

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	780	Press Mis.
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Dated	22-6-1860	

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
22nd June 1860.

Read the following papers:—

No. 150. From C. F. CHAMIER, Esq., Registrar of the Sadr Court, to T. PYCROFT, Esq.,
Chief Secretary to Government, Fort Saint George, dated 12th June 1860, No. 53.

I am directed by the Judges to forward the accompanying copy of a Supplemental Report on the state of the cash and accounts in the Civil Court of Tellicherry, submitted by the Acting Civil Judge. The report has been retained up to the present time, in order that a complete reply might be made, in one and the same communication, to the several references made to the Judges in the Proceedings of the Government, dated 30th July 1859; but some of the lower Courts having apparently found difficulty in auditing their accounts, owing to the defective form in which they have been kept, the Judges have thought it better to defer replying to paragraph 3 until they are in receipt of the requisite information, and to report at once on the matters touched upon in paragraph 2 of the said proceedings.

2. The only rules that have ever been laid down for the guidance of the Courts in keeping their accounts, will be found in Extract from the Minutes of Consultation, under date the 7th November 1834. These were circulated to the several Courts on the 15th December of the same year, and have since been retained in every edition of the Court's Circulars as they have been from time to time published.

3. The rules, it will be observed, are only two in number: the first is, that there is to be a separate account of every kind of deposit; the second, that every item of receipt is to be entered on one page, and written off on the opposite page, certified by the Judge's signature.

4. The total insufficiency of these directions to ensure an accurate system of account keeping, has long been manifest; and the Court, in 1857, after the discovery of the frauds committed in the Civil Court of Combaconum, called for copies of the accounts kept by the several Courts, with the express view of prescribing an approved form for general use; but the enquiry was found to be beset with almost insuperable difficulties, and no orders were at that time issued on the subject.

5. The second of the rules referred to, though in theory good, is found in practice to be open to serious objection, inasmuch as it renders impossible the balancing of the accounts, without which the actual amount that ought to be in the Court's custody cannot be ascertained. The Judges are of opinion that the same principle of check may be maintained in another way, and at the same time the above evil be avoided; that is, by allowing the entries, both of receipt and payment, to be made in the ordinary manner according to their dates, which would admit of their being balanced at any moment; and merely requiring the Judge on paying out any money to put his initials against the same sum wherever it was entered as a receipt.

6. By this means it is clear that the Judge could at any time trace out every item which had not been disbursed, and by making an aggregate of such items could learn the exact sum for which his Court was liable. He would simply look through the Debtor side of his books, to the date of the last audit, and note down such receipts as had not been marked off by his initials in token of their having been subsequently disbursed; and the sum of the receipts thus noted down would constitute the extent of his liability.

7. I may here state that, with the assistance of Mr. Beauchamp, I am preparing specimens of a Journal and Ledger to be kept by the lower Courts, on a system introduced by him in Combaconum; and that these will be accompanied by forms of Check, and very full directions for the balancing and auditing of the accounts at stated periods, by which means it is expected that, with ordinary care and attention on the part of the Judge, it will be impossible to commit frauds upon the judicial treasuries without immediate detection.

8. With reference to what is said in paragraph 2 of the Government Proceedings as to the deficiency in the Civil Court of Tellicherry, it is observed that Mr. Frère has already explained in his report as Civil Judge, dated 30th June 1859, that the fact of such deficiency having

The result of the enquiry

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remained undetected for so many years arose from the system of accounts hitherto followed in that Court, which, though in accordance with the Orders of Government and of this Court, has not been such as to admit of a comparison being at any time readily instituted between the assets and the liabilities of the Court.

9. The examination of the Court accounts at Tellicherry, which has now been concluded by Mr. Holloway, shews conclusively, in the opinion of the Judges, that the deficiency which has been detected in the Treasury of that Court, existed also in 1835, and was occasioned chiefly by the transfer to the credit of Government of Rupees 9,743-5-10, which had been recovered from the Shroff in order to replace the old deficiency of 1812, alluded to in paragraph 11 of Mr. Frere's letter as Civil Judge, above adverted to. It seems clear that this transfer was erroneous; and that the sum in question, in lieu of being carried to the credit of Government, should have been retained in the Treasury of the Court. The difference between that sum and the amount of the present deficiency, must be regarded as a remnant of the old deficiency of 1812 to 1815, which was never fully or systematically adjusted.

	Rs.	A.	P.
Present deficiency.....	10,026	5	5
Amount erroneously credited to Government.....	9,743	5	10
Difference.....	Rs. 282	15	7

10. The Civil Court of Tellicherry may, thus, justly claim credit for the whole amount of the existing deficiency, Rupees 10,026-5-5; but as a considerable portion of this sum will consist of old deposits which have remained unclaimed for many years, owing to failure of heirs and probable demands upon the Court, it does not appear necessary that for the present any further sum should be paid into the Civil Judge's Treasury. A detailed list of all sums payable to suitors upon the 31st December 1858, particularizing each amount, the year in which it was paid into Court, the suit with which it was connected, and the name of the party entitled thereto, should be published in successive issues of the District Gazette, as also in the Civil and District Munsiff's Court; and sums not claimed within six months from the date of such publication should be written off in the Court's accounts as credited to Government in 1835.

11. The amount of Rupees 5,000, already sanctioned by the Government as an advance, should now be placed permanently to the credit of the Court; and special authority be given to the Civil Judge to draw upon the Collector for such further sums as he may need to meet any claims which may be satisfactorily established in pursuance of the notices to be published in accordance with the next preceding paragraph of this letter.

From W. HOLLOWAY, Esq., Acting Civil Judge of Tellicherry, to C. F. CHAMIER, Esq., Registrar to the Court of Sadr Adalat, Fort Saint George, dated 13th February 1860, No. 56.

In continuation of Mr. Frere's letter dated 30th June 1859, I have the honor to forward a statement of the result of the further examination of the accounts of disbursements made under his direction.

2. The statement is prepared by showing the sums actually disbursed in each year for demands accruing previously to 1834. It is of course impossible to say whether these are all the demands then existent, but their liquidation clearly shows that they did exist on 31st December 1834. The statement shews a deficit of Rupees 10,026-13-10, existing at that period. The sum of Rupees 9,743-5-10 was paid over to Government, but the defalcation in 1815 amounted to Rupees 11,956-3-0. It is impossible to conceive that this money or any considerable proportion thereof was lodged on account of fines, fees, and penalties. No account whatever is to be found

* In the 4 years previously to the embezzlement Rupees 18,698 were remitted on account of fees, fines, &c. so that we are necessarily left to conjecture, but the proved practice of remitting to the Collector's Treasury the sums due to Government,* renders the choice of these funds for embezzlement wholly improbable. The criminal would naturally select sums, which the practice of former years left long untouched and unenquired for. I do not see any reasonable

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doubt that the great bulk if not the whole of the money embezzled in 1815 was suitors' money, yet the whole sum recovered was paid to Government as if the direct opposite were the truth. I beg therefore to submit my opinion that in the Treasury of this Court no defalcation has been proved to have arisen subsequently to 1815, and that Government is still indebted to the Treasury of the Court in a sum of Rupees 6,956-3-0, the difference between the amount of Rupees 5,000 advanced in August 1859, and the defalcation in 1815.

Claims for years prior to 31st December 1834...	...	...	...	...	1,090	2	0
Disbursed in 1835...	...	...	8,858	0	0		
1836...	...	...	1,740	10	9		
1837...	...	...	2,608	7	8		
1838...	...	...	1,471	12	4		
1839...	...	...	1,483	8	1		
1840...	...	...	615	11	9		
1841...	...	...	148	11	4		
1842...	...	...	64	10	0		
1843...	...	...	33	0	0		
1845...	...	...	52	12	2	17,077	4 1
Total of claims which must have been outstanding 31st December 1834...	...	...	...	...	...	18,167	6 1
Deduct. Cash in Treasury on account of parties' money 31st December 1834.....	...	...	7,238	0	3		
Amount transferred to credit of Government 16th January 1835...	...	...	902	8	0	8,140	8 3
Deficiency...	...	...	...	...	...	10,026	13 10

(Signed) W. HOLLOWAY,
Acting Civil Judge.

(True Copies.)

(Signed) C. F. CHAMIER,
Registrar.

No. 151. ORDER THEREON, 22nd June 1860, No. 780.

In their letter recorded in Proceedings, 30th July 1859, No. 1,027, the Judges of the Sadr Adalat reported that a deficiency of Rupees 10,027 had been discovered in the Treasury of the Zila Court of Tellicherry—and that an examination was being made in the accounts to ascertain the origin of the defalcation and the period at which it must have occurred. In their present letter, they communicate the result of the inquiry.

2. The deficiency occurred in the "parties' money," i. e., sums realized under decrees of Court, either paid in by parties, or obtained by execution. The claims amount to Rupees 13,925—the amount in deposit to meet those claims is only Rupees 3,899. It is now shown that a similar deficiency existed on the 31st December 1835.

3. In consequence of a defalcation to the extent of Rupees 11,956, which was detected in

Result of the inquiry

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1815, in the then Zila Court of Malabar, a suit was instituted against the Shroff and his security—and the amount, in all Rupees 9,744 levied under the decree obtained against them, was carried to the credit of Government. It is clear, in the view of the Judges of the Sadr Adalat, that the sum in question, in lieu of being carried to the credit of Government, should have been retained in the Treasury of the Court to meet claims upon it, and that the present deficit arises mainly from that course not having been followed.

4. The sum of Rupees 5,000 has already been granted to the Zila Court of Tellicherry as atemporary advance. Under the conclusion now arrived at, this amount will be regarded as a refund out of the sum carried to credit in 1830, 33, and 35—and the advance will be so adjusted. The Civil Judge is specially authorized to draw upon the Collector for such further sums, as may be needed, to meet any claims, which may be satisfactorily established.

5. The Government approve the course proposed by the Judges of the Sadr Adalat in the last part of paragraph 10 of their letter.

6. The Journal, Ledger, Forms of Check, and Directions for balancing and auditing accounts, alluded to in paragraph 7, will, on being completed, be submitted by the Sadr Adalat to the Accountant General, who will report on them to Government, and state whether any, and, if so, what modifications are necessary to adapt them for the use of the Civil Courts generally.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Proceedings of the Madras Govt.
Read letter from the
Sadr Adalat — Inter 12 June '60 N^o 53.

Order — 22nd June 1860. No 780.

In their letter recorded in Proceedings, — 30th July 1859 N^o 1027, the Judges of the Sadr Adalat reported that a deficiency of Rs 10,027 had been discovered in the treasury of the Zillah Court of Tellicherry — & that an examination was being made in the accounts to ascertain the origin of the defalcation & the period at which it must have occurred. In their present letter, — they communicate the result of the inquiry

inquiring-

2. The deficiency occurred in the "parties-money", i.e. sums realized under decrees of Court, either paid in by parties, or obtained by execution.

Claims — 13,925.6.2
Deposit — 3,899.9
Deficit — Rs. 10,026.5.5

The claims amount to Rs. 13,925 — the amount in deposit to meet those claims is only Rs. 3,899. It is now shown that a similar deficiency existed on the 31st Dec^r 1835.

3. In consequence of a defalcation to the extent of Rs. 11,956, which was detected in 1815, in the then Zillah Court of Malabar,

1830.31 Mar — 10,75.3.7
" 33-29 June — 7,755.10.3
" 35-8 Jan — 902.8..
Rs. 9,743.5.10.

+ to meet claims upon it.

a suit was instituted against the Sheriff & his security — & the amount, in all Rs. 9,744, levied under the decree obtained against them, was ~~not~~ ^{discriminately} carried to the credit of Govt. It is clear, ^{in the view of} the Sirdars of the Sadri Bada lat, that the sum in question, in lieu of being carried to the credit of Govt., should have been retained in the treasury of the Court — & hence the present deficit arises mainly from that court not having been followed. 4. The sum of Rs. 5,000 has already been granted to the Zillah Court of Tellicherry as a temporary advance. Under the conclusion

conclusion now arrived at, this amount will be regarded as a refund out of the sum carried to credit in 1830, '33, & '35 - & the advance will be so adjusted. The Civil Budget is specially authorized to draw upon the Collector for such further sums, as may be needed, to meet any claims, which may be satisfactorily established.

5. The Govt. approve the course proposed by the Judges of the Sadri Adalat in the last part of para 10 of their letter. It will be observed that the amounts to be written off

Deficiency - 10026.5.5.
Refunded - 5000...
Rs 5026.5.5.

off in the Court's accounts as credited to Govt. in 1835, will not exceed Rs 5027 - which sum also represents the limit of the special credit granted in the preceding para.

6. The Journal, Ledger, Forms of Cheek, & Directions for balancing and auditing Accounts, alluded to in para 7, will, on being completed, be submitted by the Sadri Adalat to the Accountant General, who will report on them to Govt., and state

state whether any,
& if so, what mo-
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generally.

JF

Mr. L. Cunningham

The Sadr Adalat.

" Civil Judge of
Tellicherry.

" Collector of Malabar

" Asst. Genl.

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