M.R.O. 1—77,006—8-6-37.

(1) Number of pages 14.

(2) Date of repair 26-6-40.

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	958.	Press / Mis.
46-47		
Dated	5-6-	1894.

8/9

Not to be folded or roughly handled

No. 46. Read the following letter from Lieutenant-Colonel C. S. HEARN, Inspector-General of Police, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Madras, 22nd May 1874, No. 1943 :—

With reference to G.O., No. 727, dated 29th April 1874, I have the honour to inquire if I am to instruct the Police *never* to search a Post-office under any circumstances save under the provisions of Section 369, Code of Criminal Procedure. This is the position which the Postmaster-General desires to sustain (see his letter, No. 17437—5416, dated 20th March, "If you would kindly issue a departmental order pointing out that Police *are not justified in entering any Post-office*"), but I am not sure if the Order of Government above adverted to is intended to bear so wide a scope.

2. Section 369, Code of Criminal Procedure, refers exclusively to "a search warrant for a letter in the custody of the Postal Department," *i.e.*, in course of regular transmission through the post. In the Sheally case the person who had despatched the letter to the post at midday found his own envelope lying torn open on a footpath in the evening, so that the subsequent search (although perhaps unnecessary) was not for a letter in the custody of the Postal Department, but for evidence to show how such letter had been unlawfully abstracted. To illustrate the point I am now putting, I will suppose that a letter found in a similar manner had contained bank-notes, and that there was reason to suspect a Deputy Postmaster of having abstracted them from the envelope, and of having concealed them in the Post-office—Could the Police search the Post-office for the bank-notes at once, or must they wait for the District Magistrate's search warrant ? In the latter case the bank-notes would probably disappear.

3. Some torn letters (evidently abstracted from a Post-office) were once brought to me on a Sunday. They had been given to my informant by a little boy who said he had found them in his brother's desk, his brother being a Post-office clerk. I had the clerk's house searched at once, when two more letters were found in the desk. Next morning the little boy (as might be expected after returning to his family) absolutely denied that he had brought any letters to my informant; so as to the first batch of letters there was no evidence to connect them with the Post-office clerk, but he was convicted on the two letters found by the Police in his desk. Suppose the clerk's desk had been kept in the Post-office, could not the Police have entered for the purpose of immediate search ? At Sheally, the Deputy Postmaster apparently lives in the Post-office (see Mr. Kinsley's letter).

4. I mention these cases because although it is very rarely necessary to search a Post-office, yet it appears to me that the principle which Major Bourke evidently contends for, is not borne out by the wording of Section 369, Code of Criminal Procedure, and that if adopted it might occasionally lead to a great failure of justice. I, therefore, seek the further instructions of Government as to the scope of their order under reference. I submit that the provisions of Section 369, Code of Criminal Procedure, refer solely to search for a letter in course of transmission through the post, and not to a search for stolen or misappropriated property or for evidence in a murder case, &c., except when contained in such letter.

Proceedings of the Madras Government, Financial Department,
5th June 1874.

No. 47. ORDER THEREON, 5th June 1874, No. 958.

The Order of Government was not intended to "instruct the Police never to search a Post-office under any circumstances, save under the provisions of Section 369, Code of Criminal Procedure."

2. The Inspector-General admits that the search at Sheally was "perhaps unnecessary." Its object was certainly not very clear, but the Governor in Council gathered that it was conducted with the view of ascertaining whether the office contained any letter with its stamps missing; because, if no such letter were found, the Police would then be free to accept the conjecture that the stamps discovered on the boy belonged to a letter, fragments of which were lying about the street, and which there was evidence to show had been dropped into the box.

3. It appears now, however, that the Police were searching "for evidence to show how such letter had been unlawfully abstracted." The proceeding is condemned by the Inspector-General as uncalled for under the circumstances. The Police, therefore, are to be blamed on this ground, and not because they overlooked Section 369, Code of Criminal Procedure, which is now shown to have been inapplicable.

(True Extract.)

Acting Chief Secretary.

To the Postmaster-General.
,, Inspector-General of Police.

Exd. J. Wright.

Govt. of 1874 Stamps.

FINANCIAL.

To THE POSTMASTER-GENERAL, &c., &c., &c.

Dated June, 5th.

Read.

Ans.

G.O., 5th June 1874, No. 995.

JUNE.
Nos. 46-47.

Search of Post offices by Police.—The Inspector-General of Police informed, in reply to his inquiry, that the Order of Government of 29th April last was not intended to "instruct the Police never to search a Post-office under any circumstances, save under the provisions of Section 369 of the Criminal Procedure Code," and the further views of Government expressed in regard to the action of the Police in connexion with the search recently instituted in the Sheally Post-office.

5

From Insp.-Genl. Police

No 12-5-4 No 1943.

Dated 5th June 1874 No 995 P.

The Order of Govt was not intended to "instruct the Police never to search a "Post Office under any circumstances, "save under the provisions of S. 369 C.C.P."

2. The D.G. admits that the search at Sheally was "perhaps unnecessary." Its object was certainly not very clear, but the Govt. gathered that it was conducted with the view of ascertaining whether the Office contained any letter with its stamps missing; because, if no such letters were found, the Police would be free to accept the conjecture that the stamps discovered on the boy belonged to a letter, fragments of which were lying about the street, and which, there was evidence to show, had been dropped into the Box.

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The Postmaster General
The Genl Police

D.G. 26/5/74

Fo. S. & Gen. Police

Further instructing the Post Offices

Circ

C26/8. a-5/6

No. 1943 Chief Office of the Inspector General of Police.

Madras, 22nd May 1874.

From

The Inspector General of Police.

To

The Ag. Chief Secretary to Government, Ootacamund.

Sir,

Enclosures. 3 Annexures

With reference to G.O. No. 727 dated 29th April 1874, I have the honor to inquire if I am to instruct the Police never to search a Post Office under any circumstances save under the provisions of Section 369 C.C.P. - This is the position which the Postmaster General desires to sustain (See his letter No. 17437-5416 dated 20 March. "if you would kindly issue a departmental order pointing out that Police are not justified in entering any Post Offices") but I am not sure if the order of Government above adverted to is intended to bear so wide a scope.

2. Section 369 C.C.P. refers exclusively to "a search warrant for a letter in the custody of the Postal Department" i.e. in course of regular transmission through the post. In the Sheally case the person who had dispatched the letter to the post at midday found his own

envelope

envelope lying loose open on a footpath in the evening - so that the subsequent search (although perhaps unnecessary) was not for a letter in the custody of the Postal Department but for evidence to show how such letter had been unlawfully abstracted. To illustrate the point I am now putting I will suppose that a letter found in a similar manner had contained Bank Notes and that there was reason to suspect a Deputy Postmaster of having abstracted them from the envelope and of having concealed them in the Post Office. Could the Police search the Post Office for the Bank Notes at once or must they wait for the District Magistrate's search warrant?. In the latter case the Bank notes would probably disappear.

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suppose the clerk's desk had been kept in the Post Office - could not the Police have entered for the purpose of immediate search? at Shealby the Deputy Postmaster apparently lives in the Post Office. (see Mr Kinsley's letter).

4. I mention these cases because although it is very rarely necessary to search a Post Office yet it appears to me that the principle which Major Bourke evidently contends for, is not borne out by the wording of section 369 C.C.P. and that if adopted it might occasionally lead to a great failure of justice. I therefore seek the further instructions of Government as to the scope of their order under reference - I submit that the provisions of section 369 C.C.P. refer solely to search for a letter in course of transmission through the post and not to a search for stolen or misappropriated property or for evidence in a murder case &c. except when contained in such letter.

I have the honor to be
Sir,
Your Most Obed. Servant,

Inspector General of Police

Hindi 1874 Dept.

E 1105

From

The Inspector General
of Police,

To

The Ag Chief Secy
to Govt
Orissa

Dated 22d May 1874.
Rec'd 25. — —
No. 1943

Requests further instructions as to the scope of the proposed order by Govt under section 369 Cr. P. relative to search for a letter in course of transmission thro' the post.

Govt. of {1874} Madras.

Financial.

To

The Postmaster General.

G.O. June. 5, 1874, No. 958.

Nos. 46. 47.

Search of Post-Offices by Police.

The Insp.r Gen.l of Police informed in reply to this Enquiry that the Order of Govt. of 29 April last was not intended to instruct the Police never to search a Post-Office under any circumstances, save under the provisions of Sec. 165 of the Criminal Procedure Code, to the further views of Govt. expressed in regard to the duties of the Police in connexion with the Search recently instituted in the Sheally Post-Office.