

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 874	Press
13-16	~~Mis.~~
Dated 24-7-19(85)	

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 28th July 1857.

Read the following papers.

No. 13. From the Honorable Company's Solicitor; to the Acting Chief Secretary to Government, dated 10th July 1857, No. 400.

SIR,

I have the honor to forward for the consideration of Government, a copy of a letter dated the 9th Instant, from Mr. John Brosnahan, (a Covenanted Overseer in the service of the Honorable Company) to myself, with two original enclosures.

Mr. Brosnahan came down from Ootacamund to Madras, pursuant to his recognizance for the purpose of giving evidence against Ernest Otto Nosky Rehling, the late Officiating Post Master at Ootacamund, for fraudulently appropriating a Bill, drawn by the Collector of Coimbatore, on the Accountant General at Madras, in favor of Mr. Brosnahan or order, for Rupees 262-2-6, and which Bill was by Mr. Brosnahan, enclosed in a letter addressed to Mr. Allardice at Madras, and duly posted at Ootacamund.

Mr. Brosnahan was a material and necessary witness for the prosecution of Rehling, for the offence above mentioned. He gave his evidence before the Grand Jury, and would have been called as a witness for the prosecution on the trial of the prisoner, if the latter had not pleaded guilty.

I solicit the attention of Government to my letter of the 2nd of May last, No. 232.

It seems to me that there is a broad distinction between the cases of Mr. Brosnahan and Mr. Sherlock. In Mr. Sherlock's case the wrong which led to the expense was done by a third party, with whom Government was in no way connected, and was a mere personal private wrong. In Mr. Brosnahan's case the offence which rendered it necessary for Mr. Brosnahan to proceed to Madras, was committed by a servant of Government, whose very employment by Government gave him the opportunity of doing the wrong.

Seeing that the public are compelled to avail themselves of the Post Office, and to trust to the integrity of its employées, that those employées are the servants and Agents of Government for the realisation of revenue as well as the Agents of the Public for the transmission of letters, and bearing in mind all the circumstances of the case, I think that Mr. Brosnahan is fairly entitled to ask Government for re-imbursement of the expense to which he has been and will be put by his journey from Ootacamund to Madras, and back again to Ootacamund, and I beg to recommend his claim for sanction.

Similar claims will shortly be submitted to Government on behalf of Colonel Freeman, Major Strettell, Abdoolah Saib, Khadernah Sett, Toonga Audeapa Chitty, and Lingum, who also came to Madras for the purpose of giving evidence against Rehling. All of them were, in my opinion, material and necessary witnesses for the prosecution.

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

From JOHN BROSNAHAN, Covenanted Overseer; to J. R. BOYSON, Esq., Solicitor to the Honorable the East India Company, dated 9th July 1857.

SIR,

I have the honor to transmit herewith the accompanying Certificate of my attendance as witness at Madras, with a statement of the expenses incurred by me for transit, &c., from Ootacamund, and beg to request that you will kindly forward the same for payment.

I beg to add, that I cannot leave Madras until I am paid these expenses, as I am entirely run out of money.

(Signed) JNO. BROSNAHAN.
(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

The Prosecution - such as the evidence

Fort St. George, Judicial Consultation, 28th July 1857.

In the Supreme Court of Judicature at Madras.
Crown side.

The Queen on the prosecution of John Brosnahan,
Ernest Otto Nosky Rehling..... } For fraudulently appropriating
against enclosures in a letter.

I hereby certify that the above named John Brosnahan, attended as a witness for the prosecution in the above case, at the 3rd Sessions of Oyer and Terminer and General Gaol Delivery, holden in and for the Town of Madras, which commenced on the 6th day of July 1857, and that he gave his evidence before the Grand Jury.

Crown Office, Madras, }
9th July 1857 }

(Signed) FREDK. ORME,
Dy. Clerk of the Crown.

No. 14. From the Honorable Company's Solicitor; to the Acting Chief Secretary to Government, dated July 13th, 1857, No. 403.

SIR,

With reference to my letter of the 10th Instant, No. 400, I have the honor to forward hère-
* With 2 original enclosures. with a copy of a letter* from Colonel Freeman, to my address, dated the 11th Instant, and applying for payment of Rupees 292-9-6, as the amount of his travelling expenses from Ootacamund to Madras, (for the purpose of giving evidence against Rehling,) and back again to Ootacamund. Colonel Freeman was a material and necessary witness for the prosecution of Rehling. He gave his evidence before the Grand Jury, and would have been called as a witness for the prosecution on the trial of the prisoner, if the latter had not pleaded guilty to the charge of fraudulently appropriating Colonel Freeman's cheque.

* With one original enclosure. I also forward a copy of a letter* from Mr. Ouchterlony, Principal Sudr Ameen of Ootacamund and Justice of the Peace, to my address, dated the 11th Instant, and applying for payment of Rupees 277-8, as the amount of his travelling expenses from Ootacamund to Madras, (to give evidence against Rehling) and back again to Ootacamund. Mr. Ouchterlony was a material and necessary witness for the prosecution of Rehling, and gave evidence before the Grand Jury, and on the trial of the prisoner.

For the reasons stated in my letter, No. 400, I beg to recommend the claims of Colonel Freeman and Mr. Ouchterlony, for sanction.

* With 2 original enclosures. I likewise forward for the information of Government a copy of a letter* from Mr. Ouchterlony, to my address, dated the 11th Instant, and having reference to the travelling expenses of Appavoo Naick and Lingum, who also came down to Madras for the purpose of giving evidence against Rehling, were material and necessary witnesses for the prosecution, and were examined before the Grand Jury, and on the trial of the prisoner.

As soon as I receive a detailed statement of these expenses from Mr. Ouchterlony, I will submit the same for the sanction of Government.

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

From Colonel W. FREEMAN, 16th N. I.; to J. R. BOYSON, Esq., Honorable Company's Solicitor, dated July 11th, 1857.

SIR,

I was summoned as a witness before the Supreme Court. W. Freeman, Colonel.
I have the honor to request you will obtain for me the amount due for my travelling expenses from Ootacamund to Madras, and back again. I enclose you a bill for the same.

(Signed) W. FREEMAN, Colonel,
16th N. I.

(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

Fort St. George, Judicial Consultation, 28th July 1857.

In the Supreme Court of Judicature at Madras.

Crown side.

The Queen on the prosecution of William
Robert Andrew Freeman,
Ernest Otto Nosky Rehling. } For fraudulently appropriating en-
against closures in a letter.

I hereby certify that the above named William Robert Andrew Freeman, attended as a witness for the prosecution in the above case, at the 3rd Sessions of Oyer and Terminer and General Gaol Delivery, holden in and for the Town of Madras, which commenced on the 6th day of July 1857, and that he gave his evidence before the Grand Jury.

Crown Office, Madras, }
9th July 1857. }

(Signed) FREDK. ORME,
Dy. Clerk of the Crown.

In the Supreme Court of Judicature at Madras.

Crown side.

The Queen on the prosecution of John Wynn
Strettell, } For Forging and Uttering.
Ernest Otto Nosky Rehling..... } against

I hereby certify that James Ouchterlony, Esq., attended as a witness for the prosecution in the above case, at the 3rd Sessions of Oyer and Terminer, and General Gaol Delivery, holden in and for the Town of Madras, which commenced on the 6th day of July 1857, and that he gave his evidence on the 8th day of the same month.

Crown Office, Madras, }
9th July 1857. }

(Signed) FREDK. ORME,
Dy. Clerk of the Crown.

From J. OUCHTERLONY, Esq., Justice of the Peace; to J. R. BOYSON, Esq., Honorable Company's Solicitor, dated July 11th, 1857.

SIR,

I have the honor to enclose 2 Certificates of the attendance at the Sessions of Appavoo, and Lingum, on the prosecution of Strettell against Rehling, for forgery.

2. The first of these parties, Appavoo Naick, is the Head Peon of the Jail at Ootacamund, and, to economize expense, the other witness, the boy Lingum, was sent down with him. Advances were given from my Court for this purpose, and, as they have no means, I must feed them back to Ootacamund. I shall not be able to give a statement of their full expenses till I return there.

3. I do not know whether you would get a general sanction of Government to pay their expenses, or await my sending you the details and exact amount, but this latter shall be forwarded to you as soon as ascertained.

(Signed) J. OUCHTERLONY,
Prin. Sudr Ameen of Ootacamund,
and Justice of the Peace.

(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor..

In the Supreme Court of Judicature at Madras.

Crown side.

The Queen on the prosecution of John Wynn
Strettell, } For Forging and Uttering.
Ernest Otto Nosky Rehling..... } against

I hereby certify that Lingum arrived at Madras from Ootacamund, attended the third Sessions of Oyer and Terminer and General Gaol Delivery, holden in and for the Town of Madras on the 6th day of July 1857, and on the 8th July gave his evidence on the trial of the above named Ernest Otto Nosky Rehling, who was convicted of forging and uttering.

Crown Office, Madras, }
9th July 1857. }

(Signed) FREDK. ORME,
Dy. Clerk of the Crown.

The Prosecution - such as the instance

Fort St. George, Judicial Consultation, 28th July 1857.

In the Supreme Court of Judicature at Madras.

Crown side.

The Queen on the prosecution of John Wynn }
Strettell, }
Ernest Otto Nosky Rehling,.... } For Forging and Uttering.

I hereby certify that Appavoo Naick, arrived at Madras from Ootacamund, attended the third Sessions of Oyer and Terminer and General Gaol Delivery, holden in and for the Town of Madras on the 6th day of July 1857, and on the 8th July gave his evidence on the trial of the above named Ernest Otto Nosky Rehling, who was convicted of forging and uttering.

Crown Office, Madras, }
9th July 1857. }

(Signed) FREDK. ORME,
Dy. Clerk of the Crown.

No. 15. From the Honorable Company's Solicitor; to the Acting Chief Secretary to Government, dated July 16th, 1857, No. 416.

SIR,

With reference to my letter of the 10th Instant, No. 400, I have the honor to forward herewith, copies of letters from Abdoolah Saib, Khadernah Sett, and Toonga Audeapah Chetty, (with their respective enclosures) to my address, dated respectively the 11th Instant, and applying for payment of their travelling and other expenses in connection with the prosecution of Rehling.

The three persons above named were material and necessary witnesses for the prosecution, and were examined by the Grand Jury and on the trial of the prisoner.

I submitted the 3 letters above mentioned, with their enclosures, to Mr. Ouchterlony, with a request that he would favor me with his opinion on the claims of the parties, and also the amounts to which they are fairly entitled, and I herewith send a copy of Mr. Ouchterlony's reply.

For the reasons stated in my letter, No. 400, I beg to recommend that sanction be granted for the payment to Abdoolah Saib of Rupees 150, Khadernah Sett, Rupees 137-14, and Toonga Audeapah Chetty, Rupees 162-1-6.

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

From Abdoolah Saib, Ootacamund Merchant; to the Honorable Company's Solicitor, dated 11th July 1857.

SIR,

I have the honor to forward herewith a memorandum of expenses incurred and to be incurred by Abdoolah Saib for self, his son and servant, in travelling from Ootacamund to Madras, and back to Ootacamund, for the purpose of giving evidence at the Principal Sudr Ameen's Court at Ootacamund, and the Supreme Court at Madras, on behalf of the prosecution in a charge preferred against Mr. Rehling, and shall be obliged by you obtaining the sanction of Government for payment thereof.

I likewise enclose you the Deputy Clerk of the Crown's Certificate of my attendance at the Supreme Court during the trial of the case.

(Signed) ABDOOLAH SAIB,
Ootacamund Merchant.

(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

Fort St. George, Judicial Consultation, 28th July 1857.

In the Supreme Court of Judicature at Madras.

Crown side.

The Queen on the prosecution of John Wynn }
Strettell, }
Ernest Otto Nosky Rehling,.... } For Forging and Uttering.

I hereby certify that Abdoolah Saib, arrived at Madras from Ootacamund, attended the third Sessions of Oyer and Terminer and General Gaol Delivery, holden in and for the Town of Madras, on the 6th day of July 1857, and on the 8th July gave his evidence on the trial of the above named Ernest Otto Nosky Rehling, who was convicted of forging and uttering.

Crown Office, Madras, }
9th July 1857. }

(Signed) FREDK. ORME,
Dy. Clerk of the Crown.

From Cawderna Saib, Mysore Merchant; to the Honorable Company's Solicitor, dated 11th July 1857

SIR,

I have the honor to forward herewith a memorandum of expenses incurred and to be incurred by me, for self and servant, in travelling from Mysore to Ootacamund and back to Mysore, and afterwards from Mysore to Madras, for the purpose of giving evidence at the Principal Sudr Ameen's Court at Ootacamund, and the Supreme Court at Madras, on behalf of the prosecution in a charge preferred against Mr. Rehling, and shall be obliged by you obtaining the sanction of Government for payment thereof.

I likewise enclose you the Deputy Clerk of the Crown's Certificate of my attendance at the Supreme Court during the trial of the case.

(Signed) CAWDERNA SAIB,
Mysore Merchant.

(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

In the Supreme Court of Judicature at Madras.

Crown side.

The Queen on the prosecution of John Wynn }
Strettell, }
Ernest Otto Nosky Rehling,.... } For Forging and Uttering.

I hereby certify that Kadernah Saib, arrived at Madras from Mysore, attended the third Sessions of Oyer and Terminer and General Gaol Delivery, holden in and for the Town of Madras, on the 6th day of July 1857, and on the 8th July gave his evidence on the trial of the above named Ernest Otto Nosky Rehling, who was convicted of forging and uttering.

Crown Office, Madras, }
9th July 1857. }

(Signed) FREDK. ORME,
Dy. Clerk of the Crown.

From Thoonga Adapah Chetty; to the Honorable Company's Solicitor, dated 11th July 1857.

SIR,

I have the honor to forward herewith a memorandum of expenses incurred and to be incurred by me, for self and servants, in travelling from Mysore to Ootacamund and back to Mysore, for the purpose of giving evidence at the Principal Sudr Ameen's Court at Ootacamund and the Supreme Court at Madras, on behalf of the prosecution in a charge preferred against Mr. Rehling, and shall be obliged by you obtaining the sanction of Government for payment thereof.

I likewise enclose you the Deputy Clerk of the Crown's Certificate of my attendance at the Supreme Court during the trial of the case.

(Signed) THOONGA ADAPAH CHETTY.

(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

The prosecution - such as the instance

Fort St. George, Judicial Consultation, 28th July 1857.

In the Supreme Court of Judicature at Madras.

Crown side,

The Queen on the prosecution of John Wynn
Strettell,

Ernest Otto Nosky Rehling, ^{against}

For Forging and Uttering.

I hereby certify that Toonga Adapah Chetty, arrived at Madras from Mysore, attended the third Sessions of Oyer and Terminer and General Gaol Delivery, holden in and for the Town of Madras on the 6th day of July 1857, and on the 8th July gave his evidence on the trial of the above named Ernest Otto Nosky Rehling, who was convicted of forging and uttering.
Crown Office, Madras, }
9th July 1857.

(Signed) FREDK. ORME,
Dy: Clerk of the Crown.

From J. OUCHTERLONY, Esq. Principal Sudr Ameen of Ootacamund, and Justice of the Peace; to J. R. BOYSON, Esq., Honorable Company's Solicitor, dated July 15th, 1857.

SIR,

I have the honor to acknowledge receipt of your letter of the 13th Instant, with its enclosures, which are herewith returned as requested.

Toonga Adapah Chetty's account of his expenses seems fair and reasonable, and I think may be allowed to him.

Khadernah Saib's I think is unreasonable. Adapah Chetty was allowed a transit from Mysore to Ootacamund, because of his state of health preventing him from travelling in any other manner. Khadernah Saib was not represented to be in any similar condition. His item of diet expenses is utterly preposterous, 2½ Rupees a day! I think his charge should be reduced to the level of Adapah Chetty's, and as noted by me in the margin. These two ought to have travelled together, and probably did.

The same remarks apply in a great degree to Abdoollah's account. I have furnished a transit at Ootacamund, to take down this man and my head peon Appavoo Naick, leaving Lingum, (the witness) to sit with the driver. But Abdoollah declared he must take his son with him, as his wife being dead, he had no one but himself to look after the child (which might be true), and must have a cook also. For all this he wanted a separate transit, which I refused, and he then employed one himself; under all the circumstances, I think my marginally noted allowance would suffice.

(Signed) J. OUCHTERLONY,
Principal Sudr Ameen.

(True Copy.)

(Signed) J. R. BOYSON,
Honorable Company's Solicitor.

No. 16.

ORDER THEREON, No. 874; dated 24th July 1857.

Resolved that these papers be referred to the Commissioner of Police with instructions to report upon the sum which it is proper to pay to the different parties who were summoned before the Supreme Court as witnesses for the prosecution on the trial of E. O. N. Rehling, late Acting Post Master at Ootacamund, for forgery and larceny.

(Signed) E. MALTBY,
Acting Chief Secretary.

In order to be paid for the Per-
secution in this case are to be paid their
expenses, orders are requested in the follow-
ing two points.
1st Is the compensation to include Hotel
Bills at Madras, or the limited to ac-
tual road expenses only?
2nd Are public servants (such for example
as Mr. Ouchterlony the Principal Ameen)
to be paid their expenses as well as
these witnesses who are not in Govt
employ?
The
think all witnesses should paid
their expenses on full rate.
That it is necessary that some general rule be made.

of the trial of Dr. Daubney & Captain
Campbell for murder, & the present
case of the Act Post-Master of Botacomb
Killing.

- M^r Surgeon Sherlock's case is different.
He had to appear in the prosecution of
a private party who had stolen his
watch. His application therefore for his
expenses involves the principle whether
in every case Govt is to pay the expenses
of witnesses who appear before the Supreme
Court for the prosecution of offenders.

- This question has been brought before
the Govt of India, as the papers (which
are put up at the work of the Assembly

Mr. W. Mont) will show

Y^{rs}

E. Mins. Cov. No 87/11, Dated 24 July/97
Read the following letters from
the Hon Comr's Selection

H
M

- Resolved that these papers
be referred to the Commissioner
of Police with instructions
to report upon the sum which
it is proper to pay to the differ-
ent parties who were summoned
before the Supreme Court as
witnesses for the prosecution
in the trial of C. O. R. Pelling late
Act Post-Master at Botacomb
for forgery & larceny.

Y^{rs}

To the Comr of Police -
with 3 orig. letters to be sent - Dup^s 2/11

