M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1104 Press Mis.

220-222

Dated 30-8-1880 19 .

516

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
30th August 1860.

Read the following papers :—

No. 220. From Colonel J. C. BOULDERSON, Commissioner of Police, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 18th August 1860, No. 93.

1. With reference to the Order of Government of date 9th August 1860, No. 998, Judicial Department, I have the honor to report that Thayer Sahib the person alluded to in the last paragraph thereof died about 2 or 3 years ago. At his death he left only one child, a daughter, whom he had married to a gentleman named Syed Abdullah.

2. Since Thayer Sahib's death, the said Syed Abdullah, with his wife, has lived on the premises, with the widow of the late Thayer Sahib. The house in question is a large one, and I am informed that a great many dependants of both the widow and her son-in-law reside therein. The house, which is situated in Auzum Khan's Garden, is still called "*Thayer Sahib's house*," and on looking over the depositions sent to me with the Order under reply, I find all the witnesses say the children were found in *Thayer Sahib's house*.

3. When the cases were brought before the Police, it was quite evident that the children were found in a house in which Syed Abdullah resided, but at the time there was no sufficient evidence to sustain a charge of Kidnapping against him then forthcoming. On the contrary the Police Officers who went to the house to search for the children received ready aid from him in procuring their presence from the female apartments, for the purpose of identification, and Abdullah Sahib did not attempt to conceal the fact that there were a number of children in the house. We were unable to ascertain whether the children were purchased by the widow, or by the wife of Syed Abdullah. As there was then no evidence of Syed Abdullah's complicity, and as the law would not hold him responsible for the criminal act of another party, his name was entered as a witness only in the Charge sheet.

4. When the case was in the hands of the Magistrate, it was in his power to have put any question that he thought proper, tending to shew whether or not Syed Abdullah was implicated in the felonious transaction. On reference to the *last* deposition of that person, you will find that he was not subjected to a searching examination, and with respect to Thayer Sahib, it is evident that no question whatever concerning him was put by the Magistrate to any of the witnesses whose depositions were forwarded to you. It is an omission for which, of course, I am unable to account, but it has, it seems to me, been the cause of all the perplexity in which these cases have been involved, neither can I say why he failed to put on record what the officer in charge of the cases, Jemadar Madura Mootoo, knew respecting the charge exhibited against each of the accused parties.

5. I did not notice at the time of trial, any material difference whatever between the evidence of the witnesses who were examined on the several trials, and the verbal statements made by them at this Office, respecting each case, prior to their being sent to the Magistrate, and speaking from my recollection of what occurred at each of the trials, I can say that all that is contained in the depositions was repeated in Court; more, certainly, was elicited; but that was the consequence of questions put to them by Her Majesty's Advocate General. I have not the slightest suspicion of any of the Police Officers who were engaged in these cases having acted unworthily in any respect; on the contrary, I believe them to have performed their duty faithfully, zealously, honestly, and to the best of their ability.

6. In reply to the general charge of misconduct brought against the Officers of the Force by Colonel Colbeck, I beg most respectfully to state that I am not aware that any of the other Magistrates complain of being hampered and involved in serious difficulties by the misbehaviour of the members thereof.

7. In all large bodies of men, some unworthy members will invariably be found, and no exception to the rule can be expected with reference to the Madras Police, but I trust I may be excused when I say that my experience leads me to believe that there is no body of men in existence, who endeavour to do their onerous and often invidious duty more honestly and faithfully, than the Police Officers of this Presidency Town.

8. It is the usual practice of this Office to take an information in writing from aggrieved parties on oath, and to act afterwards according to circumstances. In long, difficult, and intricate cases, when the witnesses are numerous, or when their evidence is difficult to comprehend, we take down a statement from each, but in all ordinary cases, when there are few witnesses and their evidence short and simple, we are not in the habit of committing any thing in writing beyond the entry in the Charge sheet, and so in these child stealing cases, there was no necessity for making any record, other than that which was put before the Magistrate ; copy of which was forwarded to you with my letter under date 31st July 1860, No. 85. The accused parties were arrested on the 4th February last, and they were put before the Magistrate on the 7th of the same month, a delay of two days having occurred on account of the illness of one of them, named Rookia Bee.

No. 221. From Colonel J. C. BOULDERSON, Commissioner of Police, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 20th August 1860, No. 94.

1. As I find I have omitted to notice in my letter of the 18th instant, one portion of Colonel Colbeck's letter to your address of date 28th July ; I beg permission to add a few lines as a Supplement thereto.

2. In the 2nd para. of his letter, Colonel Colbeck alluding to the Kidnapping cases, says, they were sent up " without any instructive assistance whatever," and then adds they were merely entered on the Charge sheet " as an ordinary Nuisance case would be."

3. To prevent any misapprehension respecting this last point, I beg leave to forward for the inspection of the Honorable the Governor in Council, the whole of the Charge sheets* sent to the Royapettah Police Court, dated 6th February last, on reference to which it will be observed that the charges entered in the ordinary Police Case sheets, of the 3rd Magistrate's District, are entered by the Inspectors of the two Police Divisions which form that District, and that each have signed their respective sheets, whereas, the " Kidnapping cases" are entered on a separate sheet, which is signed by myself.

* *One sheet is missing.*

4. With respect to " instructive assistance" not having been afforded, I have the honor to observe, that my Deputy Mr. Campbell has occasionally been sent by me to the Royapettah Police Court, either to initiate difficult cases, and to afford any information respecting them, that might be necessary, or to ascertain from the Magistrate when it would be convenient for him to hear cases in which Officers of Government were concerned, in order to save their being unnecessarily called away from their official duties. When these Kidnapping cases were put before the Magistrate, the Inspector and Jemadar of the Division, (as you will find by the Charge sheet) the only Officers who could afford any assistance, were put in charge of them.

5. The depositions forwarded with the Order of Government, are herewith returned.

No. 222. ORDER THEREON, 30th August 1860, No. 1,104.

From the first of the above letters, it appears that Thayer Sahib in whose house some of the kidnapped children were found, died two or three years ago, that Syed Abdoolah married Thayer Sahib's daughter, and occupies the house which is called by his name.

2. These facts might certainly have been ascertained by the Magistrate from the witnesses and from the Police Officers in charge of the cases.

3. The Government therefore cannot think that it was sufficient for the Magistrate to have contented himself with simply inquiring of Syed Abdoolah what he knew in the matter, and taking down his bare profession of utter ignorance. He should have examined him closely as to the circumstances under which the children were concealed in his house, or in a house the property of his late father-in-law in which he himself resided—should have required him to explain how they came there, by whom they were brought, and under what assigned reason, or if he denied all knowledge of their being there, should have called on him to show how they could have been concealed there without his privity. The fact that Syed Abdoolah's house and Thayer Sahib's house were one and the same would at least have been elicited and recorded, and with this knowledge before them, the Law Officers who conducted the trial would have had the opportunity of deciding whether they would put him in the witness box before the Supreme Court or not. As far, however, as the depositions forwarded by the Magistrate go, there is nothing to evince, that he made any effort to trace the very material point as to the owner of the house where the kidnapped children were concealed, or as to his privity to and complicity in the kidnapping. Nothing appears on the face of the depositions beyond the mere statement that the children were found in Thayer Sahib hsouse.

4. The Government doubt whether the course alluded to by Colonel Colbeck in paragraph 4 of his letter of the 28th ultimo, and in accordance with which he did not send Syed Abdoolah's depositions to the Clerk of the Crown was the correct course to pursue. Witnesses whose evidence does not seem of any value should not indeed be required to appear before the Court, but there can be no reason why their depositions should not be forwarded with the other papers, that the Officers who have to conduct the proceedings may call for them if they see occasion.

I did not send Syed Abdoolah's deposition to the Clerk of the Crown, together with the others, as it was a mere negative and perfectly valueless ; and it has been the universal custom pursued both by Mr. Edward Elliot and other Magistrates (under instructions from the Judges) not to burden the proceedings in cases with useless papers.

5. The complaint of the Magistrate of Police that the case came before him from the Office of the Commissioner of Police without any instructive assistance whatever does not seem to be borne out. Colonel Boulderson has stated that " when these kidnapping cases were put before the Magistrate, the Inspector and Jemadar of the Division, (as will be found by the Charge sheet) the only Officers who could afford any assistance, were put in charge of them."

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Judicial Department.

Proceedings of the Madras Government.

Read the following letters from the Commissioner of Police.

(Here enter 18th & 20th August 1860 - Nos 93 and 94.)

Order thereon 30th August 1860, No 1040

From the first of the above letters it appears that Thayer Sahib in whose house some of the Kidnapped children were found died two or three years ago - that Syed Abdoolah married Thayer Sahib's daughter, and occupies the house which is called by his name.—

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-by whom they were brought, &c.
and under what assigned
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To the Commissioner of Police - with charge Sheets returned.
Senior Magistrate of Police - with depositions returned.

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