M.R. O. 1—39,000—16-10-99.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 644 Press ~~Mis.~~
65-66

Dated 6 — 5 — ~~19~~ 1866

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, from 4th to 10th May 1859.

No. 65. Read Proceedings of Government in the Revenue Department, dated 3rd May 1859, No. 602.

Forward copy of order passed on Extract Minutes Consultation in the Military Department, relative to persons convicted of charges connected with spirituous liquor, to the Judicial Department, and direct that the attention of the Session Judge of Chingleput and of the Court of Foujdaree Adawlut, be called to certain points noticed therein.

(Vide Proceedings Revenue Department, from 4th to 10th May 1859, Nos. 59 and 60.)

No. 66. ORDER THEREON, 10th May 1859, No. 644.

Resolved, that the above Proceedings be communicated to the Court of Foujdaree Udalut in view to their giving effect to the orders in paras. 8 and 9.

2. Resolved also, that the Magistrate of Chingleput be directed to submit, in communication with the Superintendent of Police and Joint Magistrate at Saint Thomas' Mount, a sketch of the duties to be performed by the Mount Cutwal (which should be wholly of a ministerial and executive character) and to which he should be strictly confined.

3. Resolved also, that the Civil Auditor and Military Auditor General be requested to furnish statements of the salaries drawn, in the Civil and Military Departments, respectively, by Cutwals at the various stations, Civil and Military, under the Madras Government.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following Extract from the Minutes of Consultation in the Military Department.

Communicating certain documents relative to persons convicted of charges connected with spirituous liquor and requesting that the documents may be returned when no longer required. (Here enter 4th January 1859, No. 40.)

ORDER THEREON, 3rd May 1859, No. 602.

1. In compliance with the requisition made for the third time in Extract Minutes Consultation in this Department dated 18th November 1858, No. 1547, for the original record of all Abkarry cases disposed of in the office of the Superintendent of Police at Saint Thomas' Mount in the months of September and October 1857, and his orders for the *individual* distribution of the fines imposed in them, the First Assistant Adjutant General's letter communicated with the Military Extract recorded above, lays before Government depositions chiefly in Tamil, Statements of cases, and a Memorandum by Lieutenant Colonel Crewe, Superintendent of Police at the Saint Thomas' Mount Cantonment.

2. The Statements now furnished contain thirty-two cases of two kinds, viz. fourteen of offences against the Abkarry rules, and eighteen of crimes against the Law or Public Peace, such as Burglary, Larceny, reception of stolen property, or receiving valuables under false pretences, &c. In one Police and ten Abkarry cases between August and November 1857, fines to the amount of 170 Rupees were imposed, of which 85 Rupees, or one half, was divided between the Cutwall and informing Peon; while in the remaining twenty-one cases, during the same period, being seventeen Police and four Abkarry, wherein no fines were imposed but the accused were otherwise punished, the sum of Rupees 147-8 was disbursed in rewards to the Cutwall and his subordinate peons, of which amount the Cutwall himself took no less than 120½ Rupees, or 82 per cent., and left only 27 Rupees, or 18 per cent., to his subordinates. The Cutwall's share of the 85 Rupees disbursed as above noticed, is not shewn; but it appears from a foot note attached to a table prefixed to the Memorandum of the Superintendent of Police, that according to his own admission the Cutwall took 10 Rupees to the Peon's one. Colonel Crewe appears to have put a stop to these practices from the time of his assuming charge of the Cantonment Police in June 1858.

3. It is thus established that half the amount of Abkarry fines, as already noticed by Government in their orders of the 18th November 1858, has been usually paid to the Cutwall and informers; and that the other half though nominally credited to Government, has been subsequently expended in rewards to that official and his subordinates for the detection of crime, and also that the Cutwall's share in both cases has amounted to 80 or 90 per cent. of the whole. Thus Mr. Cunliffe's statement in his letter of 6th November 1857, that the Cutwall largely participated in the fines, is fully sustained; and Brigadier Shirreff's denial* is proved to be opposed to fact; he having no doubt been deceived by the Cutwall himself.

* *Letter December 22d 1857, para. 4.*

4. The appropriation of the moiety of the Abkarry fines credited to Government, in rewards to the Police, is illegal. Disbursements from fines in Abkarry cases, can only be made under Section 9 of Act XVIII. of 1853, which has been declared* to give all the authority that the officers at the Mount can now legally exercise, in supersession of all other Regulations or by-laws connected with the Abkarry. All such disbursements shall be made by the Superintendent himself to the informer or seizer as the case may be; and no part whatever of the amount shall in any case go to the Cutwall.

* *Para 34, Ex. Mins. Con. April 19th 1858, No. 493. See also Ex. Mins. Cons. July 27th 1858, No. 1043.*

5. The conduct of the Cutwall (Ramstoy Ponday) comes before Government, in these papers, in an extremely unfavourable light. But as it is understood that he has already been dismissed from employment, no order respecting him is necessary in this place.

6. G. O. G. of March 30th 1847 leaves the amount of Police fines levied in Military Bazar stations to be expended on certain local objects. Having had the subject under reconsideration, the Governor in Council is of opinion that the practice is objectionable. It is a breach of the general rule that all receipts should be brought to account and all charges clearly debited, and it is apt to lead, as in the present case, to great abuses. It affects the equal administration of justice; zealous officers be ing disposed to levy heavy fines for the sake of local improvements; and opens the door, under lax supervision, to misappropriation of the fines. The Governor in Council resolves to communicate this order to the Military Department in view to the rescission of the G. O. in question. For the future all fines levied in Military Police as in others generally, shall be brought to account except where disbursed, wholly or in part, under the provisions of Regulation or Act of Government. In such cases the disposal of the money shall be clearly shewn in the Register of the case, with citation of the Act or Regulation. Where it shall be shewn to be necessary the Government will be prepared to grant annual allowances for the local objects heretofore met out of the Police fines. But some of those charges, as for example those for killing dogs, are properly debitable as contingencies under the ordinary rules.

7. Various points which have come to light in the course of the present enquiry, call for further notice in the Judicial Department.

The firs t is the anomalous position apparently held by the officer styled Cutwall in the Mount Cant onment. The proper duties of such an officer are those of the head of the executive Police; but the Cutwall at the Mount appears to have exercised judicial powers, either actually, or virtually as the adviser and head ministerial servant of the officer in charge of the Police. This mixture of functions is very objectionable. The true position of the Cutwall at the Mount should now be defined, and that officer should be prohibited from interfering beyond that. It appears to Gove rnment also that the salary is much higher than is proper for an officer of this class, and than is paid in other quarters.

8. The very unbusiness-like and confused way in which the records of the Police office are kept is another point needing to be corrected. It is such as to make it matter of difficulty to understand the records. Systematic and clear Forms of Registers should be supplied to the Cantonment Authorities, and their use enforced.

The Proceedings of the Military Police in ordinary cases are subject to the revision and control of the Session Judge of the Zillah; and though no appeal lies from sentences passed under Act 18 of 1853, yet the general proceedings of the Police u nder that Act are liable to the same control, and particularly as respects the due disposal of the fines levied. The attention of the Session Judge of Chingleput and of the Court of Foujdary Adaulut will be called to the necessity of exercising this power with respect to the Cantonment of Saint Thomas' Mount.

9. The Court of Foujdary Adaulut will also be requested to cause the controlling powers of Session Judges to be exercised in respect of other Cantonments within the Provinces where there is a Military Police.

Ordered that a copy of this Minute be sent, through the Judicial Department, to the Court of Foujdary Adaulut in order to their acting on the orders contained in paras. 8 and 9.

(True Extract.)

Secretary to Government.

To the Board of Revenue.
„ Military Department with enclosures.
„ Judicial Department.

Exd. H. M. Elliot.

Auditor

Judicial.

Proceedings of the Madras Govt.

Read Proceedings of Govt. in the Revenue Department - Dated 3rd May 1859 No. 602.

Order thereon 10th May 1859 No 644

Resolved that the above Proceedings be communicated to the Court of Fouzdaree Udalut in view to their giving effect to the orders in Paras 8 & 9.

2. Resolved also that the Magistrate of Chingleput be directed to submit, in communication with the Superintendent of Police & Joint Magistrate at St. Thomas' Mount, a sketch of the duties to be performed by the Mount Cutwal, which should be wholly of a ministerial & executive character & to which he should be strictly confined.

3. Resolved also that the Civil Auditor & Military Auditor

See separate draft.

Dated 3rd May 1859.
No 2 Para
No 602
A Chase Esqr.
Sec to Govt

Forwarded copy of the above Proceedings on the subject of the Mount Cutwal's establishment & powers for communication with the Superintendent of Police & Joint Magistrate at St. Thomas' Mount, & sketch of the duties to be performed by the Mount Cutwal, which should be wholly of a ministerial & executive character & to which he should be strictly confined.

2. The Magistrate of Chingleput is requested to report on the practicability of dispensing with the Mount Cutwal's guard.

To Fouzdaree Udalut.
" Magistrate of Chingleput.
" Police Dept.

Pros. of Govt 10 May.
Judicial - 1859. Depmt

No 644

Pros. of Government

D/10 May/59.

F. No 869.
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