their homes and occupations without any advantage to compensate for the sacrifice; and their detention and

* Report of Commissioners for the Investigation of Alleged Cases of Torture in the Madras Presidency, 16 April 1855, p. 76; from Magistrate of Madura, 17 July 1855; from Magistrate of Bellary, 21 August 1856.

and length of journey are longer than in ordinary cases, because all charges against police officers are required to be examined by the European magistracy. It is certain that abuses of authority not unfrequently occur, which it is most desirable to investigate thoroughly, but nothing tends more to prevent the detection and punishment of real injustice and oppression than false and reckless accusations, which seem now to be much on the increase. Such charges spring from the very same spirit which prompts the native police officer to oppression, and are made, I have reason to believe, from the same motives. Bad and designing people incite others to make false complaints against the police, in order either to gratify revenge or to make them afraid to do their duty.

Fort St. George.

3. I would beg to recommend, as some check to the practice, that the power of punishment given to magistrates by section 35, Regulation IX. of 1816, for false petty complaints under sections 32 and 33 of the same Regulation, may be extended to false accusations under Regulation III. of 1819, the maximum period of imprisonment in lieu of fine being increased to one month.

4. The only present remedy is commitment for perjury; but to do this is generally useless, even when the falsehood of a charge is morally certain, inasmuch as it is nearly impossible in this country to prove a negative. Indictments for perjury are rarely successful, except where the party has given two contrary depositions on oath.

I have, &c.
(signed) R. D. Parker, Magistrate.

Madura, 17 July 1855.

STATEMENT of CASES of ABUSE of AUTHORITY disposed of by the Magistracy in 1854, and in the First Half Year of 1855.

1. YEAR.	2. AUTHORITIES.	3. Disposed of.		4. Punished.		5. Committed to the Court.		6. Dismissed.		7. Cases of Column 6 Dismissed as false.	
		Cases.	Persons.	Cases.	Persons.	Cases.	Persons.	Cases.	Persons.	Cases.	Persons.
1854	Magistrate - - - -	4	11	1	1	1	4	2	6	—	—
	Joint Magistrate - - -	73	96	6	6	- - - -	- - - -	67	90	15	15
	Paumben Magistrate - -	4	24	- - - -	- - - -	4	24*	—	—	—	—
	Head Assistant Magistrate -	3	3	1	1	- - - -	- - - -	2	2	—	—
	Assistant Magistrate - -	6	9	3	3	- - - -	- - - -	3	6	—	—
	TOTAL - - -	90	143	11	11	5	28	74	104	15	15
First half year of 1855	Magistrate - - - -	6	10	1	2	- - - -	- - - -	6	8	3	4
	Joint Magistrate - - -	21	35	4	6	- - - -	- - - -	17	17	7	8
	Paumben Magistrate - -	—	—	—	—	—	—	—	—	—	—
	Head Assistant Magistrate -	—	—	—	—	—	—	—	—	—	—
	Assistant Magistrate - -	3	4	- - - -	- - - -	- - - -	- - - -	3	4	—	—
	TOTAL - - -	30	49	5	8	- - - -	- - - -	25	41	10	12

* Court peons and village officer, in execution of a court process.

17 July 1855.

(signed) R. D. Parker, Magistrate.

Fort St. George.

(No. 546.)

ORDERED to be forwarded to the Advocate-general and the Government pleader, with reference to para. 20, of Extract Minutes of Consultation, 7 June 1855, No. 747.

Fort St. George, 1 August 1855.

(No. 33.)

LETTER from *C. Pelly*, Esq., Magistrate of Bellary, to *T. Pycroft*, Esq., Chief Secretary to Government, Judicial Department, Fort St. George.

Sir,

IN accordance with the instructions of Government, under date the 10th June 1856, I have the honour to report the following case of alleged torture.

The head of police of Madugseerah reported to me that two persons, Madigah Hoonsomah and Soobah, charged before him with cattle-poisoning, had complained to him that they had been tortured by Soobarow, the ammanny mootsuddy (moonsiff) of the village of Munnoor, in order to extort a confession from them. They said their fingers had been tied with a string, and bent back, and tied to their arm. The head of police reported that there were no marks to show that they had been thus ill-used, but he gave them a notice and direction to make their complaint to the magistrate.

On receipt of this report, I directed the head of police to ascertain whether the complainants had, as directed, left their village to prefer their complaint before me, and, if not, to send them with any evidence that was forthcoming. In reply, he reported that the complainants refused to prefer any complaint, and stated that they had no evidence to support their charge, and there the matter has dropped.

I would, however, take this opportunity of pointing out what appears to me an evil. The orders of the Foujdare Udalut direct that all cases coming under Section 3, Regulation III. of 1819, must be investigated solely by the European magistracy, and no interference whatever is permitted by the native police in such cases. Several years ago I was led into a correspondence on this subject with the session judge, and those instructions were confirmed. In order, however, to ensure as much as possible parties aggrieved obtaining redress, I then directed the heads of police to furnish any persons complaining of maltreatment at the hands of the police with a written notice, directing them to complain, if they chose, to the magistrate. But it must be obvious, that frequently parties will not put themselves to the inconvenience of travelling a long distance (as in the present case, about 100 miles) to the magistrate's court, where they must necessarily be detained a very long time, until the evidence is got and heard, and probably, after all, without being able to prove their charge. Moreover, witnesses summoned from such a distance, who, perhaps, either know nothing, or will probably say they are ignorant of the facts stated, are put to much inconvenience, and to no effect.

I would therefore suggest that it would be better, and tend to the furtherance of justice, were the tahsildars permitted on every occasion of a case of maltreatment by the police, or revenue authorities under them, being brought to their notice, to make a preliminary inquiry, and if there is evidence, to send the case up; and if not, to report it, leaving the complainants, if they think proper, to appeal against a dismissal of the accused by the head of police. As the law is now interpreted, heads of district police are exempted from all responsibility in cases of maltreatment, serious or petty, charged against any of their subordinate police officers, further than to inform the parties aggrieved that they must take their complaint to the magistrate.

Bellary, Magistrate's Office,
21 August 1856.

I have, &c.
(signed) *C. Pelly*,
Magistrate.

(No. 1086.)

LETTER from *T. Pycroft*, Esq., Chief Secretary to Government, to the Secretary to the Government of India.

Sir,

1. IN continuation of my letter to your address, under date 8th March last, Public Department, No. 269, I am directed by the Right honourable the Governor in Council to forward, for submission to the Right honourable the Governor-general in Council, the accompanying copies of the minutes, as per margin.*

2. Referring to the concluding para. of the minute by the Right honourable the President, I am instructed to state, that in the absence of the Advocate-general, the Honourable Company's acting solicitor has been directed to prepare for submission to the Legislative Council, the draft of an Act for the punishment of abuse of authority on the part of public servants in the Police and Revenue departments.

I have, &c.

(signed) *T. Pycroft*,
Chief Secretary.

Fort St. George, 9 September 1856.

EXTRACT Fort St. George, Public Consultation, of 25 November 1856.

READ the following Letter:—

(No. 1419.)

LETTER from *Cecil Beadon*, Esq., Secretary to the Government of India, to *J. Pycroft*, Esq., Chief Secretary to the Government of Fort St. George.

Sir,

I AM directed by the Right honourable the Governor-general in Council to acknowledge the receipt of your letter, No. 1086, dated the 9th ultimo, forwarding minutes by the Right honourable the Governor, and the Honourable Mr. Elliot, on the question of special legislation for the prevention of abuse of authority on the part of public servants in the Police and Revenue departments. Home Department.

2. Since the receipt of this communication, the Governor-general in Council has been put in possession of a copy of the Honourable Court's despatch to the Government of Fort St. George, in the Judicial Department, No. 14, dated the 10th September last, in accordance with the views expressed, in which the consideration of the draft Act now under preparation by the acting Company's solicitor at Madras will be proceeded with.

3. I am directed however to remark, with reference to those passages in the Governor's minute which are transcribed on the margin,† that the Governor-general

* Minute by the Right honourable the President, 4 September 1856; Minute by Honourable Mr. Walter Elliot, 7th idem.

† "But would the desired object be effected by heaping severe penalties on the officers of Government for their acts, improper ones no doubt, and unsanctioned, but still in some degree forced upon them in the performance of their duty?"

"I certainly did think that it would not altogether become this Government to make its native officers, a numerous and influential body, containing some of the wealthiest and most respectable men in every province, the objects for increased censure and the subjects of heavier penalties, without at the same time giving palpable evidence that they would be relieved from some of the difficulties with which their position was encumbered. I was of opinion that it would be more fitting the policy of a great government that a measure which should discourage every species of violence should be accompanied by the evidence of a publicly expressed disposition,—

"1st. To ameliorate the position of the taxpayers by a survey and assessment. Mr. Vernon Smith is reported to have stated that the Government of India have approved of the measures proposed by this Government on the subject. I have heard privately that such is the case, but this Government has received no official communication to that effect.

"2d. By diminishing the duties of the revenue officers, by an increase of the magistrature, and a reorganization of the police.

Fort St. George.

general in Council cannot agree in the opinion which he understands to be there expressed, that the practice of torture is a necessity, in some measure, forced upon the native officers by reason of the over-assessment of the land, or of the inability of those officers to perform the amount of work required of them, or by the inefficacy of the law of execution against person and property; nor can his Lordship in Council admit that the practice of torture by native revenue officers of Madras should be in any degree overlooked till the revenue and judicial systems of that Presidency are reformed.

4. The Honourable Mr. Elliot observes, that the existing law provides adequate penalties for torture, and that those penalties are now actually enforced whenever proof of a case of torture can be obtained. This is probably the case, but it cannot be rightly said that because the Government of India has not yet sanctioned a large increase of expense for the police establishments of Madras, there is any reason for not making revenue officers who cannot torture "objects of increased censure," and at any rate his Lordship in Council trusts that whatever be the effect, owing to the imputed defects of the revenue law, the existing penal law will be enforced with the utmost rigour, and in the most determined spirit against all persons guilty of torture, and especially against native officers of Government who abuse their powers in this manner.

I have, &c.
(signed) Cecil Beadon,
Secretary to the Government of India.

Fort William, 31 October 1856.

ORDERED, to be recorded.

EXTRACT Judicial Letter from Fort St. George, dated 10 February 1857 (No. 3.)

2. By our despatch, in the public department, of 11th September last, No. 27, and the papers which accompanied it,* your Honourable Court will have been informed that the Honourable Company's acting solicitor was directed, under date 9th idem, to prepare for submission to the Legislative Council of India, the draft of an Act for the punishment of abuse of authority on the part of public servants in the Police and Revenue departments. We now beg to forward the correspondence † that has since transpired on this subject. Your Honourable Court will observe, that the member for Madras has deemed it unnecessary to submit the Bill prepared by the acting solicitor to the Legislative Council, because the subject had been fully considered by the Select Committee on the Penal Code, having in view the disclosures contained in the Report of the Madras Commissioners on the alleged use of torture, and their observations upon the existing state of the law.

* Measures to effect this purpose have been proposed by this Government, but I fear, from the tenor of the Honourable Court's despatch, dated 23 July 1856, Judicial Department, No. 12 of 1856, that they are indefinitely postponed.

‡d. "By the concurrent passing of an Act for facilitating distraint both on the land and on personalty, an Act for this purpose which has required time for full deliberation, is now in preparation.

"These were my views, and these would still be my views were the circumstances the same."

* Letter dated 10 September, No. 14, of 1856. Review the despatch from this Government relative to the amendment of the law regarding abuse of authority by public servants; are of opinion that Legislative measures alone will not be sufficient, but that the English authorities should be accessible at all times to complaints of this nature; that they should be jealously on their guard against any combination amongst native officers to make common cause in extortion, or to shield those who have been guilty of acts of oppression or cruelty, and that if such a course be steadily pursued, the fact of the magistrate being also Collector of the district, need not stand in the way of immediate legislation; observe that it is probable that some of the provisions of the penal code, now in the hands of the Legislative Council, will meet cases of abuse; suggest that this Government communicate with the Council on the subject, but nevertheless think it expedient that a special Act should be passed; and intimate what should be the scope of that Act; insist on the most earnest attention of the authorities to the suppression of this crime, by the most effective means of punishment until a plan for the improvement of the administration be adopted; and desire that the subject may again be taken into immediate consideration.

† In Consultation, 25 November 1856, No. 1650; in Diary Consultation, 6 January 1857, Nos. 5 to 8; in Diary Consultation, 27 January 1857.

Fort St. George, Judicial Consultation, 6 January 1857.

READ the following Papers:—

(No. 5.)

Read the following Letter, from *J. R. Boyson*, Esq., Government Pleader, to *T. Pycroft*, Esq., Chief Secretary to Government, dated 24 November 1856, No. 18.

Sir,

WITH reference to the extracts from Minutes of Consultation noted in the margin, I have the honour to state for the information of Government, that after giving the subject much consideration, I am still of opinion that it would be more expedient to embody such provisions as may appear best calculated to provide effectually for the punishment of abuse of authority on the part of public servants, in the new Penal Code, than to make them the subject of a separate enactment; and that if the separation of revenue and police authority is still contemplated, it would be advisable to defer legislating for abuse of authority until such separation has been effected, and the new scheme has been finally determined upon.

M. C. dated 9 Sept. 1856, No. 1085, Public Depart.
M. C. dated 30 Oct. 1856, No. 1185, Judicial Depart.

The three principal objects to be attained by legislation are :

1st. Enabling the European magistracy to award a much larger amount of punishment for abuse of authority than they can now lawfully do.

2d. Making such punishment more summary, more speedy, and more certain than it now is; and,

3d. Giving to aggrieved parties the means of obtaining redress within a reasonable distance from their own homes, and thus removing the evil (now so seriously felt) that a party desirous of complaining of any abuse of authority on the part of a public officer must, in the majority of cases, travel a considerable distance (in some cases 80 or 100 miles, and even further) with all his witnesses, to a station at which a European magistraté may be located, for the purpose of preferring his complaint and having it investigated, and may be there detained for many days or perhaps weeks, involving the entire loss during this period of his own time and the time of his witnesses as well as the travelling and other expenses of a long journey, and the annoyance and inconvenience as well as pecuniary loss attendant upon it and upon the absence and detention from home of himself and witnesses. This state of things amounts virtually in very many cases to a denial of justice, for it can well be imagined that a party who has been aggrieved by the oppression of a public servant would rather submit to the wrong than incur the inconvenience, annoyance, expense, and loss which would be necessarily consequent, as the law now stands, upon his seeking redress.

The two first objects can be easily provided for; the last, and this seems to me the most important one, is the most difficult to deal with, for it involves the question, to whose (other than the European magistracy) jurisdiction in the matter can most safely be entrusted.

Under existing circumstances the only mode of attaining the third object will be by giving jurisdiction in the matter either to district moonsiffs or tahsildars.

The tahsildar is the head officer within his own local jurisdiction of both revenue and police, and is the officer who is most frequently charged with direct abuse of authority, and of sanctioning and abetting it in others; and it seems to me that it would be in the highest degree unsatisfactory to the people to refer them to him for redress, and that such an arrangement would not beget that confidence in public justice which it is the desire of Government to inspire.

District moonsiffs have not at present any criminal jurisdiction except when it is given them under Act XII. of 1854, and they have no control over the police. It will of course be essentially necessary to give such control to whoever is invested with jurisdiction under the proposed Act. Endeavours have been made during late years to raise the character and standing of district moonsiffs, and to secure efficiency by previous examination into qualification, &c., and this system must tend to the filling of these offices with a superior and more intelligent class of men than those who formerly held them.

Fort St. George.

No. 1.

I am of opinion that it would be far more expedient to invest district moonsiffs with authority to punish abuse of authority than to give that jurisdiction to tahsildars, and I have accordingly prepared and herewith forward for the consideration of Government a draft Act having this object.

The offence calls for severe punishment, and it may at first sight appear that, as compared with the authority which even European magistrates now possess under the Regulations, the quantum of punishment which by the draft Act (as I have prepared it) the European magistrates and district moonsiffs are empowered to award is unusually large. I see no objection whatever to giving these increased powers to the European magistracy, and looking at the appeal to the session judge which I propose to give, I do not consider that any evil or mischief is likely to result from entrusting district moonsiffs with authority to award that punishment which the Act provides for; and it seems to me that the risk, whatever it may be, must be incurred.

To provide for the contingency of Government determining not to invest district moonsiffs with authority to punish abuse of authority, I herewith forward a draft Act similar in its provisions to the draft above mentioned, but excluding those relating to district moonsiffs.

There is one other mode in which the third object above mentioned might be in some measure attained, viz., by giving tahsildars power to inquire into and report upon abuse of authority in the same manner as they are now authorised to do with reference to heinous offences under Regulation II. of 1816, section 27; but, for the reasons above stated, I do not consider such an arrangement expedient.

(No. 6.)

MINUTE by the Honourable *W. Elliot*, Esq.; dated 20 December 1856.

I HAVE already stated incidentally in a Minute dated 7th September 1856, that I consider special legislation for abuse of authority by public officers to be unnecessary, because the ordinary law has proved sufficient for all cases that have hitherto occurred, and I feel assured will be found equally so for such as may arise hereafter.

I can only repeat the same opinion on the present occasion.

Although Regulation III. of 1819, only empowers magistrates to punish police officers for abuse of authority or extortion by fine of 50 rupees or imprisonment for one month; the same officers are empowered under the more general and extended powers vested in them by section 54, Act VII. of 1843, to punish offenders by imprisonment to the extent of six months, and to fine not exceeding 200 rupees, and farther, should such penalties appear inadequate, to commit to the criminal courts under clause 3, section 3, Regulation III. of 1819.

The judicial powers vested in the magistrate may be delegated to his agents under sections 5 and 6 of Regulation IX. of 1816, so as to bring the means of redress more within the reach of persons suffering from such treatment, and the facility of redress is still farther extended by Act XII. of 1854, as regards petty cases of abuse.

Then as regards compensation for injuries sustained by persons who have been subjected to such ill-treatment, clause 2 of section 39, Regulation IX. of 1816, authorises a magistrate to award the whole or any portion of a fine imposed by him, to the sufferer.

With such provision for the punishment of these offences by the present law, with the early prospect of the enlarged jurisdiction to be conferred on subordinate criminal courts in the reform of judicial establishment now in contemplation, and with the more comprehensive scale of penalties provided by the Penal Code about to come into force, the application to the Legislative Council for an enactment, such as the one now drafted, appears to me to be a work of supererogation.

I must further express my objection to the recommendation contained in para. 10 of the letter to the member of the Legislative Council, to the effect that the sentence of the session court should be final.

Experience has shown that cases of this description demand a more than ordinary dispassionate and calm consideration. In more than one case of recent

recent occurrence the sentence of the sessions judge has been quashed on review by the Sndr. To take away such power of review will deprive a class of men especially liable to become the victims of conspiracy, of the scrutiny of that tribunal which of all others may be considered the best qualified to pronounce on the value of such equivocal evidence.

Fort St. George.

Act No. 1.

AN ACT to provide for the Punishment of Abuse of Authority on the part of Persons in the Service of the East India Company, and employed within the Presidency of Fort St. George, in the East Indies.

WHEREAS it is expedient to provide more effectually for the speedy punishment of abuse of authority on the part of persons in the service of the East India Company, and employed within the Presidency of Fort St. George, in the East Indies; it is enacted as follows :

I. Section 30 of Regulation XI. of 1816, and Regulation III. of 1819, are hereby rescinded.

II. The following words and expressions hereinafter used in this Act shall have the meanings hereby assigned to them; (that is to say),

The expression "abuse of authority" shall mean and include any unlawful duress, constraint or violence used by or under the order or at the request or instigation of any person in the service of the said East India Company, and employed within the said Presidency of Fort St. George, upon or towards any person whomsoever, and extortion and putting or attempting to put in fear, in order to extortion by or under the order or at the request or instigation of any person in the service of the said East India Company, and employed within the said Presidency of Fort St. George, from any person whomsoever, of any confession, money or valuable consideration or thing.

The word "magistrate" shall mean and include any magistrate, joint magistrate, or assistant magistrate, having jurisdiction within the zillah in which any abuse of authority shall have been committed.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word "month" shall mean calendar month.

III. Whoever considers himself aggrieved by any abuse of authority by or on the part of any person in the service of the said East India Company, and employed within the said Presidency, shall be at liberty to prefer a complaint in respect of such alleged abuse of authority to any magistrate having jurisdiction within the zillah in which it shall be alleged that such abuse of authority was committed, or to the district moonsiff within whose local jurisdiction the place at which it shall be alleged that such abuse of authority was committed shall happen to be, and the magistrate or district moonsiff, as the case may be, to whom any such complaint as aforesaid shall be preferred, shall forthwith inquire into and investigate the same.

IV. Upon conviction of any abuse of authority before any such magistrate as aforesaid, the person convicted shall be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to a fine not exceeding 1,000 rupees, or to both, or to be committed for trial before the session judge of the zillah in which such abuse of authority shall have been committed.

V. Upon conviction of any abuse of authority before any such district moonsiff as aforesaid, the person convicted shall be liable to imprisonment, with or without hard labour, for a term not exceeding six months, or to a fine not exceeding 500 rupees, or to both, or to be committed for trial before the session judge of the zillah in which such abuse of authority shall have been committed.

Fort St. George.

VI. Upon conviction of any abuse of authority before any such session judge as aforesaid, the person convicted shall be liable to imprisonment with or without hard labour for a term not exceeding three years, or to a fine not exceeding 5,000 rupees, or to both; and every such conviction as last aforesaid, and the sentence or order thereupon passed, shall be final.

VII. Any person whomsoever, whether he shall be in the service of the said East India Company and employed within the said Presidency or not, who shall instigate or aid, abet or assist, directly or indirectly, in any abuse of authority punishable under the provisions of this Act, may be proceeded against and punished in the same manner and to the same extent as the person whom he shall have so instigated, aided, abetted or assisted shall be punishable under the authority of this Act.

VIII. When any fine shall have been levied under the authority of this Act, it shall be lawful for the session judge, magistrate, or district moonsiff by whom such fine shall have been imposed, to award the whole or any portion of such fine to the party who shall have been aggrieved by the abuse of authority for which such fine shall have been imposed, by way of satisfaction, for such injury.

IX. In any case in which a magistrate or district moonsiff shall convict any person under the provisions of this Act of any abuse of authority, an appeal against such conviction and the sentence or order thereupon passed, or against such sentence or order only, may be preferred to the session judge of the zillah in which such abuse of authority was committed, within 30 days from the date of such sentence or order, but not afterwards; and it shall be competent to such session judge, upon any such appeal; to quash such conviction, and to annul or alter such sentence or order, or to annul or alter such sentence or order only; provided nevertheless that such session judge shall not increase the punishment awarded by such sentence or order; and the decision of such session judge on any such appeal shall be final.

X. Any district moonsiff, acting under the authority of this Act, shall have the same powers and jurisdiction for procuring and enforcing the attendance of any person charged with any abuse of authority, and of convicting and committing to gaol any such person, and for procuring and enforcing the attendance of witnesses for the purpose of being examined relative to any such alleged abuse of authority, and of taking their evidence on oath or solemn affirmation as a zillah magistrate shall for the time being have in like cases; and all officers of police shall obey, give effect to, serve and execute all orders and process issued by any district moonsiff acting under the authority of this Act, in the same manner and to the same extent in all respects as they would obey, give effect to, serve and execute any order or process issued by any such zillah magistrate as aforesaid.

XI. In any case in which any person shall be charged before any such magistrate as aforesaid with any abuse of authority, and it shall appear to the magistrate by whom the case shall be investigated that there was no sufficient ground for making such charge, the person who shall have made such charge shall be liable to imprisonment, with or without hard labour, for a term not exceeding six months, or to a fine not exceeding 500 rupees, or to both; and it shall be lawful for the magistrate by whom any such fine as last aforesaid shall have been imposed, to award the whole or any portion of such fine to the party complained against by way of amends.

XII. In any case in which any person shall be charged before any such district moonsiff as aforesaid with any abuse of authority, and it shall appear to the district moonsiff by whom the case shall be investigated that there was no sufficient ground for making such charge, the person who shall have made such charge shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding 250 rupees, or to both; and it shall be lawful for the district moonsiff by whom any such fine as last aforesaid shall have been imposed, to award the whole or any portion of such fine to the party complained against by way of amends.

XIII. All fines and penalties imposed by any session judge, magistrate, or district moonsiff under the authority of this Act, may be levied (in case of non-payment) in the manner provided by Act II. of 1839.

XIV. Whenever

XIV. Whenever any person shall have been sentenced under the provisions of this Act to imprisonment and fine, and such person shall become liable, under the provisions of Act II. of 1839, to imprisonment for non-payment of such fine, the imprisonment of such person as last aforesaid shall be cumulative.

Fort St. George.

Act No. 2.

AN Act to provide for the Punishment of Abuse of Authority on the part of Persons in the Service of the East India Company, and employed within the Presidency of Fort St. George, in the East Indies.

WHEREAS it is expedient to provide more effectually for the speedy punishment of abuse of authority on the part of persons in the service of the East India Company, and employed within the Presidency of Fort St. George, in the East Indies; it is enacted as follows:

I. Section 30 of Regulation XL of 1816, and Regulation III. of 1819, are hereby rescinded.

II. The following words and expressions hereinafter used in this Act shall have the meanings hereby assigned to them; (that is to say,)

The expression "abuse of authority" shall mean and include any unlawful duress, constraint, or violence used by or under the order, or at the request or instigation of any person in the service of the said East India Company and employed within the said Presidency of Fort St. George, upon or towards any person whomsoever; and extortion and putting, or attempting to put in fear in order to extortion by or under the order, or at the request or instigation of any person in the service of the said East India Company, and employed within the said Presidency of Fort St. George, from any person whomsoever, of any confession, money, or valuable consideration or thing.

The word "magistrate" shall mean and include any magistrate, joint magistrate, or assistant magistrate, having jurisdiction within the zillah in which any abuse of authority shall have been committed.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word "month" shall mean calendar month.

III. Whoever considers himself aggrieved by any abuse of authority by or on the part of any person in the service of the East India Company and employed within the said Presidency, shall be at liberty to prefer a complaint in respect of such alleged abuse of authority to any magistrate having jurisdiction within the zillah in which it shall be alleged that such abuse of authority was committed, and such magistrate shall forthwith inquire into and investigate such complaint.

IV. Upon conviction of any abuse of authority before any such magistrate as aforesaid, the person convicted shall be liable to imprisonment with or without hard labour, for a term not exceeding one year, or to a fine not exceeding 1,000 rupees, or to both, or to be committed for trial before the session judge of the zillah in which such abuse of authority shall have been committed.

V. Upon conviction of any abuse of authority before any such session judge as aforesaid, the person convicted shall be liable to imprisonment with or without hard labour, for a term not exceeding three years, or to a fine not exceeding 5,000 rupees, or to both, and every such conviction as last aforesaid, and the sentence or order thereupon passed, shall be final.

VI. Any person whomsoever, whether he shall be in the service of the said East India Company, and employed within the said Presidency or not, who shall instigate or aid, abet or assist, directly or indirectly, in any abuse of authority punishable under the provisions of this Act, may be proceeded against and punished in the same manner and to the same extent, as the person whom he shall have so instigated, aided, abetted, or assisted, shall be punishable under the authority of this Act.

Fort St. George.

VII. When any fine shall have been levied under the authority of this Act, it shall be lawful for the session judge or magistrate by whom such fine shall have been imposed, to award the whole or any portion of such fine to the party who shall have been aggrieved by the abuse of authority for which such fine shall have been imposed, by way of satisfaction for such injury.

VIII. In any case in which a magistrate shall convict any person under the provisions of this Act of any abuse of authority, an appeal against such conviction, and the sentence or order thereupon passed, or against such sentence or order only, may be preferred to the session judge of the zillah in which such abuse of authority was committed, within 30 days from the date of such sentence or order, but not afterwards; and it shall be competent to such session judge upon any such appeal to quash such conviction, and to annul or alter such sentence or order, or to annul or alter such sentence or order only; provided, nevertheless, that such session judge shall not increase the punishment awarded by such sentence or order: and the decision of such session judge on any such appeal shall be final.

IX. In any case in which any person shall be charged before any such magistrate as aforesaid, with any abuse of authority, and it shall appear to the magistrate by whom the case shall be investigated, that there was no sufficient ground for making such charge, the person who shall have made such charge shall be liable to imprisonment, with or without hard labour, for a term not exceeding months, or to a fine not exceeding rupees, or to both, and it shall be lawful for the magistrate by whom any such fine as last aforesaid shall have been imposed, to award the whole, or any portion of such fine, to the party complained against by way of amends.

X. All fines and penalties imposed by any session judge or magistrate under the authority of this Act, may be levied (in case of non-payment) in the manner provided by Act II. of 1839.

XI. Whenever any person shall have been sentenced under the provisions of this Act to imprisonment and fine, and such person shall become liable under the provisions of Act II. of 1839, to imprisonment for non-payment of such fine, the imprisonment of such person as last aforesaid shall be cumulative.

(No. 7.)

ORDERED, That the Extract from the Minutes of Consultation, dated 24th December 1856, No. 1365, be recorded.

(No. 8.)

ORDERED, That the following letter be despatched:

From *T. Pycroft*, Esq., Chief Secretary to the Government of Fort St. George; to the Honourable *D. Elliott*, Esq., Member of the Legislative Council of India for Madras, dated 24th December 1856, No. 1364.

Sir,

I AM directed by the Right honourable the Governor in Council to forward to you for submission to the Legislative Council the accompanying draft of an Act prepared by the Honourable Company's acting solicitor, for providing for the punishment of abuse of authority on the part of persons in the service of the East India Company, and employed within the Presidency of Fort St. George.

2. In the Report on the alleged use of torture by the native revenue and police officers of the Madras Presidency, the Commissioners, para. 76, drew attention to the existing state of the law for the repression of the practices which they had been engaged in investigating. "The law," they stated, "appears to us both circuitous in its procedure, and deficient in its provisions for the prevention

tion and punishment of personal violence illegally administered by an abuse of authority. We have collected the main provisions of the law on this subject, and we deem that we have sufficiently discharged our duty in drawing the attention of Government to its state as it stands, leaving such amendment or alteration as may be thought expedient, to the better consideration of the Right Honourable the Governor in Council." The Commissioners then recited those parts of the Regulations or Acts applicable to the Madras Presidency, bearing on the offence of abuse of authority on the part of native revenue or police servants.

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3. The Government extract Minutes Consultation, 7th June 1855, No. 747, in their review of this part of the Commissioners' Report, resolved to request the Advocate-general and Government pleader to confer upon the subject, and to submit the draft of the Act which they would propose in amendment of the present law, to be applicable to all cases of abuse of authority committed by public servants or parties assuming to act as such, and either in the Police or in the Revenue department.

4. The Advocate-general, in his letter of 21st September 1855, represented that he and the Government pleader had experienced much difficulty in the preparation of such an Act as was desired by the Madras Government, and he suggested that the measure should for the present be suspended, on the grounds, first, that no really efficient measures could be carried out until the revenue and police agencies were wholly separated; and, secondly, that the subject of the proposed Act was peculiarly one that should be embodied in the forthcoming new Penal Code, rather than be provided for by special and independent legislation.

5. In this suggestion the Government acquiesced, but they were subsequently made aware that the views of the Advocate-general and Government pleader were not held valid by the home authorities, and they consequently desired the Honourable Company's acting solicitor, the Advocate-general, having in the interim proceeded to England on medical certificate, to resume the consideration of the question and to submit the draft of an Act for the punishment of abuse of authority by native servants as early as possible. Subsequently to the issue of these orders they have further received a despatch, No. 14, of 1856, Judicial department, from the Honourable the Court of Directors, strongly expressive of the opinion that there was a call for immediate legislation on the subject.

Vide speech by the Right hon. T. Vernon Smith, in the House of Commons, 21 July 1856.

6. In deference to these sentiments the present draft is submitted. It appears to this Government well adapted to secure the end desired. There are but few points in it which it seems requisite to notice.

7. It will be observed that it is proposed to make the offence punishable, either by a magistrate or by a district moonsiff, but to allow the former to inflict a much heavier degree of punishment than the latter.

8. It seems clear that to confine the jurisdiction in these cases to the European magistrate must, in many instances, involve impunity, and consequently hold out encouragement to the offence. If any uncovenanted officers are to have jurisdiction, it can only be the district moonsiff, as the conferring such powers on the heads of police would be open to obvious objections.

9. Other points noticeable are that heinous cases committed by the magistrate or district moonsiff, to the sessions judge, are to be sent to that authority direct, and not through the intervention of the sub-judge or principal Sudr Ameen. It is to be presumed that European magistrates and district moonsiffs (which last now pass a legal examination), are able to get up committable cases in proper form, and that it is therefore unnecessary, and would only lead to delay, to have a second committing officer between them and the sessions judge.

10. Another point is, that in such committed cases the judgment of the sessions judge is final, as it may be presumed that sentence passed after the case has gone through two authorities rests on sufficient grounds, and should not be liable to be disturbed.

The Government, I am instructed to state, had allowed this part of the draft to stand for the consideration of the Council, but they do not approve it, experience having, as it appears to them, amply proved that there is no class of offences

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in which it is more requisite that the judgment of the lower court should, on good cause shown, be subjected to the scrutiny of the Foujdaree Adalat.

11. With these remarks I am desired, by the Right honourable the Governor in Council, to forward copies of the correspondence on the subject, as per margin,* and request that the draft, No. 1, submitted by the Government pleader (late Honourable Company's acting solicitor), with his letter of 24th ultimo, may be laid before the Legislative Council at your early convenience.

12. I am at the same time directed to forward copy of a minute upon the draft Act, recorded by the Honourable Mr. Elliot, who, it will be seen, questions the necessity for special legislation upon the subject.

Fort St. George, Judicial Consultation, 27 January 1857.

READ the following letter:

(No. 14.)

From *D. Elliott*, Esq., Member of the Legislative Council, to *T. Pycroft*, Esq., Chief Secretary to Government; dated Fort William, 8 January 1857, No. 78.

Sir,

THE Penal Code was read a second time on Saturday last, the 3d instant; and as it may be convenient to the Right honourable the Governor in Council to have copies of it in the form in which it was laid before the Council, with the clauses of the original Code, printed in a parallel column, to show the alterations proposed by the Select Committee, I have directed that two such copies shall be transmitted to you by this mail.

Yesterday I received your letter of 24th December, with the accompanying draft of an Act for the punishment of abuse of authority on the part of persons in the service of the East India Company, within the Presidency of Fort St. George, with reference to which, I have the honour to request you will submit to the Right honourable the Governor in Council the following observations.

The subject of the proposed Act was fully considered by the Select Committee on the Penal Code, having in view the disclosures contained in the Report of the Madras Commissioners on the alleged use of torture in that Presidency, and the observations of the Commissioners upon the existing state of the law, adverted to in the 2d para. of your letter.

The penal provisions which the Select Committee recommend to be enacted for the punishment of persons committing offences of the nature contemplated in the draft Act, as described in the definition of the expression "abuse of authority," will be found in clauses 31 to 34 and 50 and 51 of chapter 17 of the code relating to offences affecting the human body; and again in clauses 5 to 11 of chapter 18, under the head of extortion. It will be observed, that the clauses referred to do not apply peculiarly to public servants, but include persons being public servants in common with all men who commit the offences described. The illustrations to clause 33, chapter 17, it will be remarked, are all instances of torture so called. Two are cases of torture by police officers, the first to induce the confession of a crime, the second to induce a person to point out stolen property. One is a case of torture by a revenue officer, to compel payment of arrears of revenue. The last is the case of a zemindar torturing a ryot to compel him to pay his rent.

The punishments provided in the Code are much heavier than those proposed in the draft Act. The maximum in the latter is imprisonment, with or without hard labour, for a term not exceeding three years, or a fine not exceeding 5,000 rupees, or both.

The

Section 6.

* Report of Commissioners for Investigation of Alleged Cases of Torture in the Madras Presidency, para. 76; extract Min. Cons. 7 June 1855, para. 21; from Advocate-general, 21 September 1855; extract Min. Con. 14 November 1855; Judicial despatch from Honourable Court of Directors, 10 September 1856, No. 14; from Government pleader, 24 November 1856.

The penalty in the Code for the offence of causing hurt for the purpose of extorting property, &c., is imprisonment of either description, rigorous or simple, for a term which may extend to 14 years, to which may be added an unlimited fine. Ch. 17, clause 31.

If the hurt be grievous, the offender may be sentenced to transportation for life. Clause 32.

Causing hurt for the purpose of extorting a confession, &c., is punishable with imprisonment of either description, which may extend to seven years, and if the hurt be grievous, to 14 years, and with fine to any amount. Clause 33. Clause 34.

The wrongful confinement of a person for the purpose of extorting property, or a confession from him, is punishable with imprisonment of either description, which may extend to three years, and with fine to any amount. Clauses 50 and 51.

Extortion is punishable with imprisonment of either description, which may extend to three years, or with fine, or both, and if the extortion is committed by putting the person in fear of death or grievous hurt, with imprisonment which may extend to 14 years, and must not be less than five, to which an unlimited fine may be added. Ch. 18, clause 6. Clause 8.

Putting a person in fear of an injury in order to the committing of extortion, is punishable with imprisonment, which may extend to two years, or with fine, or both. Clause 7.

Putting him in fear of death is punishable with imprisonment which may extend to seven years, and shall not be less than three, and with fine in addition. Clause 9.

Heavier penalties are provided for the offences described in clauses 10 and 11.

The Right honourable the Governor in Council will probably be of opinion with the Select Committee on the Penal Code, that the provisions they have made are sufficiently comprehensive, and that the penalties proposed for the offences indicated are adequate.

If his Lordship in Council would suggest any modifications, the opportunity will be afforded when the Penal Code is published for general information. In the mean time, I believe, the Legislative Council would be unwilling to entertain a Bill framed according to the draft Act, and, I trust, his Lordship in Council will approve of my not bringing it forward.

The provisions regarding procedure will fall to be considered in the course of the preparation of the code of criminal procedure.

ORDER thereon, No. 89; dated 22 January 1857.

(No. 15.)

RESOLVED, that the above letter and the correspondence to which it refers, be brought to the notice of the Honourable the Court of Directors, in reference to their despatch of the 10th September, No. 14 of 1856.

(signed) T. Pycroft,
Chief Secretary.

(True extract.)

(signed) D. F. Carmichael,
Deputy Secretary to Government.

Judicial Department, 10 June 1857.

Our Governor in Council, at Fort St. George.

OUR views on this subject have been fully communicated to you, in our despatch dated 10th September (No. 14) 1856. Should there be any great delay in the passing of the Penal Code, we think that you should again press on the member of the Legislative Council for your Presidency, the expediency of laying before the Council the draft Act prepared by the Government pleader. In the meanwhile we trust that you will rigidly enforce the execution of the existing law against the abuse of authority by public servants. Public letter, dated 11 Sept. (No. 27) 1856, extract Judicial Letter, 10 Feb. (No. 3) 1857, para. 2. Abuse of authority by public servants.

London, 10 June 1857.

We are, &c.
(signed)

Fort St. George.

— No. 2. —

COMPLAINT OF ILL-USAGE AGAINST THE TAHSEELDAR OF BRAWAHDESEM,
OF TINNEVELLY.

EXTRACT Judicial Letter from Fort St. George; dated 10 April, No. 9 of 1856.

In Diary to Cons.,
28 Aug. 1855,
Nos. 10 and 11.

Para. 32. In reporting upon a complaint of ill-usage, addressed to us by one Kylasa Pillay against the tassildar of Bhrumadesem, and his peons, in the district of Tinnevelly, the magistrate solicited our instructions on the recommendation of the joint magistrate, by whom the inquiry had been made, that for reasons assigned, the sentence of dismissal, which should be passed under para. 9 of Government Circular dated 7th June 1855, be not carried out on the peons who stood convicted of the charge. In consideration of the recommendation made in favour of these peons, who were probably only instruments in the hands of others, we did not insist upon their dismissal, but directed that, in addition to the fine of three rupees each imposed upon them, they be suspended from their pay and duty for a period of six months.

(No. 811.)

To the Commissioners for the Investigation of Alleged Cases of Torture.

PETITION of Complaint respectfully presented by Kyala Pillay, of Umbo Samoodrum, attached to the Talook of Brawahdasem, in the Zillah of Tinnevelly, against Appah Moodelly, Tasildar of Soarnamadavee Talook, of the same Zillah, and his Peons, Koopoo Naicken, Jyasamy Naicken, Loobramaniah Pillay, Loobben Moottoosawmy Naicken, Teroovian Pillay, his son Erooluppen Pillay, and Dancookooty, the watchman.

1. THIS tasildar having before him the notice of your Honor, dated 7th October 1854, tortured me in several ways on the 7th December 1854 and prior to it; the particulars of which are hereunder detailed, a perusal of which will convince to you the irregularities of this tahsildar.

2. I possess few nunjay lands in the talook of Soarnamadavee, and in Fusly 1261 I left the same to be cultivated for three years successively by seventh defendant, under deeds executed to each other, to the effect that 12. 5. 22. veeray cootay should be paid to me yearly, including the Cirkar kist and sawmy boagum allowance thereof, and in obedience to which the seventh defendant was punctual for the first two years, but in Fusly 1263 he gave me only two veeray coaty, sending word that the remainder will be paid in the next Pessanum crop.

3. This crop of the year falling short, owing to the fall of a less rain, the Circar estimated the crop of the country twice, and allowed the same to be reaped in the presence of Circar people; but this peon, without waiting himself to submit to such arrangement of the Circar, reaped and enjoyed the crop himself, to which neither my consent was obtained or the Circar rent was paid; and in Fusly 1264 the said lands being left uncultivated by the seventh defendant, I allowed the same to the cultivation of one Nullakunnoo. Out of 12. 5. 22. veeray coatay, which the seventh defendant agreed to pay, me yearly, inclusive of Circar rent and sawmy bogum, he paid me only two veeray coatay for Fusly 1263, and the remainder is, according to the current rate of 5½ rupees for each veeray cootay, valued 53 rupees and odd, of which the Circar due is Rs. 22. 11, and the rest is due to me for sawmy boagum allowance. But 14 rupees and odd being already paid to the Circar by the seventh defendant, the remainder of the sist is in arrears against him; to enforce the collection of the same from me, the tasildar of Soarnamadavee sent a memorandum to the tasildar of Bramhadasew talook, wherein I reside, and in consequence this tasildar sending for me, detained me in custody, and on his demanding of me the said arrears, I informed him that it is due by the seventh defendant; thereupon the tasildar of Bramhadasew talook wrote the same to the other, and then the seventh defendant, who alone should discharge the arrears, paid three rupees for it.

4. Terooviam

4. Terooviam Pillay, the seventh defendant, being a tynat peon of Soarnamadavee tasildar, and his son, being the above tasildar's source of obtaining household things from villages without paying for them; my said tenant Nullakunnoo, who cultivates the said lands for Fusly 1264, was taken over, beaten, and detained in custody, and his females were also abused disgracefully. Therefore the said tenant came and informed me of this demand, and that he also informed the tasildar of the fact, from whom the said arrears is to be collected.

5. Subsequently, myself being detained in the talook catcherry of Brawah-dasem, I sent my son, who is yet a minor, and my said tenant with a letter of the address of Soaranawadavee tasildar, requesting him to enforce the payment of the said arrears from his tynat peon. Even then the tasildar unnoticed my request, and again annoyed my said tenant to have the same collected from him. On whose coming again to me I went and demanded the said seventh defendant of his dues to the Circar and myself, to which he answered me that he will pay it by-and-by, and forthwith he went and informed of my arrival there to his said tasildar, who sent the fifth defendant to bring me to the tasildar, who annoyed and abused me disgracefully, and caused the defendants, with the exception of the fifth, to take and beat me in front of his catcherry, exposing me to the sunshine in a stooping posture. The tasildar, some time afterwards, ordered his peons, the defendants, to take me moreover to the public street, which is to the east of his catcherry, and through which the temple chariot use to pass, and there to beat and abuse me disgracefully, exposing me to the sunshine and the laughter of the mob throughout the whole day, in a stooping posture, with a load of heavy rock on my back. Thus starving myself the whole day, I was in the night delivered over to the close custody of the ninth defendant; then the Moozoomdar, who saw and heard my said sufferings with pity, paid himself 3½ rupees for the arrears in demand, and promised to pay the rest from his next pay. Not only I was thus tortured by the defendants for the arrears due by another, my tenant was also subjected to both the torture and loss of 150 rupees, in consequence of his house having been destroyed by fire, and his cultivation neglected during the time he was in custody, and in his way to inform me of what had happened to him. On my complaining to the Hoozoor against the defendants for their torturing me and my tenant, to whom was thereby caused such a severe loss, the Hoozoor, unnoticed my petition hitherto, referred it now to the said tasildar's inquiry, and it is left to the judgment of your Honors, that how justice can be rendered to me by that functionary.

6. Consequently it is requested, that after a thorough inquiry of the matter of this petition, your honours will take pity on me, and issue orders to the effect that the sum which is due to me by the said seventh defendant, both on account of kist and sawmy bogum, should be paid to me; and my said tenant and myself should be compensated both for the personal and property damages alluded to in the above.

Witnesses,—Bashcaravien, residing at Cushbah Soarnamadavee, Sangara Koottalum Pillay, Kooppen Pillay, Appooda Naicken Pillay, Terooviam Pillay, Ananta Narrainen, Karoor Valoy ooden Pillay, Aroomooga Pillay, Dayevo Naiken Pillay, of Tinnevelly, Anunda Row Indvee, goomastah of the talook, Sadasiva Row, head goomastah, Narraina Pillay, Sumpretee Kallacoorhee Vencatasien, and others.

4 January 1855.

(signed) *Kylasam Pillay.*

Translated by T. Teroovengadachary.

(No. 811.)

FORWARDED to the magistrate of Tinnevelly for personal inquiry and disposal, and report.

Fort St. George, 8 June 1855.

(signed) *W. Hudleston,*
Deputy Secretary to Government.

Fort St. George.

EXTRACT Fort St. George Judicial Diary to Consultation of 28 August 1855.

RECEIVED the following letter :

(No. 169.)

From *C. J. Bird, Esq., Magistrate, to T. Pycroft, Esq., Chief Secretary to Government, Fort St. George.*

Sir,

No. 10.

Para. 1. In returning Petition, No. 811, bearing the endorsement of Government, I have the honour to report that the joint magistrate inquired into the complaint of torture therein preferred, and convicted the tahsildar of Sharenmadvay and six of his peons, the former of having ordered the latter, and them of having obeyed the order to maltreat the petitioner, "but not in any way to cause him any severe or bodily injury, or that would have caused him more than temporary inconvenience," and considered it "very doubtful whether a stone was placed on his back or not." The tahsildar was sentenced to pay a fine of 20 rupees, and the peons fines of three rupees each, or in default to suffer one month's imprisonment.

2. In a separate letter, the joint magistrate says, "as the amount of ill-treatment alleged to have been sustained by Kylasem Pillay is proved to be greatly exaggerated, I beg to recommend that the sentence of dismissal which should be passed under para. 9 of Government Circular, dated 7 June 1855, be not carried out, as I am certain that the punishment awarded will effectually prevent the recurrence of such practices."

3. The proceedings of the joint magistrate having been reviewed by the sessions judge of Tinnevely, that officer coincided with the joint magistrate in the conviction of the peons, but annulled that part of his sentence which convicted the tahsildar, and directed that the fine imposed upon him should be refunded.

4. Under these circumstances I have the honour to solicit the instructions of Government, whether the peons who stand convicted should be discharged or not.

I have, &c.

(signed) *C. J. Bird, Magistrate.*

Tinnevely, Teucansey, 10 August 1855.

(No. 600.)

No. 11.

In consideration of the recommendation made in favour of these peons, who were probably only instruments in the hands of others, the Governor in Council will not insist upon their dismissal, but directs that, in addition to the fine imposed upon them, they be suspended from pay and duty for six months, at the expiration of which time they may be re-employed.

Fort St. George,
27 August 1855.

(True extracts.)

(signed) *Geo. Taylor,*
Acting Deputy Secretary to Government.

EXTRACT Judicial Letter to Fort St. George; dated 17 December (No. 19) 1856.

62. We are of opinion that the punishment inflicted by the magistrate upon

Letter from, dated 10 April (No. 9)
1856.

(32). Complaint of ill-usage by one Wylasa Pillay against the tahsildar of Erainmadasew and his peons, in Tinnevely. The dismissal of the peons not insisted on, but their suspension from pay and duty for six months, in addition to the fine imposed on them, directed.

the tehseldar and his subordinates was very inadequate. The conviction recorded against the tehseldar, however, has been set aside by the session judge; otherwise we should have ordered his immediate dismissal from office. We are at a loss to discover from the proceedings reported to us, upon what grounds the session judge remitted the fine on the tehseldar, whilst he upheld the conviction against the peons, who, it is stated, only obeyed the orders of their superior officer.

— No. 3. —

BY THE TEHSILDAR OF PERIAPOLIEM, ON CERTAIN WEAVERS OF
THAT DISTRICT.

Judicial Department, 10th June (No. 19) 1856.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

1. IMMEDIATELY on the receipt of your despatch in the Public department, dated 25th April 1856, No. 19, we called on the collector and magistrate of Chingleput, to submit the original documents required by the Right honourable the House of Lords, in the case of torture alleged to have been inflicted by the tehsildar of Periapoliem on certain weavers of that district; and we at the same time desired the judges of the Foujdaree Udalut, to forward the calendar of the magistrate disposing of the complaint preferred by the weavers against that functionary, together with any proceedings in review of the case which may have been held by themselves or by the session judge.

In Rev. Cons.
27 May 1856.

2. We have now the honour to submit copies and translations of the under-mentioned papers, and to solicit your attention to the letter from the Collector of Chingleput, dated 5th instant, forwarding the order of the 5th July 1855, and explaining the circumstances connected with the whole case, as well as to the letter from the register of the Foujdaree Udalut, dated 2d instant, as to the proceedings taken by that Court in the matter.

From Foujdaree Udalut, 2d June 1856, No. 26, with the following enclosures :

- No. 1. Calendar of persons punished by the magistrate during the last quarter of 1855.
- No. 2. Extract Proceedings of the Session Court, dated 18th February 1856.
- No. 3. Letter from the Register of the Foujdaree Udalut to the Session Judge, 17th May 1856.
- No. 4. Reply of Session Judge, 28th May 1856, with a letter from the Magistrate enclosed.

From the Session Judge of Chingleput, dated 4th June 1856, with two enclosures :

- No. 1. Tamil record, consisting of nine documents, of the case of torture tried by the Magistrate of Chingleput, with translations of same, made by Government Translator.
- No. 2. Original Petition of the Weavers, dated 1st August 1855.

From the Collector of Chingleput, 5th June 1856, No. 3, with six enclosures : viz. :

- Extract Proceedings of Session Court of Chingleput, in a case which occurred in St. Thomas's Mount in 1854.
- Report of persons punished in 1854, by Mr. Shubrick, when acting Principal Assistant Magistrate of Vizagapatam.
- Report of persons punished in 1845 for extortion, and abuse of authority, by Mr. Shubrick, acting Principal Assistant Magistrate.
- Urzee or Address from the Tehsildar of Peddapollium to the Collector of Chingleput, dated 2d July 1855.
- Takeed or Order sent by the Collector to the Tahsildar, dated 5th July 1855.
- Also, Copy of a Letter from the Magistrate of Chingleput, referred to in the above letter, dated 21st December 1855, with Extract Minutes of Consultation in the Judicial Department, 10th January 1856, No. 29.

Fort St. George. Letter from Collector and Magistrate of Chingleput, dated 9th June, forwarding copy of sentence passed by him in a case of torture while Special Assistant in Vizagapatam.

We have, &c.
(signed) *Harris.*
Walter Elliot.
H. C. Montgomery.

Fort St. George, 10 June 1856.

P.S.—Since the above was written, we regret to find that it has not been possible to complete the translations of the vernacular documents in time to admit of their being sent by this mail. They will therefore be forwarded by the next mail.

Judicial Department, No. 20 of 1856.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

WITH reference to the postscript to our letter to your Honourable Court of the 10th instant, No. 19 of 1856, we have the honour to transmit translations of the vernacular papers connected with the complaint of torture preferred against the tehsildar of Periapoliem, in the district of Chingleput.

We have, &c.
(signed) *Harris.*
Patk. Grant.
Walter Elliot.
H. C. Montgomery.

Fort St. George, 21 June 1856.

Revenue Department, No. 17 of 1856.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

WE have the honour to submit for your information copy of a letter from the Board of Revenue, dated 15th May last, giving cover to copy of correspondence on the records of their office, relating to a case of torture in the Chingleput district, together with copies of minutes recorded by the Right honourable the President and by the Honourable the members of Government, and an extract from the minutes of consultation containing the views of Government on the subject. The Board placed these papers before us in consequence of having observed in the newspapers of the day an allusion made to the subject by Lord Albemarle in the House of Lords, and in anticipation of a call from us for them.

2. It will be observed from this correspondence that extracts from the memorial of the Madras Native Association having appeared in the "Spectator" newspaper of the 13th March, the Board of Revenue called on the Collector of Chingleput for an explanation of the circumstances. The result of this inquiry is shown in the documents forwarded, but we have not deemed it necessary to express any opinion on the subject, because the order of the Board of Revenue appeared sufficient in all the main points of the case, and because the case had not come before Government in such a shape as at all to require an order. In the usual course of business indeed it would not have come before Government at all, but considering it very desirable that in future Government should exercise supervision in such matters, we have directed the Board of Revenue to issue orders to the several Collectors and magistrates, and through them their subordinate officers, requiring that in all cases of alleged torture henceforward either in the Revenue or Police department, copies of the complaints and of all proceedings thereon shall be sent up to Government without delay.

3. We

3. We must however record our firm belief that nothing short of the measures already recommended by us to the Supreme Government for the improvement of the administration, can render it possible for this Government to put a stop to the practice of resort to illegal coercion in revenue and police matters, and particularly in the latter. Among those measures, we would more especially refer to the abolition of the moturfa taxes, the re-adjustment of the assessment on the land, the reorganization of the police, and the more extended employment of unconvicted agency, all which were brought under the notice of the Government of India, and eventually under that of your Honourable Court on the dates noted in the margin.*

Fort St. George

4. In your review of the Report of the Commissioners appointed to investigate cases of torture, your Honourable Court remark that we must chiefly look to the spread of education and to the general improvement of the habits and feelings of the population to the eradication of this detestable practice. This is true; but there can be no doubt, that if the circumstances of the taxpayers and of the tax collectors are improved, a much more rapid change in the habits of the population may be anticipated than can otherwise be looked for. The measures proposed for this object more particularly alluded to above, have long since been recommended by us, but as yet we have received no orders, nor has any notice been taken of those recommendations by superior authority; it is however most important at the present time that this Government should be vested with power to act on them at an early period, and we beg again to press on your earnest attention those measures of reform previously suggested by us.

Public despatch,
12 Sept. 1855,
No. 44, para. 17.

5. The Honourable Mr. Elliot, it will be observed, considers the measures proposed, desirable as they are, to be insufficient to check the practice as regards the Revenue department. One of the greatest evils of the present fiscal administration, he remarks, consists in the settlement of the demand annually, which necessitates frequent inspections of the lands under cultivation, and interference with the cultivators by the ill-paid subordinate officials; and he suggests as an alternative, a settlement with the ryots for terms of years, whereby the whole class of inferior servants now employed in the examination of details may be dispensed with. We do not deem it necessary to go into the question raised by Mr. Elliot, as although we fully concur in the advisability of preventing as far as possible the constant interference of officials with the occupiers of the soil, and our plan of a revenue survey and re-assessment comprehends measures designed with that view, we are not prepared to discuss the merits of the change suggested, especially when doubting the feasibility of bringing the plan directly and at once into operation. We refer you more particularly to the views expressed on this point in his Lordship's minute of the 31st May.

Ex. Min. Cons.
14 Aug. 1855,
No. 951, paras.
28 and 2.

We have, &c.
(signed) *Harris.*
Walter Elliot.
H. C. Montgomery.

Fort St. George, 10 June 1856.

To *C. J. Shubrick*, Esq., Collector of Chingleput, &c. &c. &c.

THE humble Petition of the undersigned Weavers of Commarapettah, of the Periapallum Talook in the Zillah of Chingleput.

Humbly showeth,

That the subject of their petition is such as to require your mature deliberation, and deserving of the redress for which they now pray. The subject of torture is

one

* To Government of India, 26 May 1853, No. 572; to Government of India, 14 August 1855; to Honourable Court, 11 October 1855, No. 44; to Government of India, 14 August 1855, No. 31; to Honourable Court, 20 October 1855, No. 32; to Government of India, 13 August 1855, No. 949; to Honourable Court, 25 September 1855, No. 42.

Fort St. George.

one which has excited so much attention lately, as to call for a special commission to investigate it; notwithstanding it is still resorted to to enforce a demand which your humble petitioners submit is not just.

Remark by the Session Judge—
This is not alluded to in the depositions on oath.

Remark by the Session Judge—
This is not alluded to in any way in the depositions on oath, nor has this part of the charge which refers to the 27th July been investigated.

Remark by the Session Judge—
Not so by the depositions on oath.

Before the expiration of Fusly 1264, which came to a termination on the 30th June last, the tasildar, zilladar, peons, &c., whose duty it is to collect the revenues, came to your humble petitioners and demanded the payment of the kist. But on that occasion, though your humble petitioners pleaded poverty, the Circar servants above named pressed them so much as to extort from them bribes, on which consideration they allowed your humble petitioners a short respite. Your humble petitioners believed that the respite would continue sufficiently long to enable them to procure the necessary amount to meet the demand against them; but, on the 27th ultimo, the tasildar of the Pareapollum talook sent eight peons to bring your petitioners to his presence; fourteen of them arrived at their destination on Friday morning, at about eight o'clock, when they were abused and otherwise maltreated. They were made to stand the whole day exposed to a burning hot sun. You are aware of the excessive heat which prevailed lately, even within doors; you can easily judge, therefore, what their pain must have been while exposed to the sun. Their thighs were pinched in a most painful manner. They were made to stoop down, and while in that posture they had to bear the weight of one man on the back of each. Some of them were knocked down upon a dung-hill hard by, and they were designedly besmeared all over with cow-dung, which emitted a most offensive smell, very distressing to bear. All this, and many other modes of annoyance, they had to suffer from early in the morning till 10 o'clock in the night; all which time they were made to starve, denying them even a drink of water to slake their thirst. When their meals were brought to them, they allowed them at 10 o'clock in the night to eat, but for that purpose they assigned them a place which is used as a privy. They remonstrated long and earnestly, and they were at last allowed to go away under the surveillance of peons. The following day being Saturday, 28th ultimo, the tasildar took them to their own village, and bringing with him a great many people to assist and defend him, repeated the same outrages upon them, but with greater cruelty and malice. At this time, so great were their sufferings, that one man, compassionating the pitiful state of bodily and mental anguish to which the unfeeling and fiendlike tasildar had reduced them, voluntarily offered to pay the money claimed; but of course the honest tasildar rejected the offer with indignation and scorn, and got him turned out of his presence. The little money which they had, had been taken from them, taxing them with the payment of batta to the tasildar and his myrmidons during the days they were engaged in all the sharp practices above described, though but in part.

Remark by the Session Judge—
On oath it is stated they had no marks even of violence.

Under these circumstances, as they really have no money, and it is not possible to draw blood out of a stone by any process short of miracle, your humble petitioners humbly and earnestly solicit that they may be allowed a reasonable time to pay their dues, and be mercifully secured from the clutches of the tasildar and his assistants; so great was the cruelty they endured, that many of them are suffering till the present day, and unable to stir from their houses; they are suffering besides from the want of means of support, being separated from their families and other sources of assistance; many have even left the village and absconded, and it is highly questionable if they will ever return; they therefore beg that they be allowed a short respite till they are capable of finding the wherewithal to satisfy the kist.

For which act of benevolence your petitioners, as in duty bound, shall ever pray.

[Here follows eight signatures in the native character.]

1 August 1855.

(signed) C. J. Shubrick.

DEPOSITION given before the Magistrate by Sowduppen, son of Chengulva Chetty, of Rolluppady, in support of the complaint preferred by him for himself and five others, including one Ragava Chetty, against the Tasildar. Fort St. George.

Oath was administered according to the Act.

Q. State the circumstances about which you and others have preferred a complaint against the Tasildar of Pareyapalayem?—A. I do not recollect the date, but on a Friday in the month of Audy, the peon Moonesawmy, and the duffadar Mookoonda Naicker came to my village,* and saying that the tasildar wanted us, took us, and left us before the Tasildar Seenevasarow at Pareyapalayem. The persons who so appeared before the tasildar were Vencuttaisun, Naul Gooroonappen, Naul Moonesawmy, a substitute peon, Chengulvaroyen, Naul Boady Chetty, Naul Bedoo Chetty, Naul Veerasawmy, Yerra Sooboo Chetty, Canttum Vailrooloo, Vencattasawmy, Veeramooshtemoottoo and Naul Gooroonuppen and myself. As soon as we went to the tasildar, he asked us to pay the balance of the loom-tax. We promised him to pay the sum of 50 rupees. He said that half of the balance due by the whole village, 100 rupees and upwards, must be paid. We told him that we had no means to pay it then; at which the tasildar ordered us to be kept in a bowing posture in the sunshine. It was about eight o'clock in the morning. The peon Moonesawmy Naicken and Mookoonda Naicken came and kept us all to be stooping down in the sunshine in the street, in front of the Chetty Chuthum, in Pareyapalayem. We were stooping down in the same posture till eight o'clock at night. We were not allowed to take our meals. When we asked leave to go to take our food, he told us to go after paying the money. We were allowed to go and take our meals about 10 o'clock at night. We took our food, and remained in the cutcherry, under the custody of the peons. On the next morning, we were carried to Rolluppady, and forced to stand in the sunshine in the street of the village moonsiff. At about four o'clock in the evening, he ordered the peons to pinch us on our thighs. The peon Mookoonda Naicken held both of my hands; a Mooselman peon, whose name I do not know, pinched my thigh; Moonesawmy Naicken gave me a blow on the neck. Ebooram and some other peons, whose names I do not know, joined together, and treated me as stated above. They let us go after we paid the money. None of us were wounded (*i. e.* had marks of violence upon our persons).

Remark by the Session Judge—
Quite impossible.

Remark by the Session Judge—
These names do not correspond with those mentioned by Cowden.

How did you pay the money at the time?—Our females being unable to endure seeing us ill-treated, disposed of the articles in their houses, by sale and mortgage, and brought and gave us money, and we paid it.

What did the peon Audum Kan do?—He ill-treated Soobhoo Chetty.

(marked) Sowduppen.

Solely affirmed before me, this 23d day of August 1855.

(signed) C. J. Shubrick.

DEPOSITION given before the Magistrate of Chingleput by Vencattasawmy, Son of Vunneappen, of Coogiarapettah of Mootteryah; Caste, Vistnoo; sect, a Cultivator; and aged about 40, and a Witness.

Oath was administered to him according to the Act.

Q. Sowduppen and others have preferred a complaint, stating that they were ill-treated by the tasildar of Pareyapalayem in collecting arrears of tax; state what you know of the truth of the matter?—A. I do not recollect the date and month, but 10 days ago, about noon, there was a noise near the house of Naxoo Gooroonuppa Chetty, the village moonsiff, situated at a little distance in front of my house. I looked at this standing in the street of my house. The tasildar was holding cutcherry at the time on the outer pyal of the said Gooroonuppa Chetty's house.† In the front of the house, and at the distance of 10 fathoms in the street, there were kept more than 10 persons in number, stooping down in

† Remark by the Session Judge.—
This was at Rollapody.

Remark by the
Session Judge—
These complainants
were inhabitants of
his village.

the sunshine. I did not know who they were, but I saw Sooboo Chetty and Ragava Chetty, now before the (magistrate) court, stooping down among them. Peons were pinching the said two individuals on their thighs, at two peops to each. They cried out, alas! alas! I did not know the peons that pinched them, nor did I see the other persons being ill-treated by the peons, as stated above, for I went away afterwards; nor did I hear the tasildar order the peons to conduct themselves in the above manner. Many females and children were looking on at the time in the street; nor did I see the village moonsiff Gooroonuppa Chetty present there.

Remark.—The tasildar had no question to put to the deponent.

(marked) *Vencattasawmy.*

Solemnly affirmed before me, this 23d day of August 1855.

(signed) *C. J. Shubrick.*

DEPOSITION given before the Magistrate of Chingleput, by Cundum, Son of Aundeappen of Rollapandy, of Palayagar; caste, Vishtnoo; sect, a Peon; and aged about 30 years, and a Witness.

Oath was administered according to the Act.

Q. A complaint has been preferred by Sowduppen and others now before the (Magistrate) Court, stating that they were ill-treated by the tasildar of Pareyapoluyem, on account of some arrear of rent due by them. State what you know of the truth of the matter?—A. About 20 days ago, one morning about six o'clock, I and one Venguppa Chetty, went to the house of Gooroonuppa Chetty, opposite to that of another Gooroonuppa Chetty, the village moonsiff of Rollapady, for asking a debt due by him. The tasildar of Pareyapalayem was holding his cutcherry at the same time on the street pyal of the house of the said village moonsiff. Sowduppa Chetty and others, now before the (Magistrate) Court, were kept in a stooping posture in the street of the said house. The peon Moonesawmy Naicken, and Mookoonda Naicken, whom I now point out, were with the complainant and others at the time. Some other peons, whose names I do not know, were in the act of bringing and leaving there certain individuals. When Mootooneerummal, the wife of Gooroonuppa Chetty, to whose house we went, handed over then a "rettaygoondattegay," or a neck ornament, to Venguppa Chetty, saying that her son also was undergoing an ill-treatment for a balance, and requested him to get and give money for it. The said Venguppa Chetty received the jewel, and went to the tasildar, and told him that he would pay money within three days to the person to whom it may be ordered to be given; that the said persons should therefore be set at liberty, and that he would mortgage the said jewel till that time. The tasildar said that he was not a merchant, and told him to go away. The said persons were kept in the same posture till the noon; and when the tasildar went to take his meals, he let the complainant and others go to take their food. On the return of the tasildar, after taking his meals, the complainant and others were again made to stoop down in the street as before; and the tasildar bade his peons pinch their thighs. the peon Moonesawmy and Mookoonda Naicken pinched Sooboo Chetty, Ragava Chetty, and Sowduppa Chetty, each at their thighs; and it was after they had agreed to pay the money they were set at liberty. I did not see the peons pinch the other persons' thighs. All were set at liberty after they paid the money. The village moonsiff Gooroonuppa Chetty was with the tasildar.

(marked) *Cunden.*

Remark.—Tasildar had no question to put to the deponent.

Solemnly affirmed before me, this 23d day of August 1855.

(signed) *C. J. Shubrick.*

Remark by the
Session Judge—
This does not cor-
respond with Ven-
guppa Chetty's
statement.

Remark by the
Session Judge—
Vide complaint.

DEPOSITION given before the Magistrate of Chingleput, by Vencattachella Chetty, son of Angoo Chetty, of Mungalum, of Chetty caste, Vistnoo sect, a merchant and a cultivator, and aged about 40 years, and a Witness. Fort St. George.

Oath was administered to him in accordance to the Act.

Q. A COMPLAINT has been preferred by Sauduppen and others now before the (magistrate) Court, charging the tasildar of Pareyapolayen with having ill-treated them in the collection of balance of revenue. State what you know of the truth of the matter?—A. About a month ago, *i. e.* in last month, I went to the house of one Gooroonappa Chetty, which is opposite to that of the village moonsiff, in Rolluppady, to demand payment of the balance of a debt. When the wife of the said Gooroovaappa Chetty told me that the tasildar had pressed her for payment of a balance of the tax on loom, and desired me to get and give her some money, I said I had no money, at which she gave to me an addeay, or neck ornament, which I gave to another person, and getting from him seven rupees, gave the same to her. She gave that sum to the cirkar, through her son Chungely, and got him set at liberty. Some other females in the village came and told me that their husbands were undergoing ill-treatments, and that money should be paid for it. I went and saw the tasildar holding cutcherry on the street pyal of the village moonsiff's house. The complainants and others were placed in a stooping posture in the sunshine in front of it. Peons were beating those who refused to keep in a stooping posture. I do not know the names of those peons; they are not present here. I did not see the peons now before the cutcherry beat any one. I went and told the Curum Palayutta Pillay that I would deposit certain gold ornaments as security for the payment of the money. I offered myself to be answerable, and also promised to bring and pay the money in course of three days. On which the said Curum and Audumkan went and informed the circumstance to the tasildar, when the tasildar bade me go away. Afterwards I went to take my meals and returned; the tasildar also went for the same purpose. On his return, after taking his meals, he ordered the peons to pinch the complainant and others on their thighs. In obedience to his said order, the peons, three or four in number, joined together and ill-treated the complainant and others, who were exposed to the sunshine; two of them (peons) pinching their thighs, one seizing hold of their hands, and one giving blows on the neck and pressing them down. I do not know the names of those peons; they are not present here. Owing to the above ill-treatments they disposed of their jewels, and articles, &c. by sale and mortgage, and paid the money. The village moonsiff continued coming and going. The peon whom I now point out, named Moonesawmy, was ill-treating the complainant and others, in company with the other peons. The complainant and others were not sent to take their food till the evening.

Why was not the woman examined?

This does not correspond with the statement of Cundun.

He said before none of the peons were present.

Cundun states they were allowed to go about noon and take their food.

Remark.—The tasildar had no question to put to the deponent.

(signed) *Chuckaray Vencattachella Chetty.*

Solemnly affirmed before me, this 23d day of August 1855.

(signed) *C. J. Shubrick.*

(No. 2.)

Before the Magistrate of Chingleput.

I, SAVOODUPPEN, son of Rallapandy Cheagulva Chetty, hereby depose, on behalf of myself, Ragava Chetty, and four others, residing at Rallapandy, regarding the complaint preferred by us against the Tehsildar.

Sworn according to the Act.

Q. RELATE in detail the circumstances what took place in the matter of the complaint preferred by yourself and others against the tahsildar of Periapolliam talook?

117—Sess. 2.

K

—A. I do

Fort St. George.

—A. I do not recollect the date, but on a Friday, in the month of Andee, peon Moonesawmy and Duffadar Mookoondoo Naik came to our village, and saying that the Tahsildar Sreenwassa Rao, who was at Periapolliam, wanted us, carried us before him.

The persons who so went before the tahsildar were myself, 1; Vencatasew, 1; Nabh Goorooruppa, 1; Nabh Moonesawmy, 1; Chengulwyen, 1; Nabh Potte Chetty, 1; Naboo Beeke Chetty, 1; Naboo Veerasawmy, 1; Yerra Soobboo Chetty, 1; Cotton Vennilu, 1; Vencatasawmy, 1; Veeramooshtee Mootoo, 1; Nabh Gooroovuppa Chetty, 1. As soon as we arrived the tahsildar ordered us to pay the balance of the loom tax. We said we would pay 50 rupees; but the tahsildar said that we must pay a moiety of the amount; viz., 200 rupees and odd, due for the whole village. When we replied that we were not then able to do so, he ordered us to be placed in a stooping posture in the sun. It was about eight o'clock in the morning when the peon Moonesawmy Naik and Mookoondoo Naik came and made us all stoop in the sun, in the street, opposite to Chetty's choultry, in Periapolliam; we were in the same stooping position until eight in the evening. They did not even let us go to our meals; when we asked leave to go to our meals, they said that we could go after we had paid the money. At 10 o'clock at night we were sent to our meals, and when we had finished, we were placed in the cutcherry, under the custody of peons. On the next morning we were taken to Rallapandy, in the same manner, and made to stand in the sun in the street in which the moonsiff's house is situated; and, moreover, at four in the evening, he (the tahsildar) ordered the peons to pinch us on our thighs. The peon, Mookoonda Naik, took hold of both of my hands; a Moosulman peon, whose name I do not know, pinched my thighs; and Moonesawmy Naik thumped me on my neck. These and some other peons, whose names I do not know, combined, and treated us all as above described. After we had paid the money they set us at liberty. None of us received any wounds.

Q. Whence did you obtain the money that you paid?—A. Our females, unable to bear the sight of our sufferings, sold and mortgaged the chattels in the house, and brought us the money, which we accordingly paid.

What did the peon, Adam Khan, do?—He ill-treated one Soobboo Chetty.

(Mark of) *Savoodappa Chetty.*

Solemnly affirmed before me, this 23d day of August 1855.

(signed) *C. J. Shubrick.*

(No. 3.)

To *C. J. Shubrick, Esq.,* Magistrate of Chingleput.

URZEE humbly addressed this 23d August 1855, from Sydapet, by
C. Sreenooassa Rao, Tahsildar of Periapolliam Talook.

I WAS surprised when I saw the hoozoor order, No. 136, dated 17th instant, and beg to make the following representation on the subject therein alluded to; a perusal of the same will convince your Honor of the true state of things.

Arrears of the loom tax for Fusly 1264 last, amounting to 210 rupees and odd, having been due by certain individuals in Rullapully village, attached to this talook, I called upon the defaulters personally several times, both before and after the expiration of Fusly 1264 to pay up the said arrears; and also sent takeeds to the zilladar and watching peon to collect them; but the defaulters, although the year had expired together with a month of the new Fusly 1265, had not paid the arrears within the time within which they had promised to do so. I therefore sent a strict order to the zilladar of the locality to collect them, and he and the watching peons made a report, stating that, upon their demanding the balance, the weavers had agreed to pay 50 rupees, of which 30 rupees in cash had been realised; that the zilladar had left orders with Nanboo Gooroovuppa Chetty, the putta maneagar, and the moonsiff of the said village, to levy and remit the remainder; that the said maneagar had accordingly collected the remainder, and applied it to his own private use,
and

and suggesting that he should be examined and punished. Thereupon I went to Periapolliam on the 27th June, and having examined and taken depositions from the moonsiff and puttah maneagar, Nanboo Gooroovappa Chetty, and from some others who owed balances, I addressed an urzee on 2d July 1855, and requested an order permitting me to punish the said moonsiff for having misappropriated about 30 rupees which had been realised, and to recover the said sum from him by distress on his property. In reply to this, I received an order, dated 5th July 1855, directing me to proceed immediately to the said village, and collect the arrears; and stating that a further order would be issued regarding the punishment of the moonsiff. Pursuant to this takeed; I went to Periapolliam on 27th July, and after sending for the weavers who owed balances of the loom tax, their village, Rallapully, being in the immediate vicinity, demanded them to pay up what was due; but they requested to be allowed 10 days more, on the ground of their inability to pay the money. I refused, however, to give them further time, explaining that the fusly as well as a month of the new year had elapsed, and that they must therefore pay it up at once. I then ordered the acting duffadar, Mookoondoo Naiken, and peons Moonesawmy, Jayram, and Adam Khan, to collect the money from the defaulters; but none paid the money in that village, and most of them said that if they went to their own village they would produce it. Thinking that if I went to their village, Rallapully, and did my best, the balances would be realised, I proceeded there the next day, 28th July, with my cutcherry, and on my insisting upon payment being made, they all, with the exception of a few, discharged their balances before evening. About 160 rupees were collected; but certain others, against whom there was a balance of 50 rupees, concealed themselves; those who paid took leave, and instantly went away. After remitting the money collected, I went the next day, 29th, to Chinamadoo with my cutcherry, to collect others' arrears of revenue. This is what really took place, as I had collected arrears which they had delayed paying, because they thought that the Government were about to abolish the loom tax; and as I had addressed an urzee to your Honor on the 8th August, requesting that the said moonsiff and puttah, and maneagar, who belongs to the weaver caste, might be punished for having embezzled the 30 rupees and odd he had collected; entertaining enmity against me, and instigated by certain evil-disposed persons, they have preferred this false charge, alleging things that never occurred, and this with no other view than to bring me into disgrace. I did not order the complainant and others to be kept in the sun in a stooping position, nor thighs to be pinched, as they were standing in the place where I was holding my catcherry; the peons certainly did not do so. The complainants have bribed some coolies to give evidence in the case. These facts will be evident to your Honor if you peruse the urzee above mentioned, which I have addressed to you at different times. If necessary, your Honor can examine, as witnesses for my defence,—

- 1st. Palayetha Pillay, another puttah maneagar of the said village.
- 2d. Koodookhan Sahib, a hoozoor delayet. And,
- 3d. Peons Jayram, who were then present at the time, and will fully prove the charge to be false.

(signed) C. Sreenevassa Rao, Tahsildar.

(signed) C. J. Shubrick.

(No. 4.)

Before the Magistrate of Chingleput.

DEPOSITION given by me, witness Conden, son of Audeappen, aged about 30 years, of Polcagar caste, Vishnoo sect, living by service, and residing at Rallapandy.

Sworn according to the Act.

Q. SAVOODUPPEN and others, who are now before the Court, have preferred a complaint against the Periapolliam tahsildar of oppression in collecting the balance due by them; state the true facts, as far as you know them?—A. About

Fort St. George.

20 days ago, on a certain day, at six in the morning, myself and one Venkappa Chetty went to Rallapully, to the house of one Goorooappa Chetty, opposite to that of another Goorooappa Chetty, the moonsiff, to collect a certain debt, when the tahsildar of Periapolliam was holding his cutcherry on the street pial of the moonsiff's house; Savoodappa Chetty and others now before the Court were bent down in a stooping posture in the street of the moonsiff's house. The peons Moonesawmy Naiken and Mookoonda Naiken, whom I now point out, were there with the complainant and others, and besides them some other peons, whose names I do not know, brought certain other individuals, and left them there. Moottooveerummal, the wife of Goorooappa Chetty, to whose house we went, came, saying that her son also was being ill-treated on account of a balance, and brought an ornament called "Rettagoondoo Addegay," requesting us to lend her some money upon it. One Venkaya Chetty took the ornament, and went and told the tahsildar that he would undertake to pay the balance due by certain individuals in three days, and requested that they might be released; and offered to deposit the ornament till then; thereupon the tahsildar told him to go away, saying he was not a merchant, and after detaining the complainant and others until now, he then went to his meals, and sent the complainants to theirs also; after the tahsildar had returned from his meals, the said complainant and others were again placed in the street as before. The tahsildar also ordered the peons to pinch their thighs: hereupon the peons Moonesawmy and Mookoondoo Naiken began pinching the thighs of Sooboo Chetty, Ragava Chetty, and Savoodiah Chetty, each pinching one leg, until they agreed to pay the balance, upon which they let them go. I did not see the peons pinching the other individual's thighs. They were all released after paying the balance.

The moonsiff Goorooappa Chetty was with the tahsildar.

(marked) *Conden.*

Note.—The tahsildar has no questions.

Solemnly affirmed before me this day, the 23rd day of August 1855.

(signed) *C. J. Shubrick.*

(True translation.)

(signed) *C. F. Chamier,*
Tamil Translator to Government.

(No. 5.)

Before the Magistrate of Zillah Chingleput.

DEPOSITION given by me, witness Vencatasawmy, son of Nyniappen, aged about 40 years, of Moottria caste, Vishnoo sect, living by cultivation, residing at Commarapet.

Sworn according to the Act.

Q. STATE the truth, as far as your knowledge goes, in the matter of the complaint of oppression, in the collection of arrears of rent, preferred against the tahsildar of Periapolliam, by Savooduppen and others now present in Court:—

A. I do not recollect the month and date, but about ten days ago, one day a little before noon, there arose a noise near the house of the moonsiff Nara Goorooappa Chetty, situated a little distance opposite my house. I stood and looked from my side of the street, and saw the tahsildar holding cutcherry on the pial of Goorooappa Chetty's house. In the front, at a distance of about 20 yards, more than ten persons were kept in a stooping position in the street, exposed to the sun. I did not know who they were, but I observed that Soobboo and Rasappa Chetty, who are present in Court, were among the number kept in that posture. Each of these persons was being pinched on both his thighs by two peons, and was crying out, "Ayo! ayo!" I did not know the peons who were pinching them. I did not see any other persons ill-treated by the

the peons as above stated. I then went away. I did not hear the tahsildar order the peons to act in the above manner. At that time there were many women and children in the street witnessing the scene. I did not see the moonsiff Gooroovuppa Chetty there.

Fort St. George.

(Mark of) *Vencatasawny*.*Remark.*—The tahsildar has no questions.

Solemnly affirmed before me, this 23d day of August 1855.

(signed) *C. J. Shubrick.*

(No. 6.)

Before the Magistrate of Chingleput.

DEPOSITION given by me, witness, Vencatachella Chetty, son of Ankoo Chetty, aged about forty years, of the Chetty caste, Vishnoo sect, earning my livelihood by trade and cultivation, and residing at Mangolum.

Sworn according to the Act.

Q. STATE the truth, as far as your knowledge goes, in the matter of the complaint of oppression in the collection of arrears of rent, preferred against the tahsildar of Periapolliam, by Sadayeppen and others now present in court?

—A. About a month ago in last month, I went to Rallapandy to realise a debt, and visited Paedevy Gooroovuppa Chetty's house, which is situated opposite the moonsiff's. The said Gooroovuppa Chetty's wife came and asked me to lend her some money, saying that the tahsildar was oppressing her son for payment of balance of the loom tax. I replied that I had no money; she then gave me an ornament called "Addegay," which I mortgaged to a third person, and obtaining seven rupees I gave them to her; she took the money and gave it to her son Sengaly and got him liberated, after the sum had been paid to the Circar. Some other females also came and asked me entreatingly for money, saying, that their husbands were being ill-treated. I went to see. The tahsildar was holding his cutcherry in the street pial of the moonsiff's house; the complainants and others were placed in a stooping posture in the sun, and the peons were beating such as refused so to stoop. I do not know the names of the peons; they are not here, nor did I see the peons who are now present beat them. I went and told the Curnum Paleatha Pillay who was there, that I would deposit a gold ornament, as security, on behalf of certain individuals, and that in two or three days I would bring and pay the money due by them. Upon the said Curnum and one Adam Khan going and mentioning this to the tahsildar, the latter ordered me to go away. I then took my meals and returned, which the tahsildar did also; he then ordered the peons to pinch the thighs of the complainants and others; accordingly three or four peons came together, and two pinched the thighs of the complainants and others individually, while standing in the sun, while one caught hold of their hands, and the remaining one thumped and pressed down their necks. In this manner they oppressed them. I do not know the names of these peons, nor are they here. After they had been thus maltreated they mortgaged or sold their ornaments and other articles, and paid the balance, after which they were released. The village Moonsiff frequently visited the spot whilst all this was going on. The peon Moonesawmy, whom I now point out, was also oppressing the complainants, &c., together with the other peons. The complainants and others were not sent to their meals till the evening.

(signed) *Suckary Vencatachella Chetty.**Note.*—The tahsildar has no questions to put.

Solemnly affirmed before me, this 23rd day of August 1855.

(signed) *C. J. Shubrick.*

(True translation.)

(signed) *C. F. Chamier,*

Tamil Translator to Government.

Fort St. George.

LETTER from Seenevasa Row to *C. J. Shubrick*, Esq., Magistrate of the Zillah of Chingleput.

URZY, dated 23d August 1855, Sidapetta, and submitted by Seenevasa Row, the Tasildar of Pareyapolayem.

I RECEIVED your takeed, No. 136, dated 17th instant, and the following explanation in answer thereto will convince you with the truth of the case:

There having been a balance of moturfa, or loom tax, of 210 and odd rupees due in the village of Rallapody, in the said talook, for Fusly 1264, orders were given in person to the defaulters at several times, both before and after the expiration of the said fusly, to liquidate the same, and takeeds were issued to the zillahdar and peons; but as they did not pay the tax, even after the expiration of the first month, in the next Fusly 1265, and so failed in their promises of payment, I sent a strict takeed to the zillahdar of that place. He submitted a report to me, stating that he and his peons went and asked for the arrears; that the defaulters agreed to pay 50 rupees, but that only a sum of 30 rupees was collected in ready money; that he (zillahdar) gave instructions to the puttamoneyem, and the village moonsiff Naub Goroovauppa Chetty, to realise the remainder money, and remit the same; but that that moneyagar appropriated the money collected to his own use; that he (zillahdar) therefore could not remit the money, and that therefore an inquiry should be made, and punishment be awarded. On which I went to Pareyapolayem on the 27th June last, sent for and inquired the moonsiff puttamoneyagar Naub Goroovuppa Chetty, and some of the defaulters, and taking depositions from them, sent an urzy to your Honor on the 2d July 1855. In that urzy I requested for an order to punish the moonsiff and realise the sum of 30 rupees he had appropriated by attachment (of his property). I then received an order from you, dated the 5th July 1855, in which you directed me to go to the village immediately and collect the money, and also observed that you will send another order afterwards about punishing the moonsiff. In accordance to the above order I went to Pareyapolayem on the 27th July, sent for and demanded the defaulters in the village of Rolluppady, which is situated very near to the talook, to pay their arrears of the looms tax. They said they were unable to pay, and requested me to allow them a time of 10 days to pay the balance. I told them that the time cannot be allowed, that the money should be paid down, because the year was over, and a month in the current year was past. I gave order to the duffadar Moockoonda Naicken, Moonesawmy, Jayaram, and Adumkan to collect the balance from the above defaulters. But no one in the village paid any money. As many of the defaulters promised to pay money, after going to their village Rolluppady, I thought that the collection could (easily) be made if I go and make exertions in the village; and accordingly I went thither on the next day, the 28th July last, with my catchery, and on demanding them to pay the money, they all liquidated the balance in small sums at a time within the evening of that day. The sum collected amounted to about 160 rupees. There was still a balance of 50 rupees, and the persons who owed it absconded. Those who paid money took leave and went away immediately. I remitted the sums collected, and on the next day, the 19th, I went to Chianna Naidoo with catchery in order to collect balance of revenue. This is all that took place; in fact, I collected the balance of the tax from those who owed it, but who withheld payment in the hope that moturfa tax would be remitted by the Government. But the moonsiff puttamoneyagar, who is of the same caste as the defaulters, having appropriated the collection of 30 rupees and odd, I again sent an urzy, No. 73, to you on the 8th August, informing you of the above circumstances. It is owing to the instigation of certain persons who bear enmity, and who are of bad conduct, the complaint has been preferred against me, in order to bring on disgrace on me by inserting circumstances which never did take place at all. I did not order the peons either to cause the defaulters to be kept stooping down or to pinch their thighs. The defaulters remained in my presence at the place where I held the catchery, and therefore, peons and others (would not have behaved themselves as stated above), nor did they do so. False witnesses have been caused to give evidence by bribery; therefore a reference to the urzees, which I submitted occasionally, as stated above, will show the reality of the case. Should the other puttamoneyagar of the village at that time, Polayurtan Pillay,

Pillay, the huzoor daloyet Thandookan, and the peon Jayaram be examined as witnesses for the defence, provided the same be necessary, it will fully appear that the complaint was a false one. Please know this.

Fort St. George.

(signed) *Seenevasa Row.*

N. B.—The investigation appears hastily concluded.

(countersigned) *C. J. Shubrick.*

EXTRACT from the Diary of the Magistrate of Chingleput.

Magistrate Court was held on Friday, at Suydapetta.

Complainants, Sowduppen and others.—Defendants, 1. Seenevasa Row, the Head of Police of Paryapolayem; 2. Mookoondoo Naicken; and 3. Moonesawmy Naicken.

No. 22.—21st
Poorattasy of
of Retehasaor, 5th
October 1855.

THE defendants were charged with having on the 27th July 1855, in the village of Coommapetta, in Pareyapolayem talook, made the complainant and others to be kept stooping down in the sunshine, seized and pinched their thighs, and beat and ill-treated them.

The witnesses Vengattasawmy and Cunden have deposed that, by order of the first, the other defendants caused the complainant and others to be kept stooping down in the sunshine, pinched their thighs, and ill-treated them. On a consideration of the fact of the first defendant having been directed to go in person (by the issue of an order in the Revenue Department) and collect the arrears of the loom tax which had been due for a long time by the complainant and other "Jaindevers," or weavers, who had delayed payment, there appear sufficient reasons to believe that the first defendant might have put the complainant and others in constraint as charged by them; and as the evidence of the above witnesses is in this case worthy of credit, a fine of five rupees was imposed on the first defendant under the provisions of Section 32, Regulation IX. of 1816, and the other defendants were set at liberty with a reprimand, they having acted under the order of the first defendant.

(signed) *C. J. Shubrick, Magistrate.*

(No. 26.)

LETTER from *George Ellis, Esq.*, Register to the Court of Foujdaree Udalut, to *T. Pycroft, Esq.*, Chief Secretary to Government.

Sir,

1. I HAVE the honour by direction of the judges of the Court of Foujdaree Udalut to acknowledge the receipt of Extract from the Minutes of Consultation, under date the 27th May 1856, requesting to be furnished with a copy of the calendar from the magistrate of Chingleput, relative to the fine of five rupees imposed on the Tahsildar Streenevassa Row, on complaint of torture made by the weavers of Periapolliam, with any proceedings in review of the case which may have been held by the Court of Foujdaree Udalut or by the session judge.

2. In forwarding copies of extract from the petty calendars of the magistracy of Chingleput, for the fourth quarter of 1855, as also of an extract from the proceedings held on review of the said calendars by the session judge, I am desired by the Court of Foujdaree Udalut to state that the quarterly calendar was brought under the review of the Court of Foujdaree Udalut in the usual course of procedure; but that as the particular case to which reference has been made in the Extract from the Minutes of Consultation under reply had not been noticed by the session judge to whom the original record had been submitted, and as it was headed "Misdemeanor," and a trifling fine had been imposed, the charge, too, containing no features of aggravation, the Court of Foujdaree Udalut were of opinion that it was not a case that called for any special notice from them.

Fort St. George.

3. Prior, however, to the receipt of the Extract from the Minutes of Consultation, dated 27th May, the attention of the Court of Foujdaree Udalt had been drawn to a debate in the House of Lords, in which the Earl of Albemarle had in the course of his speech made allusion to this particular case of torture.

4. The Court of Foujdaree Udalt, on 17th May, called upon the session judge to inform them what notice he had taken of the case when the record thereof had been submitted to him by the magistrate. The translations of the depositions taken before the magistrate have already been submitted to Government by this court, and I have now, by direction of the judges, the honour to forward a copy of this Court's letter to the session judge, together with his reply, and copy of a letter from the magistrate of Chingleput to the session judge on the same subject.

I have, &c.

Foujdaree Udalt Register's Office,
2 June 1856.

(signed) *George Ellis*, Register.

(No. 1.)

CALENDAR of PERSONS punished by the Magistrate and his Assistants from 1st October to 31st December 1855, both inclusive.

1. General No.	2. Office No.	3. Name of Prisoners.	4. Charge.	5. Date of Charge.	6. Date of Appearance or Appearance.	7. Sentence.	8. Date of Sentence.	9. REMARKS.
37	29	-- 1. Sreenawassarow, Tahildar of the Paripolliam Talook; 2. Meenondoo Naicken; 3. Meenawmy Naicken.	-- By the magistrate, misdemeanor, for having on the 27th July 1855, hour unknown, at Coommarapolliam, in the Parapolliam Talook, exposed the prosecutors to the sun for omitting to Equidate the Government demand against them.	-- 3 Aug. 1855.	-- 23 Aug. 1855.	-- The 1st defendant was sentenced to pay a fine of 5 rupees, under Section 32, Regulation IX. of 1816, and the 2d and 3d defendants were released for want of proof.	-- 5 Oct. 1855.	-- The delay arose from the non-attendance of witnesses. The parties were at large.

Chingleput District, Magistrate's Office,
S. d. p. t., 9 February 1856.

(signed) *C. J. S. Aubrick*, Magistrate.

(No. 2.)

EXTRACT from the Proceedings of the Sessions Court of Chingleput, under date the 18th February 1856.

READ calendars, petty cases investigated and disposed of by the magistracy and his assistants during the 4th quarter of 1855.

The above calendars do not appear to call for any remark.

Ordered, that extract from these proceedings be sent to the magistrate of Chingleput for his information.

(True extract.)

(signed) *W. Dorrdeswell*,
Session Judge.

(True copy.)

(signed) *George Ellis*,
Register.

Madras, 17 May 1856.

(No. 3.)

LETTER from *George Ellis*, Esq., Register to the Court of Foujdaree Udalt, to *W. Dowdeswell*, Esq., Session Judge of Chingleput.

Sir,

1. THE attention of the judges of the Court of Foujdaree Udalt has been drawn to a debate in the House of Lords, a report of which has been received by the last mail; in this debate reference was made to a decision passed by Mr. Shurbrick, magistrate of Chingleput, in a charge of torture preferred against the tahsildar of Pariapolliam and certain peons.

2. The Court of Foujdaree Udalt, having referred to the petty calendars of the magistracy for the 4th quarter of 1855, observe that the case above referred to is headed "Misdemeanor," and that it was disposed of by the magistrate, under Section 32, Regulation IX. of 1816.

3. I am directed by the judges to request you will inform them, with the least possible delay, whether, when the records of the cases entered in the petty calendars for the last quarter of 1855, were submitted for your consideration by the magistrate, the record of this particular case was gone into and reviewed by you; and whether, in the event of such having been examined, you saw reason to discredit the testimony of the witnesses in the case.

Foujdaree Udalt, Register's Office,
17 May 1856.

I have, &c.
(signed) *G. Ellis*, Register.

(True copy.)
(signed) *George Ellis*, Register.

(No. 4.)

LETTER from *W. Dowdeswell*, Esq., Session Judge of Chingleput, to *George Ellis*, Esq., Register to the Court of Foujdaree Udalt, Fort St. George.

Sir,

WITH reference to your letter of the 17th instant, requiring me to report whether the record in case No. 22, contained in the petty calendars of the magistracy for the 4th quarter 1855, wherein the tahsildar of Pariapolliam was charged with maltreatment of certain parties, was gone into by me, and if so whether there were any grounds for discrediting the testimony adduced in support of the charge,—I have the honour to report that, on looking over the record in question, I found the evidence taken in that case referred solely to the charge made by the petitioners against the tahsildar for his conduct on the 28th July last, and it appears no inquiry had at that time been entered into regarding the charge which referred to the 27th July. The magistrate* considered that the evidence, although it greatly exaggerated the circumstances, and was in many instances actually contradictory as to what had really occurred, still was sufficient to prove the tahsildar has used unnecessary coercion, so far as disgracing and oppressing the petitioners, by making them stand in the sun in the public street guarded by peons; but it was clear he did not credit any other part of the evidence which referred to the torture the petitioners asserted they had suffered. I was aware that there were other charges pending against this tahsildar, and it will be observed that another charge is entered in the same report; but which the magistrate did not enter into, as the parties had already instituted a civil action against the tahsildar. Perceiving the statements were very contradictory, and that the conduct of the tahsildar was under investigation, I did not consider it necessary to pass any orders on the case, neither party having appealed to the Sessions Court.

I beg to submit a rough translation of the record, in which the judges will perceive the contradictions in the evidence are marked by myself; and I must confess I can hardly conceive it possible that any tahsildar, more particularly one so unpopular as this man appears to be, would have dared to have tortured any persons in the public street, and for so many hours, after the stringent

* Copy of his letter is herewith submitted.

Fort St. George.

orders that had just been passed by Government on this subject; and moreover, if he had actually done so, such a number of respectable witnesses could easily have been brought forward as would have clearly and satisfactorily substantiated the charge.

Chingleput Session Court,
28 May 1856.

I have, &c.
(signed) *W. Dowdeswell*,
Session Judge.

LETTER FROM *C. J. Shubrick*, Esq., Magistrate of Chingleput, to
W. Dowdeswell, Esq., Session Judge of Chingleput.

Sir,

Chingleput, Magistrate's Office,
Pulicat, 23 May 1856.

I HAVE the honour to forward the record of the case No. 22 of 1855, called for in your letter, No. 225, of the 19th instant.

2. As this case has lately attained some notoriety through the public prints, I would beg to be allowed to draw your attention to the complaint as given before me on solemn affirmation, and as drawn up in English by the professional petition writer; the latter containing many aggravations which the former has omitted, and which, moreover, have not in any way been alluded to by the witnesses.

3. As the smallness of the fine has also been commented on, I would beg to refer you to the very unsatisfactory nature of the evidence recorded, and which would not, in fact, have justified any conviction at all, if the first defendant, the tahsildar, had not admitted his presence at the spot, and the collection of the arrears of moturpha tax from the complainants given a colouring of truth to it, by showing, or rendering it probable, that coercion of some sort had been used towards them. The evidence by itself did not appear to me to be of that convincing nature that a severe sentence could justly be founded on it; and it was only the probability of the case, coupled, as that was, with the general disinclination of the weavers to the payment of the tax, under the idea that was prevalent amongst them that it was shortly about to be modified or abolished, and therefore increasing the chances of coercion having been used towards them, that induced me to view the evidence as sufficient for the purposes of conviction, and for a slight punishment, enough to prevent its repetition, rather than as warranting a severe sentence, which would have fairly ensued if the evidence had been of a less questionable character. In fact, so far from not punishing adequately in accordance with the evidence before me, I believe it will be allowed that I have strained that evidence to its utmost limit, and brought in the aid of circumstantial probability to assist and bear me out in my conclusion.

4. I have further to state, though I felt myself, on the whole, warranted in convicting, I was also deterred from a greater measure of punishment by fearing it might encourage the weavers to a future resistance of the tax, by lowering the tahsildar's authority and power amongst them, and his talook generally. I was aware of their objections to the tax, and to which the tahsildar has also alluded in his defence; and I thought it was better to check him from resorting to illegal and objectionable measures in its collection by a small fine, than by a heavy punishment to encourage them to continue in their opposition by the greater triumph it would afford them; and which would not only have affected him individually, but also every tahsildar in the district.

I have, &c.
(signed) *C. J. Shubrick*,
Magistrate.

EXTRACT Fort St. George Revenue Consultations; 27 May 1857.

(No. 537.)

No. 44.

THE Right Honourable the Governor in Council proceeds to pass orders on the letter in the public department from the Honourable Court of Directors, dated 25th April 1856, No. 19.

2. Resolved,

2. Resolved, that an Extract* from the Order of the House of Lords, paras. 1, 2, and 3, be forwarded direct to the collector and magistrate of Chingleput, with instructions to submit the documents therein enumerated as soon as possible. Fort St. George;

(signed) *J. D. Bourdillon,*
Secretary to Government.

LETTER from *C. J. Shubrick, Esq.,* Collector and Magistrate of Chingleput, to
J. D. Bourdillon, Esq., Secretary to Government, Fort St. George.

Sir,

5 June 1856.

WITH reference to your letter of the 2d instant, No. 557, I have the honour to forward you a copy† of my takeed of the 5th July 1855, as therein requested. The original will be sent for from Peddopolliem, and submitted when received. With this takeed and the original record called for from the session judge, the Government will be possessed of all the papers required to be submitted in their order of the 27th ultimo. I was not previously aware that the call for the proceedings by the Foujdarry Udalut had emanated from Government, but attributed it to the notoriety they had acquired through the medium of the public prints.

† Not sent; the original itself having been received and enclosed.

2. I beg to be permitted to make a few remarks, which the proceedings themselves, the circumstances under which they have been called for, and the comments that have been made on me individually, seem alike to require, and without which the Government would be unable to form any correct conclusions on the subjects submitted to their judgment, or be made aware of the reasons and motives that guided me in my course of procedure. The part taken by the Madras Native Association in these proceedings requires that I should refer to them first; I will afterwards proceed with the case itself on its merits.

3. It will be in the recollection of the Right Honourable the Governor in Council, that certain persons appeared in the Guntoor district in 1854, and gave themselves out as agents or emissaries of the Madras Native Association, who went about collecting subscriptions on pretence of seeking to abolish the moturpha taxes. I am not able to say that any such persons have actually appeared in Chingleput‡, but the connexion of the Madras Native Association with the efforts of the weavers to relieve themselves from these taxes has been very apparent. The tahseeldar does not allude to the association in his defence, but he alludes to the impatience with which the weavers looked upon their professional taxes, and the efforts they made to shake them off. The connexion of the Native Association with the weavers in their efforts is shown by the present proceedings, and they have also been guilty of stooping to obtain clandestine possession of copies of documents from my office of which no copies were publicly applied for, and consequently could not have been granted.

4. The only copy of a document granted by me was a copy of the Tamil sentence in the Diary, but the Native Association appear to have obtained possession of a copy of a rough memorandum of instructions issued by me to the magistrate's moonshee to draw up that sentence, which instructions might equally well have been given by word of mouth, and do not necessarily form any part of the record. It has, however, been sent with the record to the session judge, and will come before Government in due time. I maintain the propriety of those instructions§ under the circumstances of the case, and only allude to them to show the clandestine way they must have come to the knowledge of the Native Association, and the clandestine use they have made of them.

5. The

* Desire to be furnished with copies of certain documents called for by the House of Lords, connected with the steps taken by the collector of Chingleput, for the collection of the loom tax from certain weavers of Periapalleum.

† I now find that such persons did appear in Chingleput, and were reported to the Board by Mr. Smollett, in his letter, No. 156, of the 12th July 1854.

§ It will be seen that the Tamil sentence uses stronger terms than are contained in the instructions. This did not attract my attention at the time.

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5. The copy of the takeed of the 5th July is another document they have equally obtained clandestinely, and translations or copies of depositions, I am told, have appeared in some of the native papers, and to-day in the "Athenæum," which the weavers, the parties to the case, never applied for, as well as a translation of a subsequent takeed addressed to the tahsildar, directing him to remit the amount of the fine imposed on him to the hoozoor treasury.

6. The possession of these documents, and the use made of them by the Native Association, show the unscrupulous character of the individuals composing it, and the dangerous tendency of their proceedings towards subverting all constituted authority, and throwing distrust and suspicion between heads of offices and their subordinates. I would beg respectfully to state on this head, that, individually, I am perfectly indifferent as to what documents they may obtain, or wish to obtain, from my office; but that, as a public servant, it appears to me that the possession and use of unauthorised and unauthenticated copies of public documents by associated or single individuals may be found to be undesirable, and even, under certain circumstances, hurtful to the public interests. In the present case, of course, it only concerns me individually; but cases may occur in which greater inconvenience may be the result, and which it may therefore, perhaps, be deemed advisable to guard against.

7. I now proceed to the case on its merits, and trust I may be permitted to enter upon a full explanation, with the assured confidence that every word I say will receive its proper weight, and that nothing but the facts themselves, and their legitimate consequences, will be allowed to enter into the consideration of Government, who will discard from their minds all the prejudices and statements that have been made, both at home and in this country, in regard to these facts, which the parties making them did not understand, and were not fully informed of. Before doing so, it will, however, be as well for me to state here, which I might perhaps have better stated above, that the weavers themselves never complained against my decision, though an appeal could have been laid against it both to the session judge and Court of Foujdarry Udalut, and that their going to the Native Association shows that both they and the latter body had other motives and objects than the mere establishment of justice in their individual cases to influence them.

8. I proceed to the takeed of the 5th July, and here beg to enclose the tahseeldar's urzee of the 2d idem on which it was issued, but which has not been called for, though the document most required to understand the subsequent proceedings.

9. The Right Honourable the Governor in Council will perceive from this urzee, that the tahseeldar first brought the arrears of the weavers to my notice within nine days of the end of the fusly, and attributed his failure to make his collections to the negligence of his subordinates, and the connivance of the putta monigar, who had retained a portion of them when realised, and requested he might be allowed to distrain the property of the weavers in consequence.

10. It appeared to me, that the tahseeldar was merely endeavouring to throw off his responsibility on his subordinates, who were not the proper parties to bear it; and that before the entire taxes of all the weavers of a village for a whole twelvemonth should be levied by distress, it was advisable that he should himself go to them in person, and see what he could do towards getting them in. I accordingly sent him my takeed of the 5th July, in which I pointed out to him his negligence, and required him to remedy it. A great deal has been said and written about this takeed, and I have been accused of personally goading on the tahseeldar to the commission of torture, by the threat of a "severe order," with which it terminated; and the injunction, that he should leave no "part of the balance unrealised."

11. I beg respectfully to state, that I make no excuse or palliation for this takeed. I maintain its propriety throughout, and I have no hesitation in saying that, in common with every collector in the service, I must have signed some hundreds of similar takeeds, though not one where the conduct of the tahseeldar had been equally negligent beforehand, or followed by torture afterwards. It was an every day order, drawn up to meet the case to which it applied, and it was impossible for me to anticipate that the tahseeldar would have

have had recourse to illegal measures in the performance of his duty; there was no reason why he should have resorted to illegal measures. He might and ought to have collected his kists regularly, and not allowed them to stand over for a whole twelvemonth, when he would have got them in with ease; that he was not doing so I never knew till the receipt of his urzee of the 2d July, written nine days before the end of the fusly year; and his resorting to illegal measures, in consequence of being goaded to them by my takeed, is absolutely negatived by the time he allowed it to remain with him without notice.

12. If my takeed was of the goading nature attributed to it, and the threat of a "severe order" was understood as anything more than "a commonplace," I would beg to ask why it was not acted on forthwith? It was dated the 5th July, and must have reached the tahseeldar on the 7th; but he does not appear to have moved in the matter till the 27th, though he might, if he had attached any special importance to it, had the weavers before him on the very day he received it, and reported his collections on the next. I have stated that I could not anticipate that the tahseeldar would resort to illegal measures; and I have shown that my order was not the immediate cause of them when he did; and I now beg to add, that I have never had a complaint of ill usage in the collection of revenue made to me during the whole of my public service. I have had complaints of ill usage and torture in police cases; and the magistrates' or agents' calendars of the Vizagapatam districts will show how I acted on them, and that I never hesitated to punish with due severity when the occasion seemed to require it. I applied for copies of these calendars to the registrar of the Foujdarry Udalut that I might be able to show (not to Government, who, I believe, have no need of it), but to others, that I was probably the least likely person against whom a charge of abetting torture could, by any possibility, be brought. I have been informed in reply that these calendars, which are of the year 1845, have been destroyed in common with all others up to 1850, on the records of the Foujdarry Udalut. I have therefore sent for them to Vizagapatam, where, if still in existence, I hope shortly to be able to furnish the Government with copies, under the attestation of the magistrate. As stated already, I have never had a complaint of torture preferred to me previously in revenue cases; and the first information I heard of its existence was through the medium of the Torture Commission. I do not believe in its existence to any extent, no more than I do generally to brutal conduct amongst the police in England, though occasional instances of such find their way now and then into the newspapers: and I positively deny its necessity. No tahseeldar who does his duty regularly would find himself obliged to resort to it; it can only be to cover laziness and previous neglect that it can ever have been inflicted. As for the charge that has been made that complaints of this nature have been indifferently received, I would be allowed to say, that the charge must be quite gratuitous and unsupported. Whatever a collector's feelings in the question might be, the charge would have come before him as a magistrate, when, if he had failed to inquire into it, or dispose of it on its merits, an application to the session court, or Foujdarry Udalut, to say nothing of the Government, would have compelled him by precept to proceed with it in regular order.

13. In regard to the other expressions objected to, "leaving no part of the balance unrealised," the Government need not be informed that it is the common idiom of the Tamil language, and not specially used for the occasion in question. Any other expression would have been extraordinary and uncommon.

14. I trust I may be excused for thus explaining matters which would not otherwise have called for explanation, being of every day occurrence; but I find myself obliged to enter into them, from their having originated elsewhere, and may still be discussed where they are not known. In this way I find myself obliged to state, that owing to the neglect of the tahseeldar the weavers had all the time allowed them to pay their taxes they could possibly have wanted, if they were intended to be paid at all. These taxes were due over a period of 13 months, and could not be prolonged. The weavers knew they stood against them the whole of that time, and if they had not been contumacious they would have been prepared to pay them on demand, and thankful for the time they had been allowed to pay them in. I believe no similar delay could have taken place in any other country; and in England it would probably

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have resulted in the summary dismissal of the subordinate officer allowing it. The very time allowed the weavers shows that they ought to have been prepared at the last; and the fact of their families being possessed of jewels proves that they were not only not wanting in the means, but that they could have been ready provided with them for the payment if they had wished it.

15. It has been said that distress might at once have been resorted to. It certainly might; but the measure appeared to me to be harsh, on the mere report of the tahseeldar, without his first going and making an effort to collect the balance in person, and I believe still greater efforts would have been made to throw odium on the mohturpha taxes, if it could have been said that nothing short of distraint had been able to realise them.

16. I now proceed to the case as a question of police. In doing so I beg to draw the attention of the Right Honourable the Governor in Council to the statements of the weavers, as given by themselves on solemn affirmation before me, and as drawn up by the professional petition writer whom they employed, and who has introduced a variety of circumstances which they never hinted at, and their witnesses did not depose to. With these circumstances I had, therefore, nothing to do. My inquiry was confined, according to the circular orders of the Foujdarry Udalut, dated the 24th July 1855, and Section 3, Regulation VIII. of 1832, to the complaint deposed before me by the parties themselves, and the matters elicited from their witnesses. It was on these that I based my sentence, and which I now hope to be able to justify.

17. It will be observed that the weavers depose to having been ill-treated by the tahseeldar and his peons on two days, the first day at Peddapollium, and the second day at their own village of Ralapady. Regarding the occurrences of the first day there is no corroborative evidence. The tahseeldar admits in his defence that he summoned the weavers to Pedapollum on that day, but the witnesses do not depose to what took place there. They confine their evidence to the occurrences of the second day at Rallapady. Whatever may have happened on the first day (if anything) there is no evidence to establish it, and the tahseeldar is entitled to an absolute acquittal.

18. It remains, therefore, only to consider the nature of the evidence regarding the occurrences of the second day. The first idea that will occur will be probably the meagreness and unsatisfactory nature of the evidence recorded by the complainants' spokesman, and their witnesses. Considering the length of time they profess themselves to have been suffering under the ill-treatment of the tahseeldar and his peons, and the number of the latter that must have been employed (supposing that all that has been said of them was true), it is surprising that none of the parties, either weavers or witnesses, should have been able to depose against more than two of the peons, and that one of the witnesses, (the first) Vencatasawmy, should be unable to identify even those two. There was ample time during the second day for every peon to have been identified (setting aside the first day); and the failure in this respect fully accounts for my use of the expression "questionable evidence," which has been elsewhere objected to. This "questionable evidence" is further apparent in the different statements of the witnesses relative to the time when the weavers were allowed to take their food. The second witness, Vencata Chetta Chetty, places this in the evening, meaning after they have paid their balances; while the third, Cundun, says that it was at noon, at the time the tahsildar went to his rice. The weavers themselves say they paid their money and were released at four o'clock. The reasons assigned for the presence of the second and third witnesses also appear to be "questionable," and it is strange that the same reasons should have taken them both to the spot, viz., collecting money or debts on their own account.

19. I believe I have thus very clearly shown that I was justified in using the expression "questionable evidence," and acting up to it. It was impossible for me with these discrepancies, and when the circumstances of the complaint were such as to have required better evidence, to do otherwise than consider they had very much helped to destroy it, so far as it justified me in uttering a severe sentence. I consider it possible, and very probable, that coercion of some sort had been used towards the weavers, but I did not consider it amounted to anything like what they said it did. I thought that a fine which would check a
recurrence

recurrence to coercion, and induce the 'tasildar to exert himself, was all that the case required, and which I hope on my explanation will now be allowed to be so. If the evidence had been conclusive, and the ill-treatment more clearly and less suspiciously established, the punishment I should have awarded would undoubtedly have been greater. I must also state that I was guided in the amount of fine by the consequences I feared might result, from the imposition of a larger sum. The tasildar in his defence alludes to the impatience with which the weavers viewed the tax, and I had become aware of it long before, from being frequently accosted by these people* in my morning rides, and learning from them how anxiously they were looking forward to its abolition. It is my firm belief that the whole affair, and its transmission to England, instead of the constituted authorities or Government on the spot, has been got up for the purpose of bringing the tax into odium; and at the time I was afraid lest a heavier punishment might tend to encourage further resistance, and increase the difficulties of the tahsildar. The Government will observe, that though I inquired into the case on the 23d August, my sentence was not given out till the 5th October. If I had not been afraid of the consequences I have described it would have been given the same date as the inquiry. In another case of torture or abuse of authority preferred against this very tahsildar when in Poonamaley, where the charge was admitted and the evidence conclusive, and no consequences such as I feared in the present case likely to follow, I recommended† a fine of 25 rupees to be imposed on him, which the Government‡ approved of.

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* I mean belonging to other villages.

† Vide Letter dated 21 December 1855.

‡ Vide Extract from Mins. of Cons., 10 January 1856.

20. The preceding was written yesterday, the 4th, and was in the hands of the copyist, when this morning's post brought me copies of two of the sentences; referred to by me in para. 12, and the promise of a third as soon as it could be procured from the Principal Assistant's Office.

21. I beg to enclose these sentences, with the accompanying copies of proceedings held by me in cases of torture and oppression while acting as session judge at Chingleput. They will show to Government, by the sentences passed in one case, that of a head of police, dismissal from the service and a fine of 100 rupees for "bribery and extortion under threats;" and, in the other imprisonment with four months' labour, and a fine of 20 rupees, commutable to two more months' imprisonment in default of payment, on a duffadar for "extortion with ill-treatment or torture;" but I never failed to follow these cases§ to the uttermost, and set my face most determinedly against all kinds of ill-usage on the part of the police in all its various shapes. The proceedings from Chingleput will also show how I endeavoured to bring these matters to light in the case of the Saint Thomas's Mount cantonment, Cotwall, and did not hesitate to express myself regarding the joint magistrate when he appeared to me to be endeavouring to screen his subordinate officer.

§ I mean cases of torture.

22. I have thus endeavoured to bring all the matters connected with this case clearly and prominently before the Right Honourable the Governor in Council; and I trust, as an English gentleman and a public servant of 23 years standing, I may be held to have completely exonerated myself in their view. I may have erred in the amount of fine I imposed, and the consequences I feared from making it larger; but I have nothing to retract or qualify, and my whole career is a sufficient proof that I have never failed in my duty, either towards the Government or its subjects, as far as my conscience, time, and abilities permitted me.

23. The above had been written and copied fair when the original takeed of the 5th July reached me from Peddapollum, and is herewith enclosed. Should I have omitted any points which may appear to call for further explanation, I request they may be intimated to me.

I have, &c.

(signed) C. J. Shubrick,
Collector and Magistrate.

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TRANSLATION of an Order issued to the Peddapalium Tehsildar,
dated the 5th July 1855.

YOUR urzee, No. 9, of the 2d instant, with its enclosure, has been received. You have represented therein that Naul Goorooappa Chetty, moonsiff and putta-manigar of Rullapandy, of the above talook, has not only thwarted the collection of the loom-tax in his village, Rs. 212. 8. being the entire demand, and withheld the payment of his own tax, but that he has likewise stated that instead of remitting 15 rupees, alleged to have been collected by him on the above account, he has refunded the same to the payees, and that he should therefore be visited with a fine, and dismissed from office, and that the property of the defaulters should be distrained.

Should the entire demand on the looms remain unliquidated, you should have inquired into the subject from time to time, and collected the amount. This you have failed to do, and remained silent up to the end of the fusly; and have now addressed an urzee, as above set forth, which shows that you have paid no attention to the collections, and that you are under the impression that, by making representations against the subordinate officers, your responsibility in the matter will cease. The indolence you have displayed in the matter is very apparent. Immediately on the receipt of this order you will personally go to the village, and collect the whole amount of the demand, and report the same. Should you fail to recover the above amount, stringent instructions will be issued regarding you.

On the receipt of your report that the balance has been recovered, instructions will be issued regarding the punishment to be inflicted on the moonsiff.

(True translation.)

(signed) C. J. Shubrick, Collector.

(No. 813.)

LETTER from G. S. Forbes, Esq., Secretary to the Board of Revenue, to
C. J. Shubrick, Esq., Collector of Chingleput.

Sir,

I AM directed to forward to you the accompanying issue of the "Madras Spectator" of the 13th instant, which contains extracts from a petition addressed to Parliament by the Madras Native Association.

The Board request that you will inform them whether any charge was made against the tehsildar of abuse of authority in collecting these dues of Government; and, if so, acquaint them with the nature of the charge and the circumstances attending it.

I have, &c.

(signed) G. S. Forbes,

Secretary.

Revenue Board Office, Fort St. George,
18 March 1856.

LETTER from C. J. Shubrick, Esq., Collector of Chingleput, to G. S. Forbes, Esq.,
Secretary to the Board of Revenue, Fort St. George.

Sir,

1. I HAVE the honour to reply to your letter, No. 813, of the 16th instant forwarding the "Madras Spectator" of the 13th idem, and requesting me to inform the Board of the nature of the charge preferred against the tehsildar, and the circumstances attending it, as referred to in a petition addressed to Parliament by the Madras Native Association.

2. The charge against the tehsildar, which was disposed of by me on the magisterial side, was for using compulsory measures towards the weavers of Rullapady, with a view to forcing them to pay their arrears of loom tax, by bringing them away from their own village to where he was staying, keeping them a short time without food, making them stand in the sun, and causing his peons to pinch them on the thighs, and which resulted in the accomplishment of his intentions.

3. The

3. The charge was denied; but the nature of the proof, though otherwise questionable, appeared to me to receive considerable force from the fact that the money was collected, and I accordingly convicted and fined the tehsildar in the sum of five rupees, and released the peons with a caution.

4. My reason for dealing thus leniently with the case, arose out of the feeling which I had become aware was very prevalent among the weaving community, that the loom-tax was about to be abolished or modified, and the impatience which they therefore evinced at being longer subjected to it. It was necessary for me to consider what the result of my decision would be on the feelings of the weavers in general, with reference to their efforts to shake off the tax; and while checking the tehsildar against a repetition of similar conduct, not to allow the weavers to suppose they could exempt themselves from future payment. The question was, it appeared to me, how to combine justice in the particular case with policy towards a whole community; how to punish the tehsildar sufficiently for his offence, and at the same time not to lessen his legitimate authority; and I have every reason to believe that my sentence met the requirements I had intended from it.

5. I think it is very possible that I may shortly have to bring this tehsildar's general conduct before the notice of the Board; but in the particular instance under reference I believe I could not have acted better or more advisedly than I did.

Chingleput District,
Collector's Ct. Cuty., Covelong,
25 March 1856.

(signed) C. J. Shubrick,
Collector.

(No. 1047.)

EXTRACT from the Proceedings of the Board of Revenue; dated 10 April 1856.

READ letter from Collector of Chingleput, dated 25th March 1856.

Para. 1. In their proceedings of the 18th ultimo, the Board called the attention of the Collector to a representation made by the Madras Native Association, in a petition to Parliament, that a tehsildar of his district had been only punished with a fine of five rupees on being convicted of using forcible measures for collecting an arrear of moturpha revenue due by some weavers, and they requested to be informed if the details of this representation were correct.

2. Mr. Shubrick's present letter is in reply to that call, and shows that Sreenevassarow, tehsildar of the Peddapolliam talook, was fined five rupees for abuse of authority, in resorting to illegal measures for the collection of an arrear of revenue due by some weavers in the village of Rollapaddy.

3. The tehsildar was, it appears, charged with taking the defaulters away from their village, detaining them for a time without food, and ordering his peons to make them stand in the sun, and to pinch their thighs. Mr. Shubrick states that the accusation was denied, and that the evidence in support of it was in some degree questionable: but, as the charge derived support from the fact of the money being collected, he convicted the tehsildar of using illegal violence, and sentenced him, in his magisterial capacity, to a fine of five rupees. The peons were released with a caution.

4. In explanation of this lenient sentence, Mr. Shubrick observes, that the weavers had contumaciously refused to pay their tax under an idea that the moturpha revenue was about to be abolished, and that he felt it necessary to consider what the effect of his sentence would be, lest resistance to the just demands of Government should be encouraged by it. His object was to discountenance and punish illegal modes of collecting the public revenue, and at the same time maintain the authority of the Government servants.

5. The Board have not before them the details of the accusation, and of the evidence produced in its support, but as the arrear was realised, notwithstanding the remonstrances of the defaulters, without apparently any restraint of property, and the tehsildar was convicted by the Collector and magistrate of resorting to improper measures, they must consider that he has been proved guilty of official mis-

Fort St. George. conduct on the occasion; such being the case, the sentence is, in their opinion, quite inadequate; and they must observe that, while the tehsildar's illegal conduct was calculated to weaken our administration, its due punishment could alone repair this evil.

• Para. 8. 6. The Board therefore feel it inexpedient to retain the tehsildar in his present office, especially when the Collector alludes* in unfavourable terms to his general conduct; and while waiting for the expected report on this subject, they accordingly direct his suspension.

7. On receiving this further report, the Board will pass final orders regarding the tehsildar, and they feel bound to remark, that in doing so, they will have to give weight to the nature of the order which the tehsildar received from the Collector for the collection of this balance; the correctness of this order, as given in the petition of the Madras Native Association, does not appear to be disputed; and, although the Board are aware that the Collector had not the slightest intention of authorising any illegal measures, its wording was unfortunately such as might have impressed the tehsildar with an idea that he incurred more risk by leaving the balance uncollected, than by employing unjustifiable means for its collection. The order was evidently sent off without its wording being duly scrutinised, when a careful order, instructing the tehsildar what steps to take if the defaulters failed to pay the arrears, should have been issued: as the present balance was due on account of moturpha, and there was, consequently, no land first to be attached and sold, immediate distress could have been made against the personal property of the defaulters, and the tehsildar should have been directed to follow this course.

8. The Board cannot too strongly impress on the Collector the important duty of carefully taking measures to prevent abuses in the collection of the public revenues, and of checking any tendency on the part of his native servants to employ means other than those which the law allows.

C. J. Shubrick, Esq.,
Collector of Chingleput.

(signed) J. D. Sim,
Sub-Secretary.

LETTER from C. J. Shubrick, Esq., Collector of Chingleput, to G. S. Forbes, Esq., Secretary to the Board of Revenue, Fort St. George.

Sir,

1. WITH reference to the Board's proceedings of the 10th instant, No. 1047, directing the suspension of the Peddapolliem tehsildar, and awaiting my further report on him, I have the honour to submit a statement showing the charges or accusations preferred against this officer, and the manner they have been disposed of, since my assumption of the charge of the district. Among the charges will be found three for felling down trees, and appropriating them to his own use, of which two have not yet been inquired into. These were the charges which I had it in contemplation to investigate when addressing the Board on the 25th ultimo, before reporting on his general conduct, but under the view taken by the Board of his conduct towards the weavers of Rallapady, it appears unnecessary to await their issue, the charges against him already proved being sufficient for his dismissal, and it was only an idea of accumulating his offences before reporting on them that led to my delay in the matter, as I had long been of opinion that his removal from the public service was absolutely necessary, both for the interests of Government and their subjects.

2. I need not enlarge on the facts revealed by the statement, as they will speak for themselves. The Board will observe that the tehsildar has been four times fined within twelve months, in sums amounting to 36 rupces, two of the fines being for abuse of authority and so-called torture, and two for neglect of duty; that legal proceedings have been instituted against him in the civil court by an injured party in another case; that he acknowledged having improperly felled some trees in one case, while in two others the charges are still pending; and that in only two cases he has been acquitted, one by the non-attendance of the complainant, the other by defect of evidence.

3. As a head of police, he has proved himself decidedly inefficient, having failed in establishing before the courts more than three cases out of the 32

heinous cases perpetrated in his talook within the year, and those three cases of simple theft and housebreaking, leaving seven cases of gang robbery undiscovered.

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4. With reference to the Board's observations in para. 7, relative to the correctness of the order as given in the petition of the Madras Native Association not being disputed, I have the honour to state that not deeming their call for information to apply to it, but only to the charge against the tehsildar, I confined myself to the latter only in my reply; I have now the honour to enclose a correct translation of the order in question, which, though I have not the version published by the association to refer to, I have sufficient recollection of it to know that it differs very much from the one now furnished.

5. The Board will perceive that there is nothing in the order that could have justified the tehsildar in resorting to unjustifiable measures for the collection of the moturpha balance from the weavers. His report against them, in which he solicited permission to distrain their property, was dated the 2d July, or within a week of the end of the Fusly, and showed that he had neither been to the village himself, or succeeded in collecting a single rupee through the zilladar and peons he had sent there. His application to distrain their property appeared to me therefore to be premature, and that his own personal efforts in realizing the balance should be tried before resort should be had to such a measure. It was in this spirit that the order was issued, and should have been interpreted by him. It accused him of neglect of duty, and it required him to make up for his neglect, and not to recommend a distress of property before he had personally made his demand, and tried to do without it. The measures he adopted were not called for by the order, and neither the measures nor a resort to distress would have been necessary, notwithstanding the objections to the tax on the part of the weavers, if he had attended to his duties earlier in the year, instead of waiting to enforce them till the end.

6. I have, therefore, no hesitation in declaring that he has himself alone to blame in the matter, and that his further continuance in the public service should not be allowed.

(signed) *C. J. Shubrick,*
Collector.

Chingleput District, Collector's Ct.
Cutcherry, 18 April 1856.

STATEMENT showing the Charges preferred against C. Shreenevassaz Row, Tehsildar of the Peddapolliem Talook, Zillah Chingleput

No.	Names of the Complainants.	Subject of Complaint.	Mode in which the Complaints were disposed of.
1.	Narrainsawmy Pillay, of Nugraharum, in the Poonamallee talook.	Complains of having been tortured by being handcuffed, slipped, and confined to close custody.	Convicted, and fined 25 rupees under the orders of Government. Complaint preferred to the Torture Commissioners.
2.	Weavers of Rallapady	Complain of having been tortured by being made to stand in the sun, kept without food, and pinched on the thighs.	Convicted, and fined 5 rupees.
3.	Civil engineer - - -	Neglect of duty in the repair of the Cuddapah road.	Fined 10 rupees.
4.	- - - - -	Delay in the disposal of a case of assault.	Fined 1 rupee.
5.	- - - - -	Abuse of authority - - -	Legal proceedings have been instituted in the civil court.
6.	Moses, of Pelrumibantum	Felling down trees belonging to the villagers without authority.	Confessed the charge; was cautioned not to repeat it.
7.	Munguppa Naidoo, of Tholacadavankum.	Ill treatment for non-payment of revenue.	Acquitted, the party having failed to appear.
8.	Cooppiah - - -	Oppressive conduct - - -	Not proved.
9.	Ramasawmy Naidoo - -	Forcibly felling down certain trees and appropriating them to his own use - - -	Under investigation.
10.	Teagonoy Moodelly - -		

STATEMENT of Heinous Offences committed in the Peddapolliem Talook during the Year 1855.

Offences.	No.	Persons concerned.	Whether apprehended or not.	How disposed of.
Gang robberies - - -	7	116	None apprehended.	
Attempt at house-breaking -	9	13	- ditto.	
Theft - - - - -	7	13	cases. persons. 2 2 apprehended -	Committed to the court, but released for want of proof.
Theft and house-breaking -	9	15	6 12 - - -	

Chingleput District, Collector's Ct. Cutcherry,
18 April 1856.

(signed) C. J. Shubrick,
Collector.

(No. 1309.—Revenue Department.)

EXTRACT from the Proceedings of the Board of Revenue; dated 2 May 1856.

Dated 18 April
1856.

READ, letter from the Collector of Chingleput, reporting the conduct of the tehsildar of Peddapolliem, and recommending his dismissal.

* Extract Mins. of
Cons. 7 June 1855,
p. 15-

In this letter the Collector details some minor instances of misconduct on the part of the tehsildar; but into these the Board will not enter, since the orders issued by Government,* when reviewing the report of the Torture Commissioners, render it impossible for them to retain, in public employ, a servant who has been a second time convicted of using illegal and harsh measures for the collection of the revenue.

2. The Board, therefore, direct the tehsildar's dismissal; but they are constrained to observe that the order issued by the Collector to the tehsildar still appears to them to give his conduct the only palliation which it could receive. They are fully satisfied that Mr. Shubrick did not perceive the construction which might be put upon his order, or contemplate for a moment that it would lead to any illegal method of collecting the arrear. But as the tehsildar had unsuccessfully requested authority for distraining the property of the defaulters, and fining the village revenue officer for his neglect, and was directed to go himself to the village and collect the arrear, under pain of serious consequences to himself, he might have been led to suppose that he would be in more danger by failing to collect the balance, than by employing irregular measures for the purpose.

3. The Board, therefore, trust that the Collector will be careful in the wording of his orders on future similar occasions; and as his letter shows that he thought it harsh to resort at once to the distraint and sale of the property of these defaulters, his attention is called to the proclamation issued with their circular order, dated 30th April 1855, which shows that the Board desired to check all improper practices in the collection of the revenue, by bringing into prompt exercise those legal means which the Regulations afford.

EXTRACT Minute by the Right Honourable the President; dated 20 May 1856.

THE Board of Revenue, in these papers, transmit to Government their proceedings with reference to a case of torture in Chingleput, in consequence of its having been mentioned, according to the reports of the newspapers, by Lord Albemarle in the House of Lords.

It appears that so soon as the memorial of the Madras Native Association was published in the newspapers, in which this matter was mentioned, the Board called on Mr. Shubrick for an explanation. The result of their inquiry is shown in the documents now circulated. It is not my intention to give expression to any opinion on this subject, in consequence of the publicity which it has obtained,

obtained, and from the fact that suggestions of various kinds have emanated from the public press. The case has come in no shape before this Government, neither could it in the usual course of procedure. Fort St. George.

I am, however, of opinion that measures should be adopted to insure the supervision of the Government in any similar instance which may occur at any future time; and I would, therefore, propose that orders should be issued to all Collectors and magistrates, and by them to their subordinate officers, that copies of all cases of alleged torture, either in the Revenue or Police departments, and of the proceedings thereon, should be sent up to Government as soon as possible after they have come to the officer's knowledge.

EXTRACT Judicial Letter to Fort St. George; dated 17 December (No. 19) 1856.

75. WE have received the proceedings in this case, and transmitted them to the Commissioners for the Affairs of India, for submission to the House of Lords. Letters from, dated 10 June (No. 19) 1856; 21 June (No. 20) 1856; Revenue letter, dated 10 June (No. 17) 1856. Weavers of Periapelliem, versus Tehsildar of ditto.

76. We entirely approve of the proceedings of the Board of Revenue in calling for the papers and directing the dismissal of the tehsildar from office. We desire that it may be publicly notified, that he shall not again be employed in the Government service, and at the same time must record our opinion that the session judge, Mr. Dowdeswell, failed in his duty in passing over the case as one not calling for his interference, and that Mr. Shubrick, with the knowledge which he possessed of the irregularities that had previously subjected the tehsildar to be fined, cannot be entirely acquitted of indiscretion in entrusting such a subordinate with any order, that, as the Board of Revenue observe, could lead him "to suppose that he would be in more danger by failing to collect the balance, than by employing irregular measures for the purpose."

B O M B A Y.

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— No. 1. —

CHARGES OF TORTURE AND VIOLENCE PREFERRED AGAINST THE POONAH POLICE.

No. 41 of 1855, Judicial Department.

To the Honourable the Court of Directors for the Affairs of the Honourable
East India Company, London.

Honourable Sirs,

HAVING noticed in the "Poona Observer" of the 10th February last, a charge of torture and violence preferred against the Poonah police, in which the Foujdar, Mr. Spiers, by name, was implicated; we called on the magistrate to submit a report on the subject.

Torture: Charges preferred against the Poonah
Police.

Jud. Cons. 1855.—3 March, No. 1367A/68; 7 April, No. 2781/86; 7 April, No. 2943/46; 1 May, No. 3170/73; 16 May, No. 4027/30; 8 August, No. 7014/18 D.

Jud. Cons. 1855.—16 May, No. 4076/81; 25 July, No. 6190/94.

2. From the magistrate's reply a further inquiry appeared to be necessary. We, therefore, appointed Mr. G. Inverarity, a Special Commissioner, under the provisions of Act XXXVII. of 1850, to investigate the circumstances connected with the charge.

3. The reports of the Commissioner which, with our own previous and subsequent proceedings, we now do ourselves the honour of forwarding, disclose a system of violence and intimidation, stopping short indeed of actual torture, but

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equally calculated illegally and unjustly to extort admissions of guilt from innocent persons.

4. In order to mark our sense of Mr. Spiers' misconduct, and as a warning to the police of this Presidency, to abstain from illegal and oppressive treatment of the prisoners in their custody, we have ordered Mr. Spiers to be dismissed from the service of Government.

5. We have also ordered the dismissal of the Foujdar's carkoon, Ballajee Punt, who was proved to have been an active agent in the ill-treatment of prisoners.

6. This decision and the circumstances which led to it, have been communicated to the several magistrates and superintendents of police for their information, and for communication to their subordinates.

We have, &c.

Bombay Castle,
13 August 1855.

(signed) *J. G. Lumsden.*
A. Malet.

Jud. Cons. 1855,
8 August, No.
7014.

LETTER from the Commissioner on Special Duty at Poonah.

Sir,

In accordance with the instructions contained in your letter (No. 1410) under date the 2d ultimo, I have the honour to forward for the information of the Right honourable the Governor in Council my proceedings of inquiry into the charge of torture preferred against the Foujdar of Poonah, therein adverted to, as also my proceedings with reference to three other charges of the same description against that functionary, and which formed the subject of the magistrate of Poonah's communication to your address, No 495, of the 4th April, and of your intimation to me, No. 1473, of the 5th idem.

2. The imputations against the Foujdar have, agreeably to the provisions of sec. 2, of Act XXXVII. of 1850, been drawn into distinct articles of charge, and my opinion recorded thereon in full at the close of each case, as required in sec. 21 of the same Act; it is unnecessary therefore that I should enter into any specific detail on the subject here; the proceedings in each case have been numbered successively from 1 to 4, according to the order into which they fell during the inquiry.

3. It will be observed, that several of the subordinate police officers have been implicated by the prosecutors along with the Foujdar in the charges which they bring. It has not, however, been possible to bring these parties under the same indictment as that officer, sec. 2 of the Act applying all investigations conducted under its provisions to persons not removable from office without the sanction of Government. The peons and carkoons being removable by the local authorities without reference to Government, do not, therefore, fall within the powers conferred upon me, and have, in consequence, been entered as witnesses* in each case where they are concerned, the point is not of much consequence as the Foujdar is presumed, if not shown, to have been the chief mover in all that is complained of, and the proceedings afford ample information as to the share which the subordinates had in his transactions.

4. These four cases compose all the charges that have been received by me from the magistrate. A petition from Appa Wanee (prosecutor in case No. 2), was also transmitted, upon which no preliminary inquiry had been conducted by the local officers; it stated that one of his fellow prisoners, by name Atwaram Balal, has died in consequence of treatment received while in the furast khana; upon examining this, in view to preparing the necessary indictment, I found that the son and representative of the deceased had no complaint to make on the subject, his father, according to him, having died from fever and natural causes. Appa Wanee's statement from this not appearing worthy of credence, and the family of the deceased assuring me that death occurred from natural causes, I have not considered it necessary to prosecute the case further. It also

appeared

* Not affirmed.

appeared that upon Atmaram's death, Appa had preferred a petition of the same kind, upon which an inquest was held upon the body, and a report drawn up confirmatory of what the son now says.

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5. Having thus completed the duty assigned to me, I beg to await the orders of Government for my future guidance.

I have, &c.
(signed) G. Inverarity,
Commissioner on Special Duty.

Poonah, 9 May 1855.

(No. 7018 A.)

RESOLUTION by the Honourable Board.

RESOLVED, Mr. Inverarity, as a Commissioner under Act XXXVII. of 1850, has investigated certain charges preferred against Mr. S. R. Spiers, the Foujdar of Poonah, imputing to that officer acts of atrocious cruelty.

2. Mr. Inverarity has handed up his proceedings in five cases, and has also commented in a letter dated 26th May, on a further petition presented by one of the accusers.

3. The charges preferred belong to that class which are easy to be made, hard to prove, and harder to disprove. The accused will seldom be able to advance more than a general denial; it becomes therefore more imperatively the duty of that authority which has ultimately to pronounce judgment, to scrutinize rigidly the statements of the accusers and their witnesses, for the purpose of ascertaining whether they are consistent and conclusive.

4. There are peculiar difficulties which surround an inquiry of this nature; as the evidence will generally be almost exclusively that of prisoners, it will necessarily be the evidence of persons upon whom there is presumptively a taint, and of persons who imagine that charges against the Foujdar will benefit themselves. On the other hand, there is unfortunately only too much probability in the assertion, that the police may, whether from mistaken zeal, or from the force of immemorial custom, which in this country carries with it so much weight, resort to illegal and barbarous modes of extorting confessions; at the same time, the Right honourable the Governor in Council feels, that the more active and zealous a police functionary may be, the more enemies he creates, and the more exposed he is to accusations of the kind now before Government. In this conflict of probabilities, the duty of deciding on the truth or falsehood of a charge becomes one of no ordinary difficulty, especially as it is hardly possible to find a witness who will not endeavour to strengthen his statement, which may in the main be true, by a few collateral falsehoods.

5. In the consideration of the charges, the Right honourable the Governor in Council will first address himself to those which allege what may reasonably be termed "torture," or which impute acts of personal violence to the Foujdar himself; he will afterwards deal with those which allege general irregularity and oppression on the part of the Foujdar and his subordinates.

6. The first case is that of Balcrustna, he prefers the following charges of "torture" and personal violence against the Foujdar. 1st case, Balcrustna Gunesh.

1st. That the Foujdar caused him to be hung up to a hook in a room of the city police office, and while so hung up, to be beaten and threatened.

2d. That the Foujdar did, on another occasion, strike the accuser with his own hand.

7. The Right Honourable the Governor in Council considers it to be abundantly clear upon the evidence, that the first charge has no foundation in fact. The accuser, in three several statements, has given such different accounts of the circumstances connected with the alleged torture as to render his testimony utterly worthless. Omitting numerous minor discrepancies, it will be sufficient to notice, that on the first occasion, he stated that he had been hung with his head downwards, and before the Commissioner, that he had been hung with his

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feet downwards. The Commissioner has pointed out various discrepancies in the evidences of the prisoners who have been examined in support of the accuser's statement. To some of these, the Right honourable the Governor in Council is not disposed to attach much weight, for instance, it does not appear to the Right honourable the Governor in Council to be a discrepancy when a witness states that the cries of the accuser came from the third story, while the accuser states that he was beaten in the duftur room, which is on the second story, or when one witness states that he heard a cry, but no words, and another that he heard words; but the Right honourable the Governor in Council plainly sees that the sixth witness, Naroo Balal, has committed gross perjury, having been a prisoner in the tannah zillah up to the 15th of December, the day on which the accuser Balcrustna Gunesh made his confession, before which confession the alleged torture is stated to have been inflicted. It being clear, then, that the accuser has made statements which no ingenuity can reconcile with each other, or with truth; that one witness, by a concurrence of circumstances, can be proved to have committed perjury; that the other witnesses have failed to impress upon the Commissioner any conviction of their truthfulness, but on the contrary, have inspired him with grave distrust; the Right honourable the Governor in Council has no hesitation whatever in pronouncing that the charge has not been proved.

8. The second charge, that the Foujdar himself struck the accuser on one occasion, and threatened him on another, when his confession was being recorded, has not been supported by any adequate proof; and the latter part of the charge has been distinctly disproved by the testimony of respectable parties who happened to have been at the police office at the time, and who attested the confession.

9. The Right honourable the Governor in Council therefore fully concurs in the opinion of the Commissioner, that no part of the accusation of Balcrustna Gunesh has been proved.

2d case, Appa Bin Seteba, and two others.

10. The second accusation is preferred by Appa Bin Seteba and two others. The general charges will be considered hereafter, but Appa has stated that he was subjected to torture of a most abominable nature; to this allegation the attention of Government will be now confined.

11. To test the truth of Appa's statement the Government has before it the depositions of four classes of witnesses. Those of members of Appa's family, who speak to the injuries from which he was still suffering when he returned home; those of his fellow prisoners; those of the Foujdar's subordinate; those of the medical witnesses. The Right honourable the Governor in Council is clearly of opinion, that in an inquiry of this kind, the evidence of the first class of witnesses is of very little value on the one side, and the evidence of the third class of no value at all on the other side. The statements of these witnesses may be safely discarded from the discussion.

12. Next, with reference to the statements of Appa's fellow prisoners, the Commissioner has carefully pointed out the grave inconsistencies which their depositions exhibit, and has rejected them as totally unworthy of credit. In this opinion, the Right honourable the Governor in Council most fully concurs; he observes that in this case, the witnesses are more cautious than in the first case; only one man, Gunesh Ramchunder, states that he heard Appa's cries while he was being tortured; the others only depose to what they were told by Appa after he had been tortured; but some of the witnesses were not told by Appa, they merely overheard him in his cell, talking to himself of his injuries. This is highly improbable, and at all events it is not evidence that can be received against the accused. Many of the witnesses say that Appa only told them in general terms of his ill usage. It is not likely that if Appa had been subjected to the shameful cruelty of which he complains, he would have spoken in general terms of his having been beaten, he would have mentioned the specific iniquity practised on him.

13. Lastly, the medical testimony, that of Dr. Keith and of four "weids," is conclusive against the statement of Appa. He states, that among other cruelties the hair was dragged out of his head, and points to certain bald patches in support of his assertion. The medical witnesses state that the baldness is of long standing

standing and the result of disease. Dr. Keith also deposed, before the first assistant magistrate, who, previously to the appointment of the Commissioner, had commenced an inquiry, that there were no marks on the complainant's body of the specific ill-treatment which is alleged to have been practised. Under all these circumstances the Right honourable the Governor in Council is of opinion that Appa's allegation of torture is utterly false, and that the Foujdar is entitled to a full acquittal on this charge.

14. The third case is that of Gungadhur Bhugwunt. He prefers several charges of oppression, and one of direct personal violence against the Foujdar. He states, that while under examination he was beaten and kicked by the Foujdar himself. 3d case, Gungadhur Bhugwunt.

15. In support of this accusation the complainant has produced seven witnesses. Of these five are unable to state anything in support of Gungadhur's story. The sixth, Rungo Bhugwunt, states that he and all the prisoners were told by the accuser that Jendia, a police peon (he means Jendia Jemadar) had kicked him once, and struck him twice. The statement of Gungadhur being that it was the Foujdar who gave him one kick and two blows. The seventh witness, Reochunt, was charged with the commission of the same crime as the accuser, his evidence should therefore, as the Commissioner very properly observes, be received with great caution. He states that Gungadhur told him on the following day of the assault committed by the Foujdar, and showed him his side red and inflamed. The blows being on the right side must have been delivered by the Foujdar's left hand, and the Right honourable the Governor in Council concurs with the Commissioner in considering it improbable that a man not naturally left-handed should be able with that hand to strike two blows which would leave a red mark visible on the following day. It will then be observed that the red and swollen side was only seen by one man among all the prisoners, and that man the accuser's accomplice. On such evidence as this, it is impossible to pronounce the charge to be proved, and the Right honourable the Governor in Council feels it a duty to record his opinion that the alleged assault was never committed.

16. The fourth case is that of Tatia Bin Malharee. In this no charges of torture or direct personal violence are preferred against the Foujdar, the Right honourable the Governor in Council will therefore comment hereafter on the accusations of Tatia, and proceed to the consideration of the fifth case. 4th case, Tatia Bin Malharee.

17. The fifth case is that of Anundee, the wife of Ranoo: she alleges, that after having been beaten by some sepoys, when the Foujdar was not present, she was, by the Foujdar's own order, with the view that evidence might be extorted from her against some persons charged with murder, hung up by the hands, feet, and hair of the head to a beam in a room of the ferackhana. She also prefers some other charges of oppressive treatment, in which she is joined by some other women. These will be considered hereafter. 5th case, Anundee Kom Ranoo.

18. The statement made by Anundee is, in the opinion of the Right honourable the Governor in Council, invalidated by the fact, that when the accusation was first made before the session judge, she never stated that she had been hung up by the hair of the head. She only stated that she was threatened with such treatment. This the Right honourable the Governor in Council regards as a discrepancy, which renders the evidence of Anundee absolutely worthless. If she had been treated in the manner she now states, she could not have omitted the principal circumstance when she first preferred her complaint. Before the session judge, when the alleged outrage was comparatively recent, she stated that threats of hanging her were employed. Before the Commissioner she stated that she had been actually hung up. This discrepancy is fatal to the charge of actual torture, and the Right honourable the Governor in Council has no hesitation in pronouncing his entire disbelief of this part of Anundee's statement.

19. The Right honourable the Governor in Council has now disposed of those parts of the charges preferred against Mr. Spier, which allege such ill-usage as can reasonably be termed "torture," and which impute acts of personal violence to that officer. On all these accusations the Right honourable the Governor in Council is able to record an acquittal, and he now proceeds to the consideration of the other charges; all of which are of a grave character.

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20. The charges may be thus stated :

1st. That untried prisoners were compelled to perform hard labour in the police office.

2d. That prisoners were confined in unwholesome cells.

3d. That prisoners were frequently detained in the ferraskana for protracted periods, without being sent before the magistrate for examination, and that eligible bail was offered, but refused.

4th. That prisoners were frequently taken up at night to the Foujdar's private quarters, and there exposed to threats and ill-treatment from the Foujdar's subordinates.

21. The first charge is admitted, and an explanation offered. It is stated, that no establishment being entertained for the daily cleansing of the prison, it was necessary that the prisoners should draw the water required for that purpose, and in answer to an allegation that prisoners were compelled to draw water for the use of the Foujdar, it is stated that the arrangement was originally made at the request of the prisoners themselves. The Right honourable the Governor in Council does not regard this explanation as satisfactory, but he considers that the blame more justly attaches to the magistrate and to the superintendent of police, who permitted arrangements in direct violation of the law to be continued, than to the Foujdar. It does not, however, appear that the practice was resorted to for purposes of intimidation or oppression, and the Right honourable the Governor in Council therefore considers it will be sufficient to express his extreme disapprobation of the system, and to direct its immediate discontinuance.

22. The second charge is also proved. The Commissioner very properly visited the cells himself, and pronounced them unfit for the confinement of prisoners. Here again the Right honourable the Governor in Council considers the magistrate and the superintendent of police more open to censure than the Foujdar. The superintendent of police is clearly shown to have seen the cells, and to have seen persons confined in them. The magistrate has also probably seen the cells; and, if not, he ought to have done so; upon them in the chief degree, and not upon the Foujdar, must the censure of the Government fall. The evil will be remedied under the instructions recently issued by Government for the proper construction and arrangement of places of custody for untried prisoners, but in the present instance no complaint would ever have been preferred if the magistrate and the superintendent of police had done their duty.

23. The third charge is considered by the Right honourable the Governor in Council to be amply proved. In the second case, that of the complaints preferred by Appa Bin Setiba, it is clearly shown that, immediately on his committal for trial before the session judge, Appa was released on security. The obvious inference therefore is, that he was able to give sufficient security to the Foujdar, if that officer had been willing to take it. But the worst case in this respect is the fourth, which has not yet been considered, the case of Tatia and Gunoo Bin Mulharee, who were kept, the one for 12, the other for 38 days in custody, upon the statement of a single man, unsupported by any other valid evidence. One of these men, Tatia, has also alleged that he was kept for five days without food. This statement, in its full breadth, the Right honourable the Governor in Council does not believe; but it is clear that Tatia was left without batta for two days, and was thus compelled to purchase some rice himself from the wani, which he was not allowed to cook, a circumstance most discreditable when it is considered that he was treated like a prisoner in all other respects.

24. The fourth charge is one of a very grave character, and the Right honourable the Governor in Council regrets that he is compelled to regard it as proved. He considers it to stand clear upon the evidence that it was a frequent custom for prisoners to be brought up for examination before the Foujdar at night time, and there subjected to threats, if not to ill usage. The evidence of Tatia Bin Malharee, in the fourth case, appears to the Right honourable the Governor in Council to be entitled to credit. It imputes no exaggerated cruelty, and may, in the opinion of the Right honourable the Governor in Council, be taken as a fair representation of the usual "modus operandi" in the Foujdar's quarters during these nocturnal inquiries. From Tatia's statement it would appear that he was carried

carried up to the third story of the police office at one o'clock, A.M. (it was probably at an earlier hour of the night), and then subjected to a close and protracted examination by the Foujdar, who at length being tired, said, "He won't be got to confess this way." That afterwards the Foujdar's carcoon, Ballajee Punt, took up the questioning, and in the Foujdar's presence, on Tatia's remaining firm in his denial, handcuffed him. That Ballajee Punt then renewed the examination, but without success, on which he gave the prisoner, Tatia, "a severe push," and then, while the prisoner was on the ground, tore his turban into strips. On the next day more abuse and threats of fetters were employed by Ballajee Punt, but not in the presence of the Foujdar.

25. These proceedings disclose a system of violence and intimidation, stopping short indeed of actual torture, but equally calculated illegally and unjustly to extort admissions of guilt from innocent persons. A man is taken in the middle of the night, out of his cell, to a remote part of the police office. The sepoy very probably industriously spread among the other prisoners that this has been done, and that their turn may happen next night. Shortly afterwards the sepoy tells the accomplices of the prisoner, that severe measures have been taken with their comrade upstairs, that he has confessed, and that they had better make a clean breast of it at once, and avoid similar treatment. The system is intended to act thus on others. Next, as to the prisoner himself, roused up in the middle of the night, bewildered, alone, impressed with the consciousness that should ill usage be resorted to his cries will only be heard by police sepoy, he finds himself rigorously pressed by a keen examination, conducted perhaps with much asperity of tone and aspect, his various statements are compared and contrasted; if he fails to answer quickly his attention is roused by a "severe push" from the knuckles of a carcoon or sepoy. If he remains firm, which not one out of 20 guilty men, and perhaps few innocent men would do, under the circumstances, handcuffs are called for; and then perhaps the prisoner asks himself the significant question, whether the police cannot, in 10 minutes, inflict a worse punishment than the judge can inflict by imprisonment and hard labour for a year or two: a confession naturally follows.

26. It appears to the Right honourable the Governor in Council to have been intended by the police to induce among the prisoners a feeling, that a visit to the third story was an event to be dreaded. To this feeling, aggravated probably by some threats of subordinates acting on a temperament unnerved by opium and other vicious indulgences, the Right honourable the Governor in Council attributes the tragic incident to which Mr. Inverarity adverts in his report of the 26th May last, of the suicide of the Mussulman boy, who threw himself from the third story of the police office, and died a few days afterwards in hospital. The Right honourable the Governor in Council is utterly unable to understand why an event which might well excite suspicion that ill-treatment had been resorted to, was not brought to the notice of Government at the time. On this subject the magistrate must submit a full explanation.

27. Mr. Jones must also be directed to make due inquiry, and submit an explanation either from himself or from the superintendent of police, as to the statement of the Commissioner that some papers required by him in the investigation of the 5th case were not furnished to that gentleman when he applied for them.

28. With respect to the charges of ill-treatment preferred by Anundee, and some other women to which allusion is made in the 17th para., the Governor in Council is of opinion that their statements are hardly susceptible of legal proof, but that still the impression is left upon the mind after perusing all these papers, that when the Foujdar himself is harsh and irregular in his procedure, his subordinates are not likely to be behind-hand in following and in improving upon the example which he has set them.

29. The charge of illegally and unnecessarily detaining prisoners in the ferashkhan for protracted periods without bringing them up for examination and committal before a magistrate, seems to be fully established. The most glaring instances in the cases now before Government have been already incidentally referred to, those of Tatia and Gunnoo Bin Mulharee; but without going into details, the whole of these cases show that this illegal proceeding

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is the rule and not the exception at the faraskhana. Nothing can be more calculated to encourage the belief in the practice of torture, or to prevent its detection if it exists. The magistrate should be called upon to explain if, in every case where the detention of the prisoner before examination exceeded the time prescribed by law, a report was made to him, alleging the special reasons for such detention, and if so, whether the lengthened periods for which the prisoners had been thus detained did not lead him to bring the subject to the notice of the Foujdaree Adawlut?—As the matter now stands, great blame appears to attach to both the Foujdar and the magistrate.

30. The Right honourable the Governor in Council, on a careful review of this important inquiry, considers that the charges to the extent specified in the preceding remarks have been established against Mr. Spiers. It becomes then his duty to consider in what manner he shall mark his sense of that officer's misconduct. He feels that an example is demanded as a warning to the police of this Presidency to abstain from illegal and oppressive treatment of prisoners under their custody. He therefore resolves to dismiss Mr. Spiers from the service of Government, and directs that this decision, together with the charges against Mr. Spiers, and the extent to which they have been established to the satisfaction of Government, be communicated to all magistrates and superintendents of police for their information, and for communication to their subordinates.

31. The Right honourable the Governor in Council also directs the dismissal of Ballajee Punt, the Foujdar's carcoon, who has been proved to have been an active instrument in the ill-treatment of several of the deponents in these cases, when before the police.

32. The commendations of Government may be expressed to Mr. Inverarity for the able manner in which he has acquitted himself of the duty assigned to him.

(signed) *Elphinstone.*
J. G. Lumsden.
A. Malet.

26 July 1855.

• EXTRACT Judicial Letter to Bombay; dated 30 January (No. 2) 1850.

Letter from, dated 13 August
(No. 41) 1855. Charges of torture
and violence preferred against the
Poonah police.

32. You very properly submitted these charges for investigation under the provisions of Act XXXVII. of 1850, and appointed Mr. George Inverarity a Special Commissioner for that purpose. The duty seems to have been discharged by him in a very efficient and satisfactory manner. He found the charges of torture supported in some instances by perjury, and in others by inconsistent testimony, but in none by proof sufficient to entitle them to belief. Nevertheless the system pursued by Mr. Spiers, the Foujdar, towards persons charged with offences was cruel, irregular, and illegal in many respects; particularly with regard to the length of time during which prisoners were detained before being sent to the magistrate; to the place of their confinement, which was unfit for the purpose; and to a practice of calling them up for examination at a late hour of the night, and taking confessions from them. Proceedings of such a nature doubtless led to ill-usage and intimidation. This conclusion having been come to by the Commissioner and by your Government, you very properly passed a resolution, removing Mr. Spiers from the service of Government, and also dismissing the Foujdar's carcoon, Ballajee Punt. We entirely approve of the course adopted by you, and only regret that criminal proceedings were not instituted against those who were implicated in such transactions. We desire that you will convey our severe displeasure both to the magistrate and superintendent of police, for we feel persuaded that much of the ill-treatment of the prisoners was owing to the want of vigilant superintendence on their part, and we are above all surprised to find that they could have allowed any human beings to have been incarcerated in the horrible and unwholesome places of confinement so forcibly described by Mr. Inverarity.

33. We observe that you state that "the evil will be remedied under instructions for the proper construction and arrangement of places of custody for untried prisoners."

34. These cells are evidently unfit for prisoners of any kind, and therefore we rely upon your assurance that they will not be again used till they have been enlarged and made suitable for the reception of prisoners.

Bombay.

— No. 2. —

ON THE GENERAL SUBJECT OF TORTURE AT THE PRESIDENCY.
CASE OF TORTURE AT NASSICK.

Judicial Department, 3 October. (No. 46) 1855.

To the Honourable the Court of Directors for the Affairs of the Honourable East India Company, London.

Honourable Sirs,

IN continuation of our despatch, No. 41, dated the 13th of August last, forwarding the proceedings of an inquiry into certain charges preferred against the Poonah police, we have the honour to transmit to your Honourable Court the accompanying copy of a minute recorded by our Honourable President, under date the 20th of July last, on the subject of torture generally at this Presidency, and of the correspondence to which it gave rise.

Torture:—On the general subject of, at this Presidency. Jud. Cons. 1855, 22 August, No. 7162A/63; October, No. 8610/14.

2. In referring your Honourable Court to these proceedings, it will be sufficient in this place to explain that the case cited in example, in para. 3 of our Honourable President's minute, is one in which a number of Nassick police were charged with having tortured a prisoner to death. These proceedings (which are very voluminous) will be forwarded to your Honourable Court by the next opportunity, as will also those regarding the removal of the magistrate of Poonah alluded to in the second para. of the further minute recorded by our Honourable President on the 29th ultimo.

We have, &c.
(signed) *Elphinstone.*
J. G. Lumsden.
A. Malet.

Bombay Castle, 3 October 1855.

EXTRACT Judicial Letter from Bombay; dated 17 October (No. 51) 1855.

1. REFERRING to para. 2 of our despatch, No. 46, dated the 3d October 1855, on the subject of torture generally at this Presidency, we beg to transmit copies of the proceedings held on the trial of certain members of the Nassick police for the murder of a prisoner in their custody, whom they had tortured with the view of extracting from him a confession of guilt.

Torture:—Proceedings relative to the Nassick torture case.

Jud. Cons, 1855, 3 March, No. 1038/40; 25 July, No. 6505/8; 22 August, No. 7473/75; 5 September, No. 7768/70B, and 7771/73; 5 October, No. 8590/93.

2. For the sentiments of this Government on the subject, we beg to refer your Honourable Court to our resolution of the 15th August, a copy of which accompanies.

No. 7770.

EXTRACT from the Proceedings of Government in the Judicial Department.

(No. 173 of 1854.)

LETTER from Lieutenant *Alexander Bell*, Assistant Superintendent of Police, Nassick, to the Secretary to Government, Judicial Department, Police, Bombay.

Assistant Superintendent of Police Office,
Camp Sinnur, 27 December 1854.

Sir,

I HAVE the honour to report, for the information of the Right honourable the Governor in Council, that the case of torture, for the trial of which the session judge of Ahmednuggur was sent to Nassick by the judges of the Suddur

Jud. Cons. 1855, 3 March, No. 1038.

Bombay.

Foujdaree Adawlut, under orders from Government, was brought to a close yesterday, and the seven prisoners arraigned before the Court found "guilty," as follows: Prisoners, No. 1 to 6, as per margin, of

No. 1. Wakajee Wd. Ramjee Patell.	"culpable homicide," under the provisions of Regulation XIV. sect. 27, of A. D. 1827, and sentenced under the same regulation and section, to undergo four years and two months imprisonment, <i>i. e.</i> , four years with hard labour, and two months in solitary confinement, the first and last seven days of each month to be on conjee diet; and prisoner, No. 7, as per margin, found "guilty" under the provisions of Regulation XIV. sect. 1, clause 5, of A. D. 1827, of aiding and assisting in the above crime, and sentenced under the provisions of sect. 27, and sect. 1, clause 5, of Regulation XIV. of A. D. 1827, to two years and two months imprisonment, <i>i. e.</i> , two years with hard labour, and two months in solitary confinement, the first and last seven days of each month to be on conjee diet.
No. 2. Suddoojee Wd. Ramjee Naik.	
No. 3. Ramsing Wd. Sham Sing.	
No. 4. Bowan Sing Wd. Natha Sing.	
No. 5. Dhondee Wd. Rayajee.	
No. 6. Guttoo Wd. Beojee.	
No. 7. Bappoo Wd. Hybutrao.	

2. Circulars detailing the offence, and mentioning the sentence awarded, have been forwarded to all the joint police officers under my orders, to be read and explained to all the policemen in the sub-collectorate, and I confidently hope that the example made of these men will deter others from ever ill-treating prisoners in future.

I have, &c.

(signed) *Alexander Bell*, Lieutenant,
Assistant Superintendent of Police, Nassick.

Jud. Cons. 1855,
5 September,
No. 7768.

LETTER from the First Assistant Registrar of the Sudder Foujdaree Adawlut; dated 29 May 1855, No. 1334.

Sir,

Present:
A. Remington, Esq.,
M. Larken, Esq.,
and W. H. Harri-
son, Esq.

I AM directed by the judges of the Sudder Foujdaree Adawlut to forward, for the purpose of being laid before the Right honourable the Governor in Council, the documents noted in the margin,* in the case of the prisoners Wakajee Wullud Ramjee and others, together with an extract from the proceedings of the Court, of the 17th January, 28th March, 4th April, and 2d and 16th May 1855.

2. This is done, I am directed to state, in view to attracting the attention of Government to the conduct of the Nassick native police in this case, and to soliciting their notice to the necessity for medical officers being proficient in the science of medical jurisprudence, in the hope entertained by the Court that this study may be a stringent test for the examination of candidates for the medical service.

RESOLUTION.

1. THE conviction and sentence of the prisoner Bappoo Wullud Hybuttee are annulled, and he is to be discharged, there being nothing to show that he counselled, assisted or interfered in the commission of the offence of which the other prisoners were convicted.

2. The petition of the other six prisoners is rejected.

3. While the Court find on the proceedings submitted reason to commend the late joint magistrate, Mr. Turquand, for the diligent prosecution of the inquiry which led to the trial, they must express their disappointment at finding the facts of the case imperfectly investigated by the session judge.

4. It was his duty to have put beyond any question the cause of Gunnoo's death, before proceeding with the evidence which was to fix the assault upon the prisoners. But the medical testimony was recorded replete with confusion,
and

* 1. Original extract from the proceedings of the session judge of Ahmednuggur; 2. Original proceedings of the acting joint magistrate of Nassick.

and essential omissions are apparent, and had there not been manifest to the Sudder Court other evidence sufficient to corroborate Gunnoo's story, and so to establish the cause of death, and to connect it with the acts of the prisoners, the conviction could not have been upheld.

5. In respect to the evidence for the defence, the session judge records extraordinary reasons for refusing credence to much of it; for instance, he rejects the evidence of Luteeb and Nunny, because they are prostitutes, and because one of them possibly prostituted herself to the prisoners every day, an assumption which there is no trace of evidence to justify.

6. Even when in the course of the evidence for the prosecution anything was elicited in favour of the prisoners, it received little consideration, and however exaggerated the prisoners' defence may be, the treatment of the case by the session judge had the effect of strengthening their hands.

7. The Court cannot withhold their opinion that proper attention was not paid to the deceased, Gunnoo, by the medical officers and the parties who had him in custody; it is impossible to believe that the symptoms of his wretched condition ought not earlier to have called for medical treatment. He was a weakly lad, over-fatigued and agitated, and suffering from the events of the day of his apprehension, and however criminal he may have been, his state must have required those offices of humanity which it is clear he did not obtain till too late.

8. The Court consider that the proceedings in this case should be laid before Government, with the object of drawing their attention to the conduct of the Nassick native police, of all grades, who are connected with this inquiry; and also to solicit their attention to the necessity for their medical officers being proficient in the science of medical jurisprudence, with the hope of the Court that this study may be a stringent test for the examination of candidates for the medical service.

RESOLUTION by the Honourable Board.

THE question for consideration before the session judge was whether the prisoners Nos. 1 to 6 caused the death of Gunnoo in the manner described in the indictment, or whether Gunnoo had died from the effects of a disease by which he had previously been afflicted. The session judge held that the prisoners Nos. 1 to 6 had caused the death of the deceased, as stated in the charge. Having arrived at this conclusion, the Right honourable the Governor in Council is unable to understand why the session judge did not find the prisoners guilty of "murder;" the Right honourable the Governor in Council is clearly of opinion that if the prisoners did perpetrate the act which forms the subject of the charge, they were guilty of "murder," and that the punishment awarded by the session judge is utterly inadequate to their crime.

No. 7770.

2. The judges, in laying their proceedings before Government, have drawn the attention of the Right honourable the Governor in Council to the conduct of the Nassick native police, and to the necessity which exists for medical officers being proficient in the science of medical jurisprudence.

3. The Right honourable the Governor in Council considers that the enormity of the crime of which the prisoners Nos. 1 to 6 have been convicted, cannot be exaggerated, and he deeply laments that the punishment awarded is far too light to operate as a warning to the police subordinates in Nassick and throughout the Presidency.

4. The conduct of the Foujdar Shaik Mahomed Wullud Kazee Mahomed demands the severe notice of Government. The Right honourable the Governor in Council, without affirming it was the intention of this officer that atrocious cruelty should be practised, cannot resist the conclusion that when the Foujdar ordered the unfortunate prisoner to be taken aside, he intended that a confession should be extorted from him by threats and ill usage; holding this opinion, the Right honourable the Governor in Council has a plain duty to perform, which is to direct that the Foujdar be dismissed from the service of Government.

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5. The suggestion of the judges of the Sudur Foujdaree Adawlut that a proficiency in medical jurisprudence should form one of the tests of examination in the competition for medical appointments in the Honourable Company's service, appears to the Right honourable the Governor in Council to be eminently judicious, although it is believed that a knowledge of this subject is already required by the College of Surgeons, and the other examining bodies in Great Britain. It should be submitted for the consideration of the Honourable the Court of Directors. It has already been recommended that this subject should be included in the examination for medical degrees in the university about to be established at Bombay.

6. The Governor in Council cannot avoid remarking that in the present case, if the evidence of the cause of death is less complete than it might have been, this is not so much to be attributed to the want of knowledge of medical jurisprudence on the part of Dr. Pelly, as to the omission of the session judge to put such questions to him as would probably have elicited the required information.

7. Such parts of the minutes and resolution of the judges as relate to this suggestion, to the defective character of the medical evidence on this trial, and to the absence of proper attention to the deceased Gunnoo by the medical officers, should be sent to the Medical Board, with a request that Government may be favoured with the opinion of that authority on the subjects under discussion.

8. The Right honourable the Governor in Council fully concurs in the opinion expressed by the judges, of the zeal and ability displayed by Mr. Turquand, the joint magistrate, in the preliminary investigation of this crime.

9. The general subject of "torture" has occupied and is still occupying the attention of his Lordship in Council, and a reference has been recently made to the judges of the Sudder as to the state of the law on the subject; his Lordship in Council will therefore reserve his opinion as to the measures which should be adopted for the suppression of this horrible system, until he has received the information required from the judges.

15 August 1855.

(signed) *Elphinstone.*

MINUTE by the Honourable Mr. *Lumsden.*

No. 7770 A.

I SHARE in the astonishment expressed by the Right honourable the President that the judge who convicted the prisoners of having caused the death of the deceased by torture, should not have convicted them of murder.

I concur in the dismissal of the Foujdar.

I concur entirely in the observation that the want of evidence as to the cause of Gunnoo's death, appears principally due to the omission of the session judge to question the medical officer, Dr. Pelly, properly on the subject. The censures of the Sudder judges in this respect appear to me to be eminently deserved; it is shown that though a conviction has been recorded and sustained, that the cause of Gunnoo's death has not been put beyond a doubt; I perfectly, however, concur in the justice and soundness of the conclusion, that the accused by their acts did cause his death.

18 August 1855.

(signed) *J. G. Lumsden.*

MINUTE by the Honourable Mr. *Malet.*

No. 7770 B.

I CONCUR entirely in the remarks of the Right honourable the President.

(signed) *A. Malet.*

EXTRACT from the Proceedings of Government in the Judicial Department.

MINUTE by the Right Honourable the Governor

1. I DEEM it right to offer a few remarks, which have suggested themselves to me from a perusal of the Madras Torture Commissioners' Report.

Jud. Cons. 1855,
22 August,
No. 7162 A.

2. There can be no doubt of the fact that torture generally of a petty, but sometimes of an aggravated character, is still commonly resorted to by the native subordinate officials under the Madras Presidency as a means of procuring evidence of crime, of obtaining the payment of revenue, and perhaps, most frequently of all, of extorting a black mail upon their own account.

3. There is too much reason to fear that the same system, though I would hope not to an equal extent, prevails in this Presidency.

Unfortunately, we have only too recently had an example of torture of a most cruel and revolting description, inflicted by the police upon a prisoner charged with the commission of a heinous offence. Other instances also might be quoted, in which police officers have been accused of resorting to this nefarious practice; in short, we cannot yet congratulate ourselves upon exemption from an evil which has existed no doubt from time immemorial, not only in every part of India, but throughout the length and breadth of Asia.

4. The Madras Commission has no doubt been of use in establishing the fact, that the practice still prevails, although mitigated in its application by the fear of detection, and by the knowledge that if detected it will be punished; but this fact having been once established, it does not appear to me to be necessary (corroborated as it unfortunately is by the example to which I have just alluded, and by other instances,) to institute any further inquiry to arrive at a similar result in this Presidency.

5. I assume that the existence of the evil may be admitted, and that what we have now to consider is how it can be most effectually repressed and prevented.

6. The Madras Commission has largely quoted from the despatch of the Honourable Court of Directors to the Madras Government, dated the 11th of April 1826; but they have been somewhat sparing in their quotations from the reply of the Government of Madras. I think, however, that in considering the subject with a view to the discovery of a remedy for the evils there described, the opinions of such men as Sir Thomas Munro and of his council should not have been overlooked:—

“8. Your Honourable Court have animadverted at considerable length, and with just severity, upon the conduct of native police officers in extorting confessions from prisoners, and appear to apprehend that they are not sufficiently under control. In those cases where police officers have been convicted of practising cruelty on persons in their custody, it is satisfactory to know that they have been severely punished; but our belief is, that, in a great proportion of the cases where violence is charged, none has been used. It has now become so generally a practice with prisoners to bring forward at some stage of the trial a charge of having been compelled to confess the crime before the police officers, and witnesses in support of their assertions are so easily found among their relations and friends, that the tahsildars are cautious to avoid the appearance of anything which can in any way be construed into an undue use of the authority vested in them.

“9. As a proof how easily witnesses can be procured in support of accusations of violence, and how readily their evidence is received, we beg leave to refer your Honourable Court to a case brought to our notice by the magistrate of Coimbatore, and recorded in our Consultation of the 3rd April. It is there stated, that certain prisoners charged with having committed an atrocious murder in open day confessed the crime before the police, and when brought before the criminal judge denied it, and asserted that their depositions had been extorted; but alleged that they had no evidence to prove that they had

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been ill-used by the police. Before the Court of Circuit, however, they called several witnesses to prove the fact, and although the depositions of the witnesses differed in all material points from the statement made by the prisoners, their evidence was received, and an opinion strongly condemning the conduct of the police was recorded by the Court, and communicated to the magistrate in order that the parties accused might be severely punished. We believe that in this and in most other cases, in which cruelty is charged against the police, there is not the slightest ground for believing that any has been practised; and it is matter of surprise that police officers, restrained on the one hand by the dread of being dragged before the Court to answer to charges of imputed irregularity for misconduct, and stimulated on the other by the fear of drawing down upon themselves the displeasure of the magistrate, in the event of any apparent remissness, discharge their duties so creditably and efficiently. The increasing tranquillity of the country, and the gradual diminution of organised bands of robbers, sufficiently prove the useful and meritorious services of the police. In the Zilla of Ganjam, the notorious freebooter Maharta and his principal accomplices, against whom a military force had on several former occasions been unsuccessfully employed, have lately been apprehended by the police alone, and the magistrate of Guntoor has reported that the principal and most troublesome, Chenchoo, Bochee, Naick, and others, had been induced to surrender themselves, and have been brought to a civil and peaceable mode of livelihood, which he justly observes could not have been effected, unless the country had been under one person in the offices of collector and magistrate; while to the southward the notorious gang of robbers, Appoo and Cantoun, who had for some years past infested the districts of Trichinopoly and Salem, have been at last secured, and their haunts and associates discovered. There are now no districts in which gangs of robbers are known to exist, and it is believed that at no former period was the sense of security of persons and property more confirmed than it is at present.

“10. With regard to the control which is exercised over the police, we are not aware that any change could render it more efficient than it is at present; and we trust that your Honourable Court, on referring to the explanation given in the 46, 47, 48, 49 and 50 paragraphs of our proceedings, will concur with us in that opinion; but if on further experience it should be found that some alteration is necessary, we think it ought to be made, not by giving any new power to the provincial courts, but by authorising the judge on circuit to pass orders on petitions from every zilla within his range during the whole course of his circuit, without reference to the particular district in which he may be at the time.

“11. We are satisfied that more courts and more intermediate checks over the police are not wanted for the protection of the ryots from exactions, and of the inhabitants in general from theft and robbery; but more systematic experience, and consequently more aptitude among our local officers, both native and European, for the discharge of their several duties; we therefore entirely agree with your Honourable Court that a system of training is as necessary in the judicial as in the revenue line, and that an intermediate class of functionaries, similar to that already established in the revenue, should be introduced into the judicial department.”

(This letter is signed by Sir Thomas Munro, Sir George Walker, and Mr. Ogilvie.)

Résolution of the Madras Government, enclosed in their Letter of
27th April 1827.

“19. It is no doubt too certain that many irregularities are practised in obtaining confessions, and that in some instances atrocious acts are committed; but when the great number of prisoners apprehended is considered, and the habits of the people, themselves always accustomed to compulsion when there is suspicion, how difficult it is to eradicate such habits, and how small the proportion of cases in which violence has been used is to the whole mass, the number of these acts is hardly greater than was to be expected, and is every day diminishing. The prohibition against forced confessions is known to all
the

the native police officers, and it seems extraordinary that they should ever employ force; for they know that they have much to lose and nothing to gain by such conduct. But some of them, in spite of every injunction to the contrary, when they believe that the prisoner is guilty, think it right to extort confession. Police officers in general, however, will not gratuitously expose themselves to loss of place and their families to ruin by such conduct. Prisoners are sometimes hurt in attempting to escape, and notorious offenders are sometimes roughly treated by the villagers who assist in securing them. The marks thus caused are sometimes exhibited as evidence of extorted confession. Whenever there is proof of force having been used for such a purpose, the police officer should be invariably punished, and dismissed from the service. But great caution is necessary in believing the accusation of force; it should always be very clearly established before it is entitled to credit. Police matters are so public that the charge of violence, when true, can hardly be concealed. There are two things in which there is constantly very great exaggeration, the number of persons concerned in a robbery, and the number of extorted confessions: only a small part of the alleged cases of extorted confessions are ever substantiated. The Circuit Court say that the proof is difficult; but it is believed that, when true, the proof is easy, and that the difficulty lies in by far the greater part being unfounded. The charge is easily made, and the effect of its receiving belief from the Court of Circuit is so generally known that offenders very frequently bring it forward in some stage of the trial. It is a point which demands the greatest possible circumspection on the part of the magistrate. If he lets the person escape who has been guilty of extorting confession, he encourages one of the worst offences against the administration of justice: if he punishes the police officer charged with this offence in only a very few instances on false evidence, he will effectually deter the whole body from the jealous exercise of their duty, and let loose a host of robbers upon the community. No number of zillah courts would prevent the excess complained of among the native police. Were we to double the number it would have no effect in restraining them; they can only be checked and effectually put down by the vigilance of the magistrates; by never letting them pass unpunished; by the police officers finding from experience that they never could gain anything from the use of force, but would certainly suffer disgrace and punishment, and by time working a change in their habits.

“20. The irregularities committed by the police are now much more difficult of concealment than when the offices of zillah judge and magistrate were united in one person, confined to a fixed station; and though too many of the police officers are still frequently guilty of such irregularities, yet the conduct of the great body of them is highly useful and meritorious, and its effects are becoming every day more evident in the increasing tranquillity of the country, and the gradual diminution of organised bands of robbers. The amelioration, though occasionally retarded by the misconduct of local officers, continues to advance, and is gradually diminishing the number of crimes.

“21. The cruelties reported by the circuit judge to have been inflicted on certain inhabitants by the Parbutti and Holkars in Malabar, referred to in the 23rd and 24th paragraphs of the Honourable the Court's letter, were investigated by the collector, and found to be without proof.”

7. I have quoted these long passages not merely to show that former Governments of Madras have not been inattentive to the subject of the present Report, but to show the difficulty which there is in dealing with that subject, and to express my concurrence in much that these extracts contain.

8. I would especially notice the difficulties pointed out in the 19th paragraph of these Resolutions of the Government of Sir Thomas Munro; the dilemma is one from which it is impossible to escape:—

“If the magistrate lets the person escape who has been guilty of extorting confession, he encourages one of the worst offences against the administration of justice; if he punishes the police officer in only a very few instances upon false evidence, he will effectually deter the whole body from the zealous exercise of their duty.”

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9. In considering, therefore, the measures which have been proposed by the Madras Torture Commission, it is essential that we should not lose sight of this difficulty. These are :

- 1st. The larger employment of European agency.
- 2nd. The amendment of the law.
- 3rd. The separation of revenue from police powers.
- 4th. The subjection of the police to separate European authority.

The police in each district being commanded by a European officer who can give his undivided time and energies to this one object.

10. First, the larger employment of European agency subsequently explained as "uncovenanted" agency, which it is proposed to place at Madras upon an improved footing, more nearly approaching that of the other Presidencies.

11. To this remedy I would only object that it is by no means clear that the larger employment of European and uncovenanted agency in the other Presidencies has had the effect of suppressing these practices.

12. I need only refer to the horrible case at Nassick, where the unfortunate sufferer was examined by the superintendent of police, Lieutenant Bell, and never complained of the ill-treatment he had received, although he was actually dying of it. I may also quote the case of Mr. Spiers, the Foujdar of Poonah, who, although acquitted of employing actual torture, has been proved to have been in the habit of extorting confessions by acting on the fears of the accused, by having them taken from their cells in the middle of the night to a distant part of the gaol, where they were subjected to a severe examination, accompanied by threats, pushes, and handcuffing. The same officer has been proved to have arbitrarily refused bail in cases in which bailable offences were alone involved, and to have flagrantly disregarded the regulations which prescribe the early transmission of prisoners to the magisterial authorities. The conduct of this officer has been so highly reprehensible that we have been compelled to order his dismissal. I allude to these cases to show that these practices will not be prevented by simply having recourse to a different species of agency.

13. If, indeed, it be intended by this recommendation to urge the expediency of making a large addition to the amount of European agency, such addition being exempted from the examinations to which the candidates for the covenanted services are subject, I should strongly object to the measure, which it appears to me would be most unjust to the educated youth of India, who, after having qualified themselves to fill higher offices than any which have been heretofore open to them, would find even the share of power and authority, which has always been left to native magistrates, curtailed by the intervention of a new body of Europeans whose superiority over themselves would be, in many respects, at least doubtful. Such an increase of European agency could have no other effect than to damp the legitimate ambition of the rising generation of natives, and would go far to confirm the suspicion so recklessly instilled by certain writers and speakers, that our Government is not really anxious to advance the natives of this country, even when they deserve advancement, and that it seeks only to increase the amount of place and patronage which it may distribute among our own countrymen.

14. The second proposed remedy is the amendment of the law.

15. Under this Presidency the practice of torture is not acknowledged by any express enactment pointed against it; but there are several under which native officials in the Revenue, Judicial and Police Departments respectively may be punished for misconduct and abuse of authority generally.

16. By Regulation II. of 1827, sect. 36, it is provided, with reference to native officers of civil courts, that "Bribery, extortion, and generally all acts of abuse or misapplication of authority or neglect of duty, shall be punishable as criminal offences with fine and imprisonment, without hard labour, for a period

not

not exceeding seven years. Punishments adjudged under this Act shall not preclude any other prosecution, civil or criminal, to which the offender may be liable."

17. By Regulation XII. of 1827, chap. 1, sect. 18, the same provisions are made applicable to police officers.

18. By Regulation XIII. of 1827, chap. 1, sect. 10, the officers of criminal courts are made punishable in the same manner as enacted respecting such officers in their civil capacity.

19. By Regulation XVII. of 1827, chap. 4, sect. 16, undue exactions by revenue officers are declared criminal offences, and liable to punishment by imprisonment not exceeding seven years, and a fine not exceeding ten times the amount of the undue exaction.

20. There is further a general enactment in Regulation XIV. of 1827, chap. 5, which, providing against assaults, would include all species of abuse of authority whereby bodily suffering was inflicted; and under the provisions of which any officer not coming within the scope of the above-recited enactments might, I presume, be indicted; it declares that "any unlawful mode of wilfully producing bodily injury or suffering, though not actually an assault, shall be punishable according to the consequences produced, in the same way and to the same extent as an assault;" that is with fine, imprisonment and flogging, or any of these combined.

21. These appear to be all the penal enactments bearing on this subject in the Bombay Regulations and Acts. It may be doubted, perhaps, whether the provision against undue exactions by revenue officers is sufficiently broadly worded to include all the cases of abuse of authority which are comprised in the enactments relating to police and judicial officers, for it may be very possible that unfair means may be employed to compel payment which cannot be denominated undue exactions, but in this case the offending party might always be indicted under Regulation XIV. for an assault, and his conviction and punishment equally secured.

22. There is another very important provision in the Regulations which, although it has no penal consequences attached to it, ought to be in all cases very strictly enforced. This is contained in Regulation XII. of 1827, chap. 5, sect. 43, clause 4, and in the same Regulation, chap. 6, sect. 50, clause 4, whereby the district and village police are enjoined not to delay the transmission of prisoners to the magistrate beyond 48 and 24 hours respectively, unless for indispensable reasons, which must always be reported with the case, or before it, to the magistrate.

23. I am inclined to believe, that, on the whole, the state of the law in general on this subject is far from unsatisfactory, that its provisions are well calculated, as far as mere legal enactments can be effective for such a purpose, to aid in putting down the malpractices complained of, and that little reform or amendment will be required. But in order to be effective the law must be vigorously acted up to, and, above all, the provision against the detention of prisoners in custody for a needless length of time must be strictly and universally enforced. But although these are the results which I have arrived at from the consideration of the law as it stands, I do not think that we are in such a good position to judge of our wants and requirements in this respect, as the judges of the Sudder, whose practical experience of the working of the law enables them to pronounce upon it with greater certainty; I propose, therefore, to refer this part of the subject to them for their report, and for any suggestions that they may wish to make as to the advisability of new enactments to render the law more effective.

24. The third and fourth recommendations of the Madras Torture Commission may be said to have had a fair trial in this Presidency; but I fear that we cannot flatter ourselves with the belief that they have succeeded in effecting the object for which they are now proposed.

25. It remains for me to state my own opinions upon this painful subject, painful because I am not sanguine that any measures that can be taken will

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have the effect of putting down at once and for ever a practice repugnant both to justice and to common humanity, but which is not yet viewed in its proper light by the people of this country. In time, no doubt, we shall succeed in extirpating this, as we have done greater evils; and a Government which destroyed the Pindarees, by far the most powerful organisation which the world ever saw for the purposes of plunder, commonly extorted by the most atrocious tortures; which, in more recent times, has succeeded in suppressing suttee and infanticide; which has cleared India of the Thugs, and has arrested, even in the depths of the inaccessible jungles and fastnesses of Orissa, the horrid rite of human sacrifice, will not always be baffled in its endeavours to restrain the malpractices of its own servants.

26. The only measures, however, which I can suggest are, 1st. Strict and invariable attention to the Regulations to which I have already alluded (XII. of 1827, chap. 5, sect. 43, and chap. 6, sect. 50), whereby the district and village police are enjoined not to delay the transmission of prisoners beyond 48 and 24 hours respectively. I observe that the old orders of the court of Foujdaree Adawlut at Madras repeatedly prescribe the same course; see especially Appendix B. of the Madras Torture Report. I am not going to say that if these orders had been attended to in every case no instance of torture could have occurred. The Nassick case at once forbids the supposition; but I do believe that nothing would tend more to eradicate the habit of torturing prisoners, with a view to extort confessions, than a rigid enforcement of this Regulation.

27. 2dly. The infliction, in every proved case of torture, of the heaviest penalty authorised by law. Here, too, I am met by examples of severity, which prove that although the fear of punishment may have some deterring effect, yet it will not suffice to extirpate the evil. I find the following paragraph in the Resolutions in the Government of Madras, from which I have already made some extracts:

“18. The Honourable Court have animadverted in paragraphs 26 to 29 of their despatch at considerable length, and with just severity, upon the conduct of the native police officers in extorting confessions from prisoners; and they specify some very atrocious cases, among which are the murder of a man by a peon in endeavouring to extort confession, and the maiming of a prisoner by a patail in torturing him for the same object. In both cases, however, it is satisfactory to know that the offenders were convicted and punished, the one capitally, and the other with two years' imprisonment with hard labour.”

28. I have already given my opinion upon the recommendation of the Madras Commission as to the employment of a larger amount of European agency; but there is one species of agency to which I have not alluded, and from which I anticipate the most effectual, though not the most immediate, results, I mean the agency of the schoolmaster. I am persuaded that if the practice of torture, and corruption, and all those kindred evils which are apparently inseparable from the possession of power by the lower grades, at least of native officials, are ever to be eradicated, it can only be done by teaching the mass of the people their rights, and by showing them how they are to be defended. The reluctance of the ryots to come forward to give evidence against those who are guilty of those malpractices does not proceed solely from apathy. The Madras Commissioners remark (paragraph 70), that “the natives will often travel at great personal loss and inconvenience to make complaints even of a very petty nature to the collector or sub-collector.” There can be no doubt that this is the case; why then do they not come forward, when black mail is wrung from them, or confessions extorted by the application of torture? Simply because such has ever been the custom of the country, and they know no better than to submit. Enlighten them as to their rights, and employ, if you will, your educational machinery, not only for the diffusion of this branch of useful knowledge, but for the detection and exposure of the particular class of malpractices to which our attention has now been called.

29. These, and the adoption of any amendment of the law which may be recommended by the Sudder, and which may, upon consideration, appear unobjectionable and expedient, are the only suggestions which I have to offer. If concurred in by the Board, they will be easily carried into effect. If any others occur

occur to my honourable colleagues, I trust they will place them upon record, and that upon a question of so much importance, and which is likely to produce so great a sensation on the public mind at home, we shall be able, at no distant date, to transmit our collective sentiments to the Honourable Court of Directors and the Government of India.

Bombay.

20 July 1855.

(signed) *Elphinstone.*

MINUTE by the Honourable Mr. *Lumsden.*

I HAVE only at present to express my entire concurrence in these remarks by our Right honourable President. I will defer any further remarks or suggestions which I may have to offer until we receive a reply to the proposed reference to the Sudder, and the subject is again brought under our notice.

No. 7162 B.

27 July 1855.

(signed) *J. G. Lumsden.*

MINUTE by the Honourable Mr. *Malet.*

I CONCUR in the reference in the first instance to the judges of the Sudder Adawlut.

No. 7162 c.

27 July 1855.

(signed) *A. Malet.*

No. 3562 of 1855, Judicial Department.

LETTER to the Registrar of the Sudder Adawlut.

Sir,

I AM directed to transmit to you the accompanying printed copy of the "Report of the Commissioners for the investigation of alleged cases of torture" in the Madras Presidency, with an extract (paras. 1 to 5, and 14 to 23) of a minute on the subject by the Right honourable the Governor, dated 20th ultimo, and concurred in by the Honourable Board, and to request that the judges will be good enough to favour Government with their opinion, and report on the points indicated at the close of para. 23 thereof.

No. 7163.

You will have the goodness to return with your reply the printed Report of the Madras Commission now sent to you.

I have, &c.

Bombay Castle,
10 August 1855.(signed) *H. L. Anderson,*
Secretary to Government.

From the Registrar of the Sudder Foujdaree Adawlut.

Sir,

I HAVE the honour, by direction of the judges of the Sudder Foujdaree Adawlut, to acknowledge the receipt of your letter, No. 3562, dated 10th ultimo, with enclosures, requesting the opinion of the Court as to the advisability of new enactments to render the law for punishing cases of torture more effective.

2. In reply, I am desired to state that the Court are of opinion that the law, as it now stands, is ample to meet any offence committed by the police, in eliciting confession by improper means, as well as to punish revenue officers guilty of extorting illicit demands by the application of torture.

3. The judges consider that a great deal may be expected from the superintendents of police in checking the practice of extorting confession, and that the best protection against native officials in this respect will be found in diligence and zeal with which these officers perform their duties under the immediate

Present:
A. Remington, Esq.,
M. Larken, Esq.,
and W. H. Harrison, Esq.
1855, Jud. Cons.,
October.

No. 8610.

Bombay.

control of Government, without exhibiting an over-anxiety for convictions, and so encouraging their subordinates to obtain confession from accused persons at any cost.

4. In respect to illegal means to collect the revenue, the Court are of opinion that they are seldom resorted to. But should unfortunately any case occur, the interpretation on section 8, Regulation XII. of 1827, of the 28th April 1836, will be found to point to a suitable punishment. Government, however, have taken the most effectual means of preventing any excess of this kind by introducing a light and equitable assessment, so as to enable the collectors to realise the year's revenue within the year, which the Court have reason to believe is now done in the Dharwar Collectorate, and that of Broach, where the rates have been revised under the able superintendence of Major Wingate and the late Messrs. Davies and Goldsmid.

5. The Court, I am desired to state, do not therefore consider any legislative enactment is called for to render the law more effective.

6. They have, however, issued a circular to all the magistrates, reminding them that they are held answerable for the responsibility imposed on them by law, of requiring that district police officers shall not retain prisoners in their custody beyond 48 hours, except for indispensable causes which they are bound to set forth fully in the quarterly returns they render to the Court under the circular order, No. 347.

7. The printed Report of the Madras Commission is herewith returned as requested in your letter under reply.

I have, &c.
(signed) M. A. Coxon,
Registrar.

Bombay, Sudder Foujdaree Adawlut, .
7 September 1855.

MINUTE by the Right Honourable the Governor.

No. 8611.

THE papers should now be sent to my honourable colleagues. I may have something to add to the observations which I have recorded, but I will defer doing so until I have had an opportunity of seeing their remarks.

(signed) Elphinstone.

10 September 1855.

MINUTE by the Honourable Mr. Lumsden.

No. 8612.

I AM disposed to think with the Sudder, that no new legislative enactment is required to suppress recourse to torture by our native police officials, with a view to procure confessions. I believe that no mere enactment, however stringent, will of itself lead to a total discontinuance of the practice. The present laws, if properly enforced, are however sufficiently severe and comprehensive for the requirements of the case. The improvement which we desire to see in our native police, implies an entire change in their views and opinions as to the manner, and even as to the matter, in obtaining evidence for criminal prosecutions. This then must be the work of time, and it is chiefly to the progress of education that we must look for the substitution in the native mind of just and enlightened notions of evidence in the room of bygone traditions and practice.

2. It may be of use to inquire, while devising a present remedy for the evil, how the practice of seeking for evidence of the guilt of the suspected in their forced confessions originated, and how it is found so difficult to eradicate it under the humane and civilized government? For we shall find, that, if it is deeply rooted, the cause is not to be looked for alone in that propensity to resort to violence for the accomplishment of its objects, which is the characteristic of all barbarous and despotic governments like the one to which we have succeeded. It is more than this. There are circumstances depending upon the peculiar social institutions of this country which place strong temptation in

in the way of the police to resort to torture, because secret inquiries, from the very nature of the native social system, are greatly facilitated, and the strongest, and generally, it must be admitted, well-founded suspicions, are directed thereby upon particular individuals, though substantial proof may be wanting.

The systematic division of the people into castes and sections which have no sympathy in common, a system which has even strongly stamped its impress upon the descendants of the Mahometan conquerors of the country, enables the members of the same caste, whose sympathies are on the other hand concentrated upon it, to overlook each other's actions, and to pry into each other's proceedings in a manner too minute to be readily understood by a European. When a crime then has been committed, the first result of an investigation, vigorously prosecuted on the spot, is to circumscribe the area of inquiry by its leading immediately to the conclusion that the offenders belong to a particular caste. Once certain of this fact, it is next to certain that very many members of the caste will be able to point out the individuals, and it is then no longer difficult to obtain secret and confidential communications given on a pledge of silence.

Indeed in some parts of India, as in Goozerat, there is a class of professional informers there called Mookhia, who take advantage of this peculiar framework of society to hunt information regarding robberies for the police with unerring accuracy and for the sake of reward; but the invariable condition of their assistance is silence and secrecy as regards themselves.

A right clue being thus obtained the parties implicated are arrested, and under such circumstances the police of native states resorted without scruple to torture, except (as generally happened) the accused, conscious of guilt, and believing that sufficient proof against him was forthcoming, made a free and full confession.

The temptation to pursue this barbarous system of inquiry in our own provinces lies in the fact, that it is very frequently successful. A native policeman, ambitious of distinction as a detective, and removed for the time from under the eye of his European superior, can see no harm in a practice which enables him to bring unerring proof of his success, and to recover the stolen property by information furnished by the thief.

When we recollect that the practice, however barbarous and detestable, has prescriptive prestige and native opinion in its favour, and how few and far between are the European officers who administer this vast country and govern through a numerous and scattered native agency, the wonder, after what I have endeavoured to explain, is not that in spite of their best vigilance an occasional case of resort to torture should come to light, but that such cases should be so uncommon.

It remains to consider what is the best practical measure, circumstanced as we are, to give an immediate and final check to the practice.

In my own opinion, the remedy is to be found in carrying out with correctness and vigour the reformed system of police proposed by Sir George Clerk, and perfected and adopted by his successor.

If the superintendents of police are selected solely for their activity and ability; if the rule which requires them to be perpetually on the move within their districts is enforced; if they are held responsible for the state of their charge, and rigorously dismissed when found incompetent; finally, if, instead of each being left indiscreetly to his own devices and to follow his own judgment, they are placed one and all under the general control of an active and able Commissioner, I believe that few if any instances of recourse to torture could occur, and that in any rare exception the immediate and severe punishment of all concerned would be sure to follow.

It is only by such agency that the strict enforcement of the Regulations, which prescribe the period during which the accused may be detained before being forwarded to the magistrate, can be effectually secured, and this provision, as our Right honourable President has justly remarked, is one of the most effective safeguards against police mal-administration.

Of the employment of torture by the revenue authorities I have said nothing, for I believe it to be very rare indeed. But the care for the one will answer for the other; and where there is an active superintendent constantly travelling

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through the districts, and open to the hearing of all complaining, few patells will be found to abuse the limited power entrusted to them, and to risk almost certain detection and dismissal.

17 September 1855.

(signed) *J. G. Lumsden.*

MINUTE by the Honourable Mr. Malet.

No. 8613.

I DO not find on record facts to induce me to believe that a system of torture by the police has existed in this Presidency, the small extent of our territory, the comparatively large proportion of European agency (with reference to Madras), and the character of our predatory classes which supply the greatest number of our criminals, favour my supposition that the system does not exist, and that instances of the crime are not very frequent; still as they do occur, and may at times, as in the late Nassick case, be of terrible atrocity, it is a most urgent duty that means of prevention, if wanting hitherto, should be supplied, and if they exist that they should be energetically employed.

We are, therefore, much indebted to our Right honourable President for bringing the subject under consideration, and for the manner in which he has treated it. I concur in the opinion of the state of the law recorded in the 23rd para. of our President's minute, and the Sudder judges also are of opinion that its provisions are sufficient. The new system of police when completed, and when its operations are directed and supervised by an able superintendent, appears to me to leave theoretically little to wish for; it remains that individual responsibility be invariably and rigorously imposed, and we may thus hope that the crime will become rare, though it is hardly possible that it will ever be entirely eradicated.

21 September 1855.

(signed) *A. Malet.*

MINUTE by the Right Honourable the Governor.

No. 8614.

I THINK that our proceedings on the subject of torture may now be sent to the Honourable Court. The Government of India have just sanctioned the appointment of a head of the department of police throughout this Presidency, who is to hold this office in conjunction with that of inspector of prisons. I anticipate the best results from this combined appointment.

The judges of the Sudder, who agree with us in thinking that no alteration of the existing law is required, have issued a circular to all magistrates, reminding them that they are responsible that the district police officers do not keep prisoners in their custody beyond 48 hours without bringing them before a magistrate, and they have lately brought to our notice a case in which an acquitted prisoner was detained in custody for many months under the orders of a magistrate, in the hope either of obtaining further evidence against her, or of eliciting a confession from her. This magistrate has been removed from his appointment, and I trust that this example, and the very serious notice which we have taken of another recent instance of the illegal and protracted detention of untried prisoners, will have the effect of putting a stop to a practice so contrary to justice, and so likely to encourage similar abuse of authority, and a recourse to more violent, though they scarcely can be called more arbitrary, means of eliciting confessions on the part of native subordinate officials.

The Honourable Court may be assured that our best efforts will continue to be directed to the prevention of practices so repugnant to our sense of justice, and so injurious to the character of the Government.

29 September 1855.

(signed) *Elphinstone.*

(True extract.)

(signed) *H. L. Anderson,*
Secretary to Govt.

(Extract.)

Judicial Department, 26th November (No. 12) 1856.

Our Governor in Council at Bombay.

1. WE highly approve the attention given to the best means of effectually suppressing the practice of torture by the native servants of Government, in the proceedings to which the letters under reply have reference. It is gratifying to learn that the barbarous practice is believed to be rare for enforcing the collection of revenue. We observe also with satisfaction that the law, as it already exists, is considered both by your Government and by the Judges of the Sudder Court to be adequate to the punishment of persons guilty of this flagrant abuse of authority. For the purpose of removing the opportunity for such abuse, the attention of the village and district police has very properly been drawn to the rule of law by which the former are prohibited from detaining prisoners more than 24 hours, and the latter more than 48 hours.
2. While we agree with the reflections recorded in the minutes of Lord Elphinstone and Mr. Lumsden, that it may be a common practice on the part of criminals to accuse the police of ill-usage, and that we must not allow our abhorrence of torture to be used by criminals as a means of escape from the penalty of their crimes, at the same time it must be impressed upon the minds of our native officers, by a vigorous but judicious course of action, and by prompt and adequate punishment in cases of proved delinquency, that we are resolved (to use the proper language of his Lordship's minute) not to be always baffled in our endeavours to restrain their malpractices, and although we may console ourselves with the knowledge that our European servants are to an extent exempt from this reproach, we at the same time feel it difficult to believe that superintendents, like Lieutenant Bell in the papers before us, could not by a more strenuous vigilance and activity prevent the evil. Neither are we content to trust to the tardy check of the progress of education.
3. We had hoped that, after so long a period of European rule, it would not have been necessary to exculpate such offences against humanity by the poor plea that we derived them from our native predecessors. We have neglected a high duty if we have not better taught the natives whom we have subdued. The study from the schoolmaster may slowly settle by degrees better principles of government in the minds of the inhabitants, but in the meanwhile we must look to the sessions judge for peremptory and prompt punishment, and to your government for a vigorous tone and a public expression of your strong wish to uproot a practice which has excited disgust at home, and given us discredit in Europe. The Report of the Commission, appointed to examine into this subject in the Madras Presidency, has induced us to observe upon one of the first instances brought to our notice in Bombay with such severity, as will convince all our servants of the absolute duty of extirpating this evil.
4. Your letter, No. 51, relates principally to a case of torture at Nassick, which led to six police servants being sentenced to imprisonment for four years with hard labour, and two months more in solitary cells. In this case a prisoner had been apprehended on the 10th August 1854, for the murder of a child, whose ornaments were found concealed on his person.
5. The child was between four and five years old, and being missed by its parents for some time, suspicion was excited that it had been murdered for the sake of its ornaments; and as the prisoner, who was a cousin of the child, could nowhere be found, he was suspected of the murder. Search was immediately made by the Foujdar, and about four o'clock of the same day he was apprehended.
6. He denied his guilt at first, and did not confess it until the Foujdar said to the policeman, "Take him to one side, and question him, as he is afraid, and will not confess before me." He was then taken to a shed near, into which six policemen entered with him, while one kept watch outside. The door was shut, they remained inside 10 minutes, and when he came out he confessed the crime and pointed out a well, a mile and a half distant, where the child's body was found. He walked to and from the well, and did not appear to Lieutenant Bell, the superintendent of police (who arrived at the place shortly after the

Regarding Torture.
Letter dated 3 October (No. 46), 1855.

Letter dated 17 October (No. 51), 1855.

Letter dated 3 December (No. 61), 1855.

Letter dated 31 December (No. 65), 1855.

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torture had been inflicted), or the other spectators, to be out of health. The prisoner did not complain of the torture, alleged to have been inflicted to compel him to confess, till the 12th, when he was removed to the hospital. He died on the 14th.

7. The trial of the police servants was held at Nassick, before Mr. J. W. Woodcock, sessions judge, of Ahmednuggur. From the comments upon that proceeding by the judges of the Sudder Court, in their several minutes, as well as by the members of Government, we perceive that the trial was considered as having been conducted in a very unsatisfactory manner, an opinion in which we entirely concur. There is some doubt whether the crime was brought home to the prisoners by legal proof. If guilty, they had, in the judgment of the Sudder Court, committed murder, not culpable homicide, the crime of which the sessions judge convicted them. With regard to the failure in the medical evidence against the prisoners, we concur in the opinion of the medical board, in which you have expressed your concurrence, that it was not attributable to any deficiency on the part of Mr. Pelly, the surgeon, in his knowledge of medical jurisprudence, but only to the defective manner in which the judge conducted his examination.

8. Whether the guilt of the police servants was or was not established by legal proof, there was no reason to question the moral certainty that, for the purpose of extorting a confession from the deceased, they had inflicted upon him an act of atrocious cruelty, which probably was the immediate cause of his death. The sentence passed upon them by the sessions judge (inadequate as it was to their crime), having been sanctioned by the competent judicial authority, we trust that it may have a salutary effect in preventing similar practices. With the same view we think that you acted with perfect propriety in dismissing the Foujdar from his situation. He may probably not have directed the specific act of cruelty perpetrated upon the deceased, but there is every appearance of his having left it to the inferior officers of police to take their own measures for obtaining a confession. We desire that it may be publicly notified that the Foujdar, for his conduct in this transaction, shall not be again employed in any situation under your Government.

— No. 3. —

CHARGES OF TORTURE AGAINST THE SURAT POLICE.

(No. 55, of 1855.)

Judicial Department.

To the Honourable the Court of Directors for the Affairs of the Honourable East India Company, London.

Honourable Sirs,

Torture:
 Alleged charges of, against the
 Surat Police.
 Jud. Cons. 1854.
 20 December, No. 9099-9102.
 " " " 9103-7.
 Jud. Cons. 1855.
 3 March, No. 476-80.
 " " 22-25.
 " " 214.
 " " 467-71.
 19 October, No. 8941-50.

THE proceedings, which we now do ourselves the honour of forwarding to your Honourable Court, relate to certain allegations against the Surat Police, which were brought to our notice by the judges of the Sudder Foujdaree Adawlut in the four following cases:

1st. The case of Dyal Bugwa, an untried prisoner, who died in the Surat Hospital, on the 26th of July 1854, and who was alleged to have been starved and ill-treated by the police.

2d. The case of Hurlpursad Gunpursad, alleged to have been beaten by the police.

3d. The case of Kachia Lachia, stated to have committed suicide while in the hands of the police.

4th. Case No. 23, of the general calendar for Surat.

2. Mr.

2. Mr. A. Bettington was appointed a Special Commissioner, under Act 37, of 1850, to investigate the charges, and the result of his inquiries are contained in the proceedings accompanying this despatch.

3. For the statements of this Government on the subject we would refer your Honourable Court to our resolution of the 28th September last, a copy of which accompanies.

Bombay,
Jud. Cons. 1855,
19 October,
No. 8943-44-

We have, &c.
(signed) *Elphinstone.*
J. G. Lumsden.
A. Malet.

Bombay Castle, 2 November 1855.

RESOLUTION by the Honourable Board.

MR. BETTINGTON, as a Special Commissioner, under Act 37 of 1850, has instituted an inquiry regarding certain allegations against the Surat police, which have been brought to the notice of Government by the judges of the Sudr Foujdaree Adawlut.

No. 8943-44-

2. Mr. Bettington's inquiries have had reference to four distinct cases:

1st. The case of Dyal Bugwa, an untried prisoner, who died in the Surat Hospital on the 26th of July 1854, and who was alleged to have been starved and ill-treated by the police.

2d. The case of Hurlpursad Gunpursad, alleged to have been beaten by the police.

3d. The case of Kuchia Lachia, stated to have committed suicide while in the hands of the police.

4th. Case No. 23, of the general calendar for Surat.

3. The facts involved in the case of Dyal Bugwa were briefly as follows: On the 24th of July the civil surgeon of Surat, Dr. Lawrence, reported to the session judge the "ill-condition and extremely emaciated appearance of two untried prisoners recently admitted into the hospital, and who (in the civil surgeon's opinion) had been reduced to the last stage of debility from ill-treatment and starvation." On the 26th of July one of these prisoners, Dyal Bhugwa, died. At the subsequent inquest it is stated that Captain Hodgson, the superintendent of police, interfered unduly with the kotwal, who was taking the evidence of the other prisoners.

4. The first remark which these statements demand is, that the alleged ill-treatment must be charged against the police, and the alleged starvation against the magisterial department, as the prisoner had not been in custody of the former for some months previously to the decease of Dyal Bhugwa. The Right honourable the Governor in Council will first consider the allegation relative to starvation.

5. The magistrate, Mr. Liddell, states the daily allowance of food which was granted to Dyal Bhugwa (amounting in all to 1 lb. 11 oz.); and Mr. Bettington, who now holds the office of inspector-general of prisons, and whose opinion is of peculiar value, pronounces that the allowance is "most ample." If, therefore, what was allowed was really given, and it is not alleged that it was withheld, the accusation of starvation falls to the ground.

6. But this conclusion is rendered still more clear by the certificate and examination of Dr. Lawrence, from which it would appear that starvation, which is first softened down into "insufficient nourishment," really meant a deprivation of opium, the prisoner being an habitual opium eater. Finally, it would appear that Dyal Bhugwa died of "atrophia," a disease very prevalent among prisoners in Guzerat, accelerated by the deprivation of opium.

7. The laxity and inconsistency of statement, which the latter certificate and examination of Dr. Lawrence exhibit, have been clearly set forth by Mr. Bettington, and demand an expression of the dissatisfaction of Government, which should be communicated through the Medical Board.

Bombay.

8. The next point presented for the consideration of Government is the conduct of Captain Hodgson, in interfering with the kotwal when taking the deposition of Purbhoo Kooshal. Mr. Bettington has recorded a complete acquittal of Captain Hodgson, and has characterised the session judge's remarks on that officer's conduct as quite "unwarrantable." The Right honourable the Governor in Council is unable to concur in Mr. Bettington's view, while, willing to accept Captain Hodgson's explanation, as interpreted by Mr. Bettington, as exculpatory, or at least palliative, so far as Captain Hodgson's intention was concerned, the Right honourable the Governor in Council cannot consider that the session judge's remarks were wholly without warrant. It is reported to the session judge, by an apparently competent authority, the civil surgeon, that two prisoners in the hospital have been reduced, in his opinion, to the last stage of debility by ill-treatment and starvation. Two days after, one of the prisoners dies. As the civil surgeon had alleged two causes of the reduced state of the prisoners, it was a reasonable inference that both causes had contributed to the death of one of the prisoners. In an inquiry, therefore, on the subject, it was obviously necessary to examine the other prisoner, who had made the same complaint, as to both causes, and especially as to the first, the ill-treatment. The examination of the prisoner was stopped by Captain Hodgson, on the ground, as stated by him, "that it appeared to have nothing to do with the case under investigation." Thus the case stood before the session judge; and he was fully justified in condemning Captain Hodgson's conduct. It is now, however, explained that Captain Hodgson's object was to keep the attention of the members of the inquest to the actual subject then before them, the examination of the body of the deceased by the civil surgeon. The Right honourable the Governor in Council is willing to accept this explanation; but he considers that Captain Hodgson would have acted with a better discretion if he had abstained even from this limited interference; and, as superintendent of police, in a matter which gravely affected the police, had strictly confined himself to watching the proceedings of the inquest. He should know that every word, every question of an officer in his position, is liable to be misinterpreted, and may, unintentionally on his part, interfere with the complete liberty of investigation by a court composed entirely of natives; while, therefore, the Right honourable the Governor in Council is glad to find that Captain Hodgson's conduct was not so reprehensible as might have been anticipated from first appearances, he cannot agree in the propriety of Mr. Bettington's strictures upon the remarks of the session judge.

9. Next, as to the ill-treatment of the two prisoners. The alleged torture is stated to have been committed under the orders of the Subedar Major Mullaree Bokur, and the joint police officer, Myasunker. It is stated that the prisoners were suspended by the feet, and dipped head foremost into a well; and also that they were allowed to drop suddenly from the branch of a tree, suspended by their arms, which were tied behind their backs. Mr. Bettington rejects these statements as unworthy of credit, being unsupported by evidence, improbable on account of the number of people whom it would be necessary to employ, provocative of observation, and certain to be accompanied with such grievous bodily injury as must ensure detection. The civil surgeon has recorded his opinion that dislocation would inevitably follow suspension by the arms from the branch of a tree. Under all the circumstances, then, the Right honourable the Governor in Council has little hesitation in recording his concurrence in Mr. Bettington's opinion, that no grounds exist for the institution of any proceedings against the subedar major and the joint police officer.

10. A difference of opinion would appear to have existed between the sessions judge and the magistrate as to the propriety of suspending the subedar major and the joint police officer from their offices, pending full investigation of the allegations against them. Mr. Bettington considers that the magistrate exercised a sound discretion in not suspending them. It is a question on which a difference of opinion may be reasonably entertained; and the Right honourable the Governor in Council does not intend to convey a censure when he expresses his inclination towards the opposite conclusion. It will be observed that the civil surgeon had made a statement, the gravity of which could hardly be exaggerated; that statement received an apparent confirmation by the death

of

ALLEGED CASES OF TORTURE IN INDIA.

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of one of the prisoners. These were circumstances which suggested a most severe investigation; and the Right honourable the Governor in Council is of opinion that it would have inspired a more complete confidence in the public mind, and have conveyed a more clear warning to the police, that the authorities were determined to sift to the bottom every charge of torture, if the magistrate, at the commencement of the inquiry, had suspended from office the accused parties. With this expression of his opinion the Right honourable the Governor in Council passes on to the consideration of the remaining facts.

11. It would have been better if the prisoner Dyal Bhugwa had not been deprived of a small allowance of opium, if a confirmed opium eater, without reference to medical authority. To deprive an opium eater of the drug which he has habitually used, is more cruel than to deprive a cripple of his crutch. But the Right honourable the Governor in Council observes that this Dyal Bhugwa was in hospital on the 23d of May, and treated for colic; he does not, therefore, understand why, on his discharge, the medical officers did not inform the magisterial authorities that the prisoner was an opium eater, and should therefore be allowed a small quantity of opium every day. This neglect on the part of the civil surgeon in a great measure exonerates the magistrate's department; but the Right honourable the Governor in Council considers that in future the magistrate should always refer to a medical authority before discontinuing an allowance of opium to any prisoner who is known to be an opium eater.

12. But the part of this case which calls for the severest notice relates to the length of time during which the prisoners were in custody without being brought to trial. It appears that the deceased Dyal Bhugwa, and three others, were apprehended by the police on the 30th November 1853, and handed over to the mamlutdar of Kurode on the 19th December. Dyal Bhugwa died on the 26th of July 1854 an untried prisoner; the remaining prisoners were brought before the assistant magistrate on the 28th of July, on which day the case against them was dismissed. An explanatory letter from the magistrate, Mr. Liddell, is appended to Mr. Bettington's report, and though that officer has attempted to show reasons why delays and interruptions of investigation occurred, the Right honourable the Governor regrets to be compelled to observe that the explanation is utterly unsatisfactory. Nothing can excuse the neglect of the Government regulations, and the indifference to the interests of justice on the part of all concerned, which are apparent throughout these proceedings. The prisoners appear to have been handed over from one assistant to another; from deputy to assistant, and from assistant to deputy. One assistant goes away sick, another deputy goes away on private affairs; other work requires to be done, as if any other work should be permitted to take precedence of magisterial duty, and the lamentable result is, that an innocent man, certainly a man whose guilt was not susceptible of proof, dies after a detention of eight months in a gaol hospital, and two days after his death the other prisoners are discharged for want of proof. Incidents of this character are most humiliating to those concerned in the administration of justice, and most painful to those interested in the welfare of the country. It must always be a matter of regret to Government to be compelled to censure a magistrate of Mr. Liddell's standing in the service; but the Right honourable the Governor would not be doing his duty if he did not inform him that the inefficiency which he has displayed upon this occasion, and his want of all control over the proceedings of his subordinates, have greatly lowered him in the estimation of Government as a public officer, and have suggested a doubt whether he should be permitted to continue in his present office. The Right honourable the Governor in Council has just removed one magistrate for illegally detaining in custody an untried prisoner, and although he draws a distinction between that case and the one now before him, inasmuch as the persons unduly detained in Surat were untried, yet he observes that the difference is in the degree rather than in the nature of the offence. In both cases the powers of the magistrate have been exceeded, and individuals against whom no crime could be substantiated have been arbitrarily and illegally deprived of their liberty.

An extract from these proceedings (containing the whole of this paragraph) will be communicated to the judges of the Sudder Foujdare Adawlut, who will be requested to state whether their attention was attracted to this case by the

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returns of untried prisoners, and, if so, what notice was taken of it by them. The judges will be pleased in future to make a special report to Government of all cases in which untried persons are detained in prison for protracted periods. A copy of this extract will be further communicated to all magistrates, and a circular letter addressed to them, pointing out the determination of Government to remove from his office any magistrate who may be guilty hereafter of this offence.

13. Before quitting this subject, the Governor in Council requests that he may be informed if there is any truth in the allegation made before Mr. Bettington, that the deceased, Dyal Bugwa, and other untried prisoners, were put in the stocks, and that Prubhoo Kooshal received some blows from a police peon named Purtal Sing; he is surprised that Mr. Bettington should have reported this allegation without stating whether he had taken any steps to ascertain whether it was true or false.

Case of Hurlpursad
Gunpursad.

14. The second case on which Mr. Bettington reports is that of Hurlpursad Gunpursad. This case is brought to the notice of Government by the judges of the Sudder, who transmitted with their letter a copy of a very able minute recorded by the Judicial Commissioner, Mr. W. E. Frere. That gentleman, after pointing out various grounds of suspicion against the police, stated that in his opinion further inquiry would be useless, but suggested that the necessity of immediate inquiry, when accusations are preferred against the police, should be carefully impressed upon the magistrates. The Government fully concurred in Mr. Frere's remarks, and a copy of his minute was circulated to all the magistrates. But the Government also thought that the importance of the case demanded further investigation, and therefore determined that Mr. Bettington should be directed to institute a searching inquiry.

15. The Right honourable the Governor in Council is gratified to find that Mr. Bettington's inquiries have placed the conduct of the police in a more favourable light, or at least that they lead to the conclusion that the statements of Hurlpursad were grossly exaggerated. There would appear to have been three allegations: 1st. That Hurlpursad was beaten at Oolpar; 2d. That he was beaten on the road between Oolpar and Surat; 3d. That he was ill-treated at the Moosafferkhana, at Surat. The first and third of these allegations Mr. Bettington rejects as wholly improbable; he considers all external circumstances to be against the truth of Hurlpursad's story; for instance, the ill-treatment at Oolpar is stated to have occurred in a building, in a part of which the magistrate was himself at the very time residing with his establishment, and he shows generally, that, while circumstances are against the statements of Hurlpursad, there is no evidence in their favour. With reference to the second allegation, Mr. Bettington thinks it very probable that the prisoner was beaten on the road, but states that there is no proof to the fact. The Right honourable the Governor in Council presumes that Mr. Bettington means there is only the statement of Hurlpursad on the one side, and the denial of the police on the other, and that unfortunately there is no violent improbability, apart from actual circumstances, in any allegation of ill-treatment preferred against the police. The Right honourable the Governor in Council, however, considers the result of this investigation to be on the whole satisfactory, and he directs that the special warning suggested by Mr. Bettington be conveyed to the kotwal, and that the magistrate's attention should be once more drawn to the laxity of system to which the negligence of the kotwal is partly ascribed by Mr. Bettington, and to the just and forcible remarks of Mr. Frere. Government consider with that gentleman and with Mr. Bettington that it is absolutely necessary, when charges are brought against the police, that they should be promptly inquired into by the magistrate himself. The Governor in Council has recently directed the attention of all magistrates to the illegality of the police detaining prisoners before committal beyond the period allowed by the regulations, and is resolved to enforce his orders upon this subject, and by this and every other means in his power to prevent the ill-treatment of prisoners by the police.

Case of Kutchia
Lachia.

16. The third case which Mr. Bettington was directed to investigate was that of Kutchia Bheel, who was drowned while in the custody of the police. The question is not so much, as stated by Mr. Bettington, whether the Bheel committed

committed suicide; or whether he was murdered by the police by being thrown into a well; as whether he committed suicide from fear of ill-usage from the police, or from other parties. Mr. Bettington is clearly of opinion that Kutchia dreaded the vengeance of his comrades and other bheels. He sent a confidential agent to the village in which the bheel was drowned to make private inquiries, and this agent ascertained that the general opinion in the village was, that Kutchia had committed suicide from dread of his comrades. There being on direct evidence against the police, but only such suspicions as arise from constructive arguments, the Right honourable the Governor in Council has no difficulty in acquitting the police of all participation in the death of the bheel; but he considers there were sufficient circumstances of suspicion to justify the session judge in drawing the attention of the judges of the Sudder Foujdaree Adawlut to the case.

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17. Lastly, Mr. Bettington has submitted some remarks on case No. 23 of the general calendar of Surat, in which the session judge set aside some confessions on the strong suspicion that they had been extorted, and to which the judges of the Sudder had drawn the attention of Government, in connexion with the case of Dyal Bhugwa. The Right honourable the Governor in Council is inclined to agree with Mr. Bettington, that the weight of evidence is in favour of the police; but he cannot concur in all the arguments by which he has supported that opinion, still less can he agree in the implied censure of the proceedings of the session judge. That officer, a most able judge, and now occupying a seat in the Sudder Court, set aside the confessions of certain prisoners on the suspicion that they had been extorted by the subedar major and the joint police officer, who had been accused in this as in other cases of ill-treating the prisoners. There was some direct evidence on the point not sufficient for the condemnation of the police, but quite sufficient to induce a doubt in the mind of any judge, as to whether he should accept the confessions as exhibitory of the actual facts. It would be of very dubious policy if Government were to assent to a censure of a judicial officer upon whom the responsibility of the trial rests, because he had determined to allow no weight to certain confessions, on the opinion of one upon whom the responsibility of the trial did not rest. Accusations were frequent against two individuals of ill-using prisoners. A judge imbibes, he knows not how, a feeling of insecurity as to the confessions of prisoners, with the reception of which these individuals have been at all concerned. Accordingly on the trial he puts out of sight the confessions, and looks only to the independent evidence. This course evokes a protest from Mr. Bettington; but the Right honourable the Governor in Council is of opinion, that the proceedings of the judge were perfectly correct, and he is certain that they should be protected from criticism, or ought not to challenge censure. A judge, if fit for the bench, must be allowed to exercise his discretion as to what evidence is to be trusted, and what distrusted, especially when the doubt is in favour of the prisoners. Accordingly, the Right honourable the Governor in Council entirely absolves Mr. Harrison from all censure as to the conduct of these trials, and considers that he has rendered a service to Government in prominently drawing the attention of the judges of the Sudder to the many circumstances of suspicion which attended the operations of the police of Surat, but the least part of that service is, that it has enabled Government, through Mr. Bettington's investigation, to entertain a more favourable opinion, than it otherwise could have done, of the character of that police.

Case No. 23, of the
General Calendar
of Surat.

28 September 1855.

(signed) *Elphinstone.*
J. G. Lumsden.
A. Malet.

Judicial Department, 5 March (No. 4) 1856.

Our Governor in Council at Bombay.

1. IN your letter in this department, dated 2d November last, No. 55, you have brought under our consideration your proceedings relative to certain cases of alleged cruelty and gross misconduct towards prisoners by the police officers at Surat. The cases were laid before you by the Sudder Foujdarry

Alleged ill-treat-
ment of prisoners
by the officers of
police at Surat.

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Adawlut,

Bombay:

Adawlut, at the instance of the sessions judge of the zillah, who was of opinion that they called for a thorough investigation.

2. You accordingly appointed Mr. Bettington, inspector of prisons, a Special Commissioner, to investigate the charges against the police. This duty he appears to have performed with great zeal and ability, and it is most satisfactory to learn that he considers the charges to be unsupported by proof. In exonerating the police officers from the accusations brought against them, Mr. Bettington has with great propriety animadverted on the culpable delay on the part of the magistrate in disposing of charges against prisoners (in one of the cases in question extending to many months), which is not only in itself an act of hardship and injustice towards the accused, but also affords opportunity for ill-treatment. We approve of the censure on this score which you passed on Mr. Liddell, the magistrate of Surat. The police are prohibited by law from detaining a prisoner above 48 hours. It may not be practicable to fix a precise time within which the magistrate shall dispose of each case, by trying the prisoner, or committing him for trial before another tribunal; but all unnecessary detention ought to be scrupulously avoided, and delay to the extent pointed out by Mr. Bettington is wholly inexcusable. We trust that effectual measures have been taken to guard against any such abuse in future. With that view it may be of advantage to ascertain the rules in force for the purpose at the other Presidencies.

3. In considering the letter now under reply, our attention has been drawn to the practice which prevails of district police officers receiving confessions from prisoners. We are aware that this is in conformity with section 43, Regulation XII. of 1827; but we have reason to believe that it is liable to great abuse. Although the law contemplates such confessions being voluntarily made, we fear that many have been extorted by compulsion on the part of the police officers.

4. In the minutes of the members of your Government, during the course of the proceedings under review, Mr. Warden expressed it as his opinion that "many confessions are extorted." Mr. Lumsden, without joining fully in that view, says "that violence is occasionally resorted to by the police to induce prisoners to confess, there is unfortunately too much reason for believing;" and Mr. Bettington, who conducted the inquiry in the present case, while acquitting the police in this instance, says that "it is neither impossible nor improbable that a policeman might maltreat a prisoner:" evidently alluding to coercion for the purpose of extorting confessions.

5. It appears to us that the admissions of guilt made by prisoners to the police officers are usually of little value in securing their ultimate conviction, followed, as they generally are, by a repudiation of the confession before the magistrate or judge who tries the case; while, on the other hand, they afford an opportunity for the exercise of cruelty on the part of the police officers in order to extort them, which it is most desirable to remove.

6. Moreover, by inducing the police to rely upon that means of securing the conviction of offenders, rather than on the more troublesome and difficult course of procuring other evidence, that body is rendered less efficient in the detection of crime, and therefore less useful for its prevention.

7. In the Report recently submitted to Her Majesty by the Indian Law Commissioners, they have proposed (from a conviction of the abuse to which the system has led), that "it shall not be competent to a darogha, or other police officer, to examine a person accused of a criminal offence, or to reduce to writing any admission or confession of guilt which he may propose to make." This provision is proposed to form part of the new code of criminal procedure; but we desire you to consider whether, in anticipation of its enactment, it would not be advisable to issue instructions to the police to abstain henceforward from receiving such confessions; for we fully concur with Mr. Lumsden that "it should be the business of the police not to rely on obtaining such confessions, but rather on an improved system of obtaining evidence, and thus diminishing the chance of being criminal with impunity."

We are, &c.
(signed) *E. Macnaghten.*
W. H. Sykes.
&c. &c.

London, 5 March 1856.

Bombay.

Judicial Department, 5 March (No. 11) 1856.

Our Governor-General of India in Council.

WE request that you will take into your consideration the sentiments expressed in our despatch of this date to the Bombay Government, with regard to the propriety of prohibiting native police officers from receiving the confessions of prisoners.

Alleged ill-treatment of prisoners by the officers of police at Surat.

London, 5 March 1856.

We are, &c.
(signed) *E. Macnaghten.*
W. H. Sykes.
&c. &c.

Political Department.

Political Department.

CHARGES OF EMBEZZLEMENT, CRUELTY, AND EXTORTION, AGAINST THE DEWAN OF TRAVANCORE.

EXTRACT Political Letter from the Government of Fort St. George to the Court of Directors; dated 27th February (No. 2) 1855.

29. HAVING received, from parties residing in the Travancore territory, several petitions, preferring charges of embezzlement, cruelty, and extortion against the dewan and some of the district police officers, we forwarded them to the Resident for investigation, and called his attention to the frequency of complaints of the nature referred to; and desired that the specific allegations, such as those contained in the petition of Emanuel Class, as to the irregular employment of the jemadar, Neelacanden, his character, and the alleged fact of his having been declared guilty of torture, might be specially reported upon. We also requested him to report whether the statements made of the several employments of the dewan's brother and relatives were true or not.

30. In his letters of 22nd and 23rd September last, the Resident laid before us the dewan's explanation, together with the result of his own inquiry into some of the allegations the petitions contained, and his observations generally on the subject of complaint; and we have now the honour of submitting copies of these papers for the information of your Honourable Court.

EXTRACT Political Letter from the Court of Directors to the Government of Fort St. George; dated 30th April (No. 3) 1855.

23. You have received various petitions charging the administration of Travancore with some of the worst vices which can be imputed to a government: habitual use of torture to procure confessions of crime; extortion of money from the people for the profit of individuals; habitual bribery; perversion of the course of justice; falsification of accounts, and many minor irregularities. The Resident states that most of these petitions are disavowed by the persons in whose names they are drawn up. But the framers, whoever they may be, are in possession of official documents the authenticity of which is not denied, and which contain matter of serious crimination against the Travancore authorities. In some of the cases adverted to, those documents prove that the Resident took proper and perhaps sufficient notice of what was objectionable. But in the horrible case of torture in which the police jemadar, Neelacanden, is the person inculpated, the grounds laid by the Resident in his letter to the dewan, of the 17th January 1854, justified and required far more than the

Political Department.

expression of a hope that the dewan would be more careful in future as to the instructions given to the jemadar, coupled with a suggestion that it would be well if he could be employed in some other capacity; while at the same time the temporary suspension of the jemadar was removed. We are decidedly of opinion that the jemadar ought to have been dismissed; and that if no means existed of satisfactorily investigating his conduct, with a view to his punishment, a person labouring under such grave imputations ought not to have been employed by the Travancore authorities in any other capacity. There are other cases which the Resident, in his explanation, does not touch upon, particularly a formal decree of the principal judicial court of Travancore, pronouncing that the dewan himself had been personally guilty of inflicting torture to extort depositions; an allegation which, if true, demanded that the dewan should be immediately removed from office; if false, the three judges and the shastry of the appeal court, whose names are attached to the decree, are very unfit for their high judicial position. Charges of a similar nature, but of a more serious character, were subsequently brought against the dewan personally, in petitions from some inhabitants of Eddapilly, who were defendants in a case of alleged murder. From the Resident's report, it appears that these petitions contain great misrepresentations; but his statements, as to the inquiries he made into the allegations of torture, are far too general. We desire an amended report upon this subject. This case induced you very properly to order a representation to be made to the raja, on the gross impropriety of allowing a trial for murder to extend over three years, without the prospect of an early decision even after that lapse of time.

Revenue Department.

Revenue Department.

INDIA—AGRA DIVISION.

— No. 1.—

NARAIN DOSS, late TUHSEELDAR, of THUTTEEA TIROOA, STRONGLY SUSPECTED OF CORRUPTION and TORTURE.

EXTRACT from Revenue Narrative, No. 3, dated the 18th December 1854.

Para. 247. THE Board were requested to report on a petition presented by Narain Doss, late tihseeldar of Thutteea Tirooa, complaining of his having been dismissed from his situation on insufficient grounds. They stated in reply that, firstly, the petitioner had been found guilty of accepting a bribe to defeat the ends of justice, and of having subjected certain individuals to gross maltreatment, with a view to elicit evidence or confession, in a case of murder, in the village of Deblie, in pergunnah Muhumdabad. That, secondly, he had tampered with evidence recorded on a previous investigation by the Thannahdar, subordinate to him, in a case of wounding in Mouzah Allygurh, pergunnah Turrutpore; that, thirdly, in the case of the property of one Dhuleep Sing, deceased, of Thutteea, in pergunnah Thutteea Tirooa, he had been suspected of partiality; and that on those grounds they had rejected his appeal. The Lieutenant-governor concurred with the Board in thinking, that, under all the circumstances shown in the report, the petitioner, Narain Doss, was wholly unworthy of being retained in the office of tihseeldar.

M A D R A S.

Revenue Department.

— No. 2. —

PETITION from GOPALAKISTNÁ JYENGAR, of TANJORE, COMPLAINING OF ILL-TREATMENT and DISMISSAL from OFFICE.

EXTRACT from the Proceedings of the Honourable the Lieutenant-governor of the North-Western Provinces in the Revenue Department; dated the 5th April 1854.

(No. 149 of 1854.)

LETTER from *G. J. Christian*, Esq., Secretary to the Sudder Board of Revenue, North-Western Provinces, Agra, to *W. Muir*, Esq., Secretary to the Government of the North-Western Provinces; dated Agra, the 10th March 1854.

No. 97.

Sir,

I AM directed by the Sudder Board of Revenue to acknowledge the receipt of the orders of Government, No. 969, dated 23rd February 1854, calling for a report on the petition of Narain Doss, late tehseeldar of pergunnah Thateea Tirooa in zillah Furruckabad, and in reply to submit for the perusal of his Honor the Lieutenant-governor, the record of this office, together with the original correspondence received from the Commissioner, Agra division.

Revenue.
Present:
D. B. Morrison,
Esq., Senior
Member.

2. This correspondence relates to three different cases, the last of which resulted in the dismissal of the petitioner. These cases are stated below,* and all three have reference to the conduct of Narain Doss, in his capacity of officer of police in the several pergunnahs under his charge, as tehseeldar, at different times.

3. In the first of these instances, Narain Doss was considered by the officiating magistrate, Mr. H. G. Astell, guilty of having accepted a bribe to defeat the ends of justice, and in consequence to have either contrived or connived at two false charges, and subjected certain individuals to gross maltreatment with a view to elicit evidence or confession.

4. Mr. Astell considered the accusations proved, and recommended the dismissal of Narain Doss. The Commissioner, Mr. Robinson, took a different view of the evidence, and directed merely his removal from Muhamadabad to another pergunnah.

5. But the evidence adduced before the officiating magistrate, considering the extreme difficulty in this country of bringing such charges home to a native official, is very convincing; Narain himself, in the first instance, investigated the facts of the murder on the spot; and on Narain and six others, the parties whom he reported as guilty, being released by the magistrate, Mr. W. R. Timmins, he, after a second investigation, reported the plaintiffs, Gungaram and others, as having been guilty of preferring a false accusation of murder.

6. During that second inquiry, torture was undoubtedly used; one of the defendants, Gungaram, was found to be lame from the effects of it, though unfortunately this matter was not fully investigated by Mr. Timmins, who, however, records the facts in his memorandum, dated 23rd February 1849.

7. In addition to this, there is direct evidence and corroborating circumstances to show that a bribe was accepted by the tehseeldar. There is grave suspicion, if not convincing proof, on this point.

8. The Board cannot agree in the remarks contained in the Commissioner's, Mr. Robinson's letter, No. 81, dated 8th March 1849, para. 6. Mr. Robinson appears

* 1st. Conduct of Narain Doss, in the matter of the murder of Chaca, in the village of Deblie, in Pergunnah Mahumdabad.

2nd. Conduct of the same in the matter of the wounding of Secabova, in Mouzah Allygurh, Pergunnah Imrutpoor.

3rd. Conduct of the same respecting the property of Dulleep Sing, deceased, of Thaulteea, in Pergunnah Thaulteea Tirooa.

Revenue Department.

appears to have considered Narain Doss guilty of having used or sanctioned torture, but finds an excuse for his proceedings, because they are unhappily customary in this country, and because the magistrate had expressed a strong opinion on the merits of the first charge against Narain and six others.

9. The Board not only regard the general facts elicited as unfavourable to the integrity of Narain Doss, but consider the use of torture, under any circumstances, with his sanction, as demanding his dismissal from office.

10. Narain Doss was, however, restored to his duties, but removed to pergunnah Imrutpore, where, before the year 1849 had elapsed, the second case was reported by a different magistrate, Mr. W. C. S. Cunninghame.

11. In that instance, Narain Doss was found guilty of having tampered with evidence, written and recorded on a previous investigation by the Thannahdar subordinate to him. From Mr. Cunninghame's report, No. 32, dated 20th October 1849, it will be seen that the alteration of the record is conclusively proved, and indeed admitted by Narain Doss. There is strong evidence to show also that, besides the admitted alteration, other statements of the witnesses were influenced or extorted by Narain Doss, in order to criminate a party not named by them before.

12. The Commissioner, Mr. Robinson, regarded the act of the petitioner as a slight informality, as respects the alteration of the record. But Narain Doss had enough experience to know that the act was illegal and unjustifiable.

13. Subsequently Narain Doss was removed to pergunnah Thutteea Tirooa, where, in 1852, in the third case above-mentioned, his partiality at first towards one party, and subsequently towards his opponent, was noticed and censured by the sessions judge.

14. Mr. Cunninghame, in consequence of the remarks of the sessions judge, the recorded opinions of his predecessor and himself, in the two former cases, and the notoriety of the corruption of Narain Doss, in pergunnah Thutteea Tirooa, recommended his dismissal, which was confirmed by the Commissioner, Mr. W. H. Tyler, in his letter, No. 353, dated 2d November 1852.

15. The Board on a review of the cases above described, and with reference to the sentiments recorded by two district officers in succession, rejected the appeal.

16. I am desired to add, that Narain Doss was entered on the Board's list of candidates for deputy collectorships in 1848, before either case had come before the Commissioner. The Board had no knowledge of Narain Doss but what was contained in the nomination roll submitted in 1848, and as both the Commissioner and officiating collector recommended the insertion of his name, and his past services seemed to warrant it, and there was nothing on record then against him, the recommendation was complied with. The file relating to this latter point is also submitted.

I have, &c.

(signed) *G. J. Christian*, Secretary.

Sudder Board of Revenue, N. W. P., Agra,
10th March 1854.

EXTRACT Revenue Letter to India; dated 7th January (No. 1) 1857.

Narrative dated 18 December (No. 3) 1854, Furruckabad District.

(247.) Petition of Narain Doss, late Tehsildar, of Thutteea Tirooa, complaining of dismissal, rejected. He had been found guilty of tampering with witnesses and their written evidence, and was strongly suspected of corruption and torture.

85. WE must express our extreme surprise and regret that any officer in our service should have found an excuse for the infliction or sanction of torture by native officials, as appears to have been done by Mr. Robinson, when Revenue Commissioner, in the case of this tehsildar, on the grounds that such a practice was "unhappily customary" in this country; and we entirely agree with the Board of Revenue in considering "the use of torture, under any circumstances, with his (i. e. a tehsildar's) sanction, as demanding his dismissal from office."

86. We

86. We also consider that Mr. W. R. Timmins, at that time (1849) magistrate of Furruckabad, deserved great censure for having failed fully to investigate the facts connected with the undoubted use of torture in one instance in which Narain Doss was considered to have been decidedly implicated.

Revenue Department,

87. Both the gentlemen referred to* have retired from our service, or we should have directed you to convey to them this expression of our opinion as to their proceedings in this matter. We desire, however, that you will make it clearly understood by every member of our service that any failure, direct or indirect, in reporting cases, however slight, of the infliction of torture will be visited with our severest displeasure.

EXTRACT Revenue General Letter from Madras; dated 20th July 1855,
No. 34.

28. WE received a petition from Gopalakistna Jyengar, late moonsiff and putta monigar of the Ahtoor village in the Tanjore district, complaining of his dismissal from office and the unjust distraint of his property, and representing that he had been tortured with the kittee and otherwise ill-treated. We forwarded the petition to the magistrate of Tanjore, and from the report submitted by that officer, who had instituted a personal inquiry into the case, it appeared that the allegations of ill-treatment preferred in the petition were wholly unfounded, and that the other matters complained of had already been investigated and settled by the district authorities. We therefore resolved to reject the petition as undeserving further notice.

Petition from one Gopalakistna Jyengar, of Tanjore. Cons. 6 Feb. 1855, Nos. 7 and 8.

EXTRACT Revenue Letter to Fort St. George; dated 6th August (No. 10) 1856.

32. AFTER the full inquiry which has been made into this case, we agree with you in considering the complaints of the petitioner as altogether unfounded. As we are desirous that the infliction of torture, of any kind and for any purpose, should be considered as a crime of heinous character, and punished as such, accusations of this crime against individuals, if clearly proved to be false and malicious, should be visited with some penalty.

Letter from, dated 20 July (No. 34), 1855.
(28.) Petition from one Gopalakistna Jyengar, of Tanjore, complaining of ill-treatment and dismissal from office.

* Mr. Robinson retired 1st January 1852, and is since dead. Mr. Timmins retired 13th November 1850. without an annuity.

(True copies.)

East India House, }
9 June 1857. }

J. S. Mill,
Examiner of India Correspondence.

EAST-INDIA (TORTURE).

COPY of all LETTERS, or EXTRACTS from LETTERS, relating to Cases of alleged TORTURE in *India*, which have been received by the Court of Directors of the East India Company since the 12th day of September 1855; together with a Copy of INSTRUCTIONS issued by the Court of Directors of the East India Company on the same Subject.

(*Mr. Seymour.*)

Ordered, by The House of Commons, to be Printed,
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