

MADRAS RECORD OFFICE.

Government of Madras.

Journal DEPARTMENT.

G.O. No.	1623	Press
		<u>Misc</u>
6-7		
Dated	2 - 12	1918.9

Not to be folded or roughly handled*112*

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*Proceedings of the Madras Government, Judicial Department,
for the month of December 1859.*

No. 6. Read the following Proceedings of Government in the Public Works Department,
(Public.) dated 25th November 1859, No. 2749.

*Making a reference to the Court of Foujdari
Adalat through the Judicial Department for
explanation as to why the usual practice, viz.,
documents and articles of any kind important
in a Criminal case, being scrupulously detain-
ed by the Magistracy and the Courts till the
case is finally closed, was neglected in the
instance of the Cash Chest connected with the
case of Mr. Ross, who was tried for a defalca-
tion before the Sessions Court at Bellary.*

(Vide Proceedings, Public Works Department,
from 21st to 30th November 1859, Nos.
86 and 87.)

No. 7. ORDER THEREON, 2nd December 1859, No. 1623.

*Consultation, 1st February 1859, Nos. 87 to 90.
Proceedings, 10th June „ No. 1416.
Do. 25th Novr. „ „ 2749,
and enclosures in original.*

Resolved that the Proceedings of Govern-
ment in the Public Works Department, noted
in the margin, be communicated to the Fouj-
dari Adalat. The Judges are requested to call
for the explanation required in the fourth para-

graph of the above Order, and submit it to Government with their opinion.

(Signed) T. PYCROFT,
Chief Secretary.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from Lieutenant-Colonel J. H. BELL, Chief Engineer; to J. D. BOURDILLON, Esq., Secretary to Government, dated 12th November 1859, No. 7144.

In reference to orders of Government No. 1416, 10th June 1859, subject as per margin;

1 Letter from District Engr., dated 2nd Sept. 1859, No. 186.
1 do. from do. do. 23rd do. do. No. 219.
1 do. from do. do. 28th Oct. do. No. 286.
with two enclosures.

Relating to Mr. Ross' cash chest.
The Governor in Council desires that the District Engineer shall be called on to explain in detail in whose charge the chest was from first detection of deficit up to its final production in court; and the parties, in whose charge it so was, will be required to explain what means they took to keep its contents from being tampered with, and who had access to it.

I have the honor to report that the District Engineer, Bellary, states that the chest was in the charge of Captain Syme from the time of the deficit until the trial commenced at Bellary; during the trial it was in the custody of the Court, and at the close of Captain Syme's evidence it was restored to his charge. He took it to Gooty, and on Mr. Powell's arrival in the district, and appointment to the charge of the

Adoni range, he proceeded to Gooty and received the chest from Captain Syme, and immediately following on this a requisition was made by Mr. Ross' vakeel, to have the chest examined in Court; when the additional vouchers were found.

2. Captain Syme states that while the records were under his charge, it was impossible for any one to tamper with them, as the only books the writers had were copies of monthly papers sent to the District Engineer. Stationery and all receipts were preserved in a locked box and the key kept in his own possession.

3. Mr. Powell states that he was, at the time of taking over charge of the Adoni range, unaware of any particular necessity for preventing the office box being tampered with, or of taking more than the ordinary precautions for its safe custody, and that after being in charge a few days, the office box was, by Captain Syme's direction, made over to his accountant, and it was then taken to Bellary and reproduced in Court.

4. The District Engineer further states, that Mr. Powell believes his writer (who he had just then entertained at Bellary), is the person who tampered with the records, as he had subsequently discovered other papers, which had been falsified by this individual; and in one case Mr. Ross' signature forged; and he had in consequence dismissed the man from his situation. Captain Fisher adds that he quite agrees with Mr. Powell in this belief; but that they are unable to prove the man's guilt.

5. Captain Syme, it will appear, has not replied directly to the question put to him in my proceedings of the 23rd of September, No. 5909, and it appears to me that this officer is not free from blame, in omitting to instruct Mr. Powell in the necessity of taking particular care to prevent the chest from being tampered with.

6. There seems also to have been mismanagement in the case in the omission to call for Captain Fisher's evidence.

ORDER THEREON, 25th November 1859, No. 2749.

1. In this letter the Chief Engineer furnishes information, in reply to the order of June 10th 1859, No. 1416, respecting the persons who had charge of Mr. Ross' cash chest from the first detection of the deficit to the final production of the chest in Court.

2. Though so many papers are sent up, the facts are far from being clearly set out, partly in consequence of a remarkable omission of dates throughout the correspondence. Comparing the present papers, however, with others formerly recorded, the state of the case appears to be as follows: that the chest was in Captain Syme's custody from the time when it was taken out of Mr. Ross' hands till after the investigation of the case by the Subordinate Court; that almost immediately after that, Captain Syme transferred the chest to Mr. Powell; when giving

over to him the charge of the Adoni executive range; that very shortly after, viz. at the trial before the Sessions Court, the chest was again sent for, and was examined in that Court; and that certain receipts were then found in it, which were not in it when it was twice examined before by Captain Syme, aided on one occasion by the Magistrate; and that relying on these receipts, which however, he expressly declared to be for various reasons very suspicious, the Sessions Judge acquitted the prisoner.

3. There seems good reason to believe, with the District Engineer, that it was Mr. Powell's writer who introduced the receipts into the chest. The event certainly shows that sufficient care was not taken of the box and its contents by Mr. Powell, who however was not warned by either Captain Fisher or Captain Syme, that any particular care of them was proper. But the Government cannot impute blame on this account to any of those officers. Mr. Powell was not even aware that the contents of the chest were important in the trial; and the other two, seeing that the chest had been produced before the Subordinate Court, examined there, and then given up to the department, when the case was committed to the Sessions Court, might reasonably infer that it would not again be wanted.

4. It does however appear to Government a strange proceeding that an article of so much importance in the trial should not have been better cared for by the committing Magistrate and the Subordinate Court. The usual practice is that documents and articles of any kind important in a criminal case, are scrupulously detained by the magistracy and the courts, till the case is finally closed; and the Government resolve to communicate the papers in this case through the Judicial Department to the Court of Foujdari Adalat, with the request to furnish explanation why that course was neglected in the present instance.

The Government refrain from making any further remarks on the treatment of the case by the Sessions Judge.

5. It is observed that Mr. Powell's writer, whose name, by the same want of exactness which omitted the dates, is not given, has been dismissed from employment. The Governor in Council must remark that he appears to have been entertained without due enquiry as to his character. It is presumed that District Engineers exercise control over the selection and nomination of servants by their subordinates. This should certainly be the rule of the department.

6. The Governor in Council must notice lastly the long delay of five months which occurred in replying to the simple order of the 10th June; a delay entirely due, as it seems, to Captain Fisher, and in great part to the careless and incomplete character of his replies, which made three successive letters from him necessary. The Government have recently had occasion to notice the same fault in the same officer. The Chief Engineer will again point out to him how much such inaccuracy and incompleteness increases his own work as well as that of others, besides causing delays which must be prejudicial to an effective administration.

(True Extract.)

W. H. D. Sullivan

Secretary to Government.

To the Chief Engineer.

„ Judicial Department, with papers.

*3 Encl. Pro. of Govt.
dtd 31st June 1859 No 87@90.*

Exd. Wm. Thomas.

4 Encl. Pro.

J. H. M. A. L. Dec. 10th Jan. 1869.

about 9 o'clock

Unpaid 1859 Defunct
Term of 400 to 10000

On receiving of your
in the morn. Dr. Depauville

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8/25, { Nov 1859.
2/28. {

4 Quads: D
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of Review. Adalat. Who the Court
ought for explanation as to why
the usual practice - viz. demanding
a certificate of any kind important
in a Criminal case, being done.
- Judgments detained by the
magistrate & the Court is till
the case is finally closed -
was suggested in the instance
of the Chak Chak case that
with the case of Mr. Hoag, who
was tried for a deputation
before the Judicial Court
at Hyderabad.

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 No. 87 @ 90. read in the margin,
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 No. 141b. to the Jordan? Ada-
 do. 25th Nov. 1859 to the Bridges and re-
 No. 2749.8 lat. The Bridges are re-
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 explanations required in
 the fourth para of the a-
 bove order, & submit it
 to Court with their opinion.

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