M.R.O. 1—89,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No: 907 Press ~~Mis.~~

117-118

Dated 20-7-1860

717

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
20th July 1860.

No. 117. Read the following letter from E. B. THOMAS, Esq., Collector and Magistrate of Coimbatore, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 6th July 1860, No. 34.

1. I had written to Government on the 28th June, No. 32, on the subject on which Proceedings* of Government, 27th June 1860, No. 804, reached me this day. I must beg leave still to refer to the papers now sent, in self defence and in appeal, against Mr. Rohde's statements.

* *Crossing mine.*

2. The Inspector assumes and imputes to me "evils, and interference with the prisoners," and plainly infers, that my direction of them had been "prejudicial to discipline, and hard labour."

3. I cannot as a public Officer of 34 years' standing, and who has for 10 years, with the concurrence of 3 Session Judges, and all the District Engineers, worked the prisoners of the Jail, carefully, systematically, and usefully, sit down under such an imputation. Whether I, as Magistrate and Collector, am allowed any convict labour or not, as heretofore, is a matter of minor consequence; and I shall of course bow to whatever Government may deem best on that point, but on the principle of "audi alteram partem," I do request the Government to review what has passed in this case, and relieve me from the imputations laid on me by the Inspector, and adopted by the Government, I must suppose on his report.

4. When two public Officers differ in their view of matters, and a reference to higher authority is made, I submit that *both* views should go up, fully and fairly, as I distinctly *requested* Mr. Rohde, and as I think should have been done. I cannot discover, or think, from the present Order (paragraph 2) that such has been the case, if it has, I am content, if not, I would request Government to hear my statement as well as the Inspector's. I do not accuse him of intentional misstatement, but I must distinctly assert, that Mr. Rohde came to an erroneous and entirely incorrect view, from a very hasty and cursory examination. If Government, after a perusal of the correspondence, see no reason to *modify* their present Order, I have nothing more to say; but can only feel, that I have, for 10 years, performed a very troublesome and useful duty, with very little thanks; and have been relieved of it, by the Inspector, (who has, though long on the Hills and in the District, *never* before found *any* fault), in a somewhat uncourteous and summary manner.

Proceedings of the Inspector General of Jails, dated Coimbatore, 2nd April 1860, *No.* 143.

From the Collector of Coimbatore, to the Session Judge, dated 22nd March 1860, *No.* 80.
From the Session Judge of Coimbatore, to the Collector, dated 28th March 1860, *No.* 14.

Read letters noted in the margin forming portions of correspondence between the Sessions Judge of Coimbatore and Mr. Thomas the Collector, relative to the withdrawal of the Convicts from minor* works and their employment in one large gang as directed by the Inspector's Proceedings of the 29th February.

* *Not so. I worked them chiefly in 2 large gangs.*
(Signed) E. T.

In Mr. Thomas' letter under review, he complains that in accordance with the Inspector General's Proceedings, prisoners whom he had been allowed† through the courtesy of Officers in charge of the Jail, to employ on various works, had been withdrawn, and he intimates his intention of appealing to Government unless he be permitted to retain on such work as he may choose at least 36 Convicts.

† *I was asked so to work them.*

2. Mr. Thomas has assumed that he has a right‡ to the disposal of the Convicts, founded, it would appear, on the concessions of the late and present Sessions Judges, who he states were glad to get rid of this portion of their duties, he further expresses his willingness to work the Convicts in future under any rules that may be laid down.

‡ *I assume no right, but request official courtesy and consideration.*

3. Mr. Thomas enumerates several works on which he either had employed, or could employ these Convicts, among them, the maintenance of the roads in the town and its approaches, the watering of public topes, and avenues, repairing the road and bund of the Chintamani tank, and he now complains that suddenly and without notice, the prisoners have been withdrawn from works under his superintendence and transferred to the District Engineer, and this he repeats, "without one word of explanation."

4. In asserting the value of his services in employing the Convicts, Mr. Thomas says it was the duty of the Inspector General of Jails to make himself acquainted§ with the facts as alleged by him.

§ *I think so.*

5. (Paragraph 3) Mr. Thomas further charges the Sessions‖ Judge with subjecting him to an act of official discourtesy in the withdrawal of the Convicts.

‖ *Not the Session Judge, but the Inspector, on whose order they were withdrawn.*

6. Mr. Ward in his reply of the 28th March refers to his former letter of the 22nd in answer to Mr. Thomas' request that a gang of 36 prisoners might be permanently allotted to him as Magistrate; in which he stated that he did not feel at liberty to comply with Mr. Thomas' request, it being opposed to the Inspector's Proceedings of the 29th February, a copy of which had been furnished to Mr. Thomas on the 9th March.

7. Under the impression that the duty of maintaining the roads about the station would still remain with Mr. Thomas, Mr. Ward proposes to arrange with him for their repair by convict labor, the respective duties of the Executive Officers, and Officers in charge being maintained as directed by the Inspector—he further pointed out that the anomalous* position which he had hitherto been permitted, through laxity, to assume, could, no longer, be allowed.

* *No where explained.*

† *I beg utterly to deny.*

8. The Sessions Judge then refers to the bitter† feeling manifested in the tone and tenor of Mr. Thomas' letter, and points out that he was acting in accordance with instructions received, and without any intention of offending, he further shews that the withdrawal of small gangs was a necessary consequence of the introduction of the new system of guarding, which also involved the cessation of all unauthorized interference.

I had few such gangs, they had never been objected to, and I offered to work in any mode required.

9. In regard to the alleged sudden withdrawal of the convicts (on Saturday the 17th February) Mr. Ward shows that, though the exact day for their being placed on the one work proposed, depended on the completion of the plans by the Engineer, ample‡ and repeated‡ notice had been given of the probable time, at which the prisoners would be withdrawn and that this time was exceeded before they were so withdrawn, and that Mr. Thomas being absent from the Station, there was not time to communicate further on the subject, he also showed that so far from the withdrawal having been sudden and "without one word of official notice," the proceedings of the Inspector General had been communicated to him more then a week§ previously.

‡‡ *Not so—this is a mistake.*

§ *A mistake,—they reached me after it.*

10. Mr. Ward shows that Mr. Thomas has no ground for his assertion that the District Engineer had been allowed to retain prisoners for a purpose for which they were disallowed to himself, and that the assumption that motives,‖ other than those declared, had influenced either the District Engineer or Inspector of Prisons was wholly gratuitous, he further *acknowledges* Mr. Thomas' assistance, but shews that being of a nature which could no longer be continued, it could not influence the decision of the present question.

‖ *I imputed* none, *not* one *of my letters can* justify *this expression.*

11. The Inspector General must remark in reference to the above correspondence that the reply of the Officer in charge of the Jail to Mr. Thomas' application meets with his approval;

the Inspector had repeatedly¶ noticed to Mr. Ward instances of laxity and disregard of the Jail Rules, and on enquiry had ascertained that this was owing, in a great measure, to the parties detached from the Jail, being placed at the disposal of irresponsible* persons, he was well aware that Mr. Thomas valued† the occupation afforded him and forbore to prohibit the continuance of the system until he could ensure a profitable employment of the prisoners under circumstances that would facilitate the enforcement of the Jail Rules, for Convicts at labor, in their integrity: his proceedings of the 29th February speak for themselves, the Rules enacted at Chittoor, and which Mr. Robinson the Inspector General of Mofussil Police had reported to work well, were extended to all Jails to which the new Police system was introduced.

¶ *None such ever made to me, and* none *are* specified. *When was the Inspector* here *to notice them?*

* *See my reply.*

† *An assumption of the Inspector's.*

12. Extracts from the Proceedings referred to, defining the extent to which the interference of Executive Officers was allowed, were furnished to the Chief Engineer for general application. There was nothing personal in the orders, and it was to be expected that Mr. Thomas would have seen the propriety of the arrangement which he has called in question instead of making it the subject of comment.

None reached me.

13. Mr. Thomas must be well aware that the Inspector General of Jails' authority is, in his own Department, of equal force with that of the Board of Revenue or of the Sudder Court, in their respective Departments, and that neither Mr. Ward nor any other Officer in charge of a Jail could lawfully disobey‡ instructions received from him in respect of the prisoners under their charge.

‡ *The Magistrate had no such wish.*

14. That Mr. Thomas was not treated with any disrespect or discourtesy in the orders having been carried out, as asserted by him, suddenly and without official notice, is evident from the copy of the Inspector General's proceedings having been furnished§ to him officially, even if many demi-official letters which passed, are ignored. The Inspector General himself replied to a note of Mr. Thomas on this very subject on the 2nd of last month, the subject was freely spoken of before Mr. Thomas, His Excellency the Governor being present and Mr. Ward must be acquitted of any discourtesy to Mr. Thomas in the matter.

§ *Afterwards.*

Mr. Ward acted only on the Inspector's orders. I do not complain of the Session Judge.

15. As for Mr. Fraser's connection with the transaction, he had nothing to do with it, further than in having unconsciously suggested a work which the Inspector General at once saw would afford a most favorable opportunity,‖ at a convenient crisis, for combining a strict enforcement of Prison discipline with most useful labor of the kind best suited to Convicts, and this to an extent rarely attainable, and it was at the Inspector General's request that the District Engineer consented to employ the Convicts.

‖ *They are simply doing what they have always done under the Magistrate—work on a Tank Bund.*

16. Mr. Thomas must remember that however desirable it may be to carry out his projects,¶ the executive in these matters now rests not with the Magistrate but with the District Engineer, and that the obtaining of the services of the Convict is of very minor importance, as compared with the rigid enforcement of discipline. The Judges had it is true in the absence of any large work permitted* the Magistrate to direct the labors of some of the prisoners, a voluntary undertaking the execution of which was as the present enquiry has shown, in the Magistrate's absence, delegated† to a peon or butler.

¶ *I must demur to such expressions. I have no "projects."*

* *Requested.*

† *Utterly a mistake.*

17. The Inspector General was willing to take no notice of irregularities‡ which he had determined to put a stop to, but as Mr. Thomas challenges enquiry he must say that he is not prepared to admit that the work on which Mr. Thomas has employed the prisoners, were altogether such as could be desired, and he has already said that the disregard§ of the Jail Rules consequent on such employment had more than once induced his remonstrance.

‡ *I have in vain asked the Inspector to name any.*

§ *None were infringed—let Mr. Rohde point them out.*

18. Mr. Thomas having no lawful connexion with the Jail, was necessarily ignored‖ in all the Inspector's Proceedings, indeed the extent to which he claimed to interfere, was not known to the Inspector till Mr. Bird had charge of the Jail.

‖ *Though taking the trouble for 10 years!*

19. If the 1st paragraph of Mr. Thomas' letter implies that he wishes to employ convicts in the streets of the town, the Inspector General must remark that experience has shown that such employment is subversive of discipline as pointed out to Mr. Thomas demi-officially on the 2nd instant, and is incompatible with the new Police arrangements, if his intimation was to employ them on the principal roads in and about the town, the duty, as the Inspector understands the District Engineer. and Mr. Thomas' letters, belongs to the District Engineer; the same remark applies to road-side avenues. Mr. Ward seems to have misunderstood Mr. Fraser's intentions as expressed in the close of his letter of the 28th ultimo, on this point; it will be well if he ascertain distinctly from the District Engineer whether the roads in and about the station properly belong to his charge, or to that of the Magistrate, and if in the former case, it is his intention to retain this charge in his own hands. Whichever Officer is in charge, to him will the aid of the prisoners be afforded under the restrictions already laid down.

20. When the Inspector General made the distinction between nurseries and trees planted out, he was not aware that Mr. Thomas had not nurseries, he will now add that the cause of his distinction was obvious, the watering of nurseries involved no dispersion of the convicts, that of the topes and avenues did, he presumes, from correspondence he has seen in the public prints and in the Office of the Conservator of Forests, that the restriction he has placed on the employment of convicts in this respect will lead to no public inconvenience.

21. The Inspector General regrets that the Sessions Judge should have been subjected to this unpleasant altercation¶ in the fulfilment of his prison's duties, but he sees no ground for conceding any of Mr. Thomas' demands—the Jail duties like those of every other Department must be performed by responsible Officers; the Law clearly lays down that the Sessions or Subordinate Judge is the responsible Officer at the Zillah Station in respect of all prisoners in the Zillah Jail. The delegation of duties by the Judge to a Magistrate and by that Magistrate to a Deloyet or private servant cannot be permitted.

¶ *I am not aware of either.*

I have before said this is entirely an error, which the Inspector should have ascertained before assuming.

22. If Mr. Thomas still desires to refer his demand to Government, it will be forwarded.

23. A copy of these Proceedings will be furnished to the Sessions Judge with the request that he will communicate the same to Mr. Thomas and ascertain from him whether he still wishes his claim forwarded to Government or *not*.

(Signed) J. ROHDE,
Inspector General of Jails.

OOTACAMUND, OFFICE OF INSPECTOR GENERAL OF JAILS,
9th April 1860.

To the Sessions Judge of Coimbatore.

(True Copies.)

(Signed) E. B. THOMAS,
Magistrate.

From E. B. THOMAS, Esq., Magistrate of Coimbatore, to S. N. WARD, Esq., Session Judge of Coimbatore, dated 14th May 1860, No. 114.

1. Though unwilling to prolong any discussion that can be properly avoided, Mr. Rohde's remarks (forwarded in your letter of 21st ultimo, No. 15,) compel me to notice some errors into which the Inspector General of Jails has fallen; I regret that Mr. Rohde should have allowed himself to write on imperfect information acquired in his short and hurried visits to Coimbatore.

2. I must demur to the light in which the Inspector General, I think unfairly, puts the case, "withdrawing the convicts from minor works;" they have always been employed by me in useful and *important* works, and usually in large gangs, as I have already shown in my former letters, what Mr. Rohde means by "the anomalous position I had through laxity been permitted to assume," I do not understand. In 7 Districts I have served in, the Magistrate and Collector had always a portion of convict labour at his command, without involving, so far as I am aware, either *laxity*, or *anomaly*.

One road at your own request, and all the works with the concurrence of the several District Engineers.

3. To Mr. Rohde's 8th para. I have only to remark, that I entirely deny and disclaim any "bitter feeling" in the matter, and request yourself or the Inspector to *point out* such; and I must demur to such an unfair and unfounded imputation. I would also beg an explanation of of what "unauthorized interference" is intended. In reference to para. 9 and other parts on the same point, I can only *repeat*, that no official or private intimation reached me, till *after* the withdrawal of the prisoners. It is true I was absent on Jamabundy, but that only caused the delay of 3 days, and I think a longer and more courteous notice was *due* to me, after 10 years charge of, and trouble taken with, the convicts.

4. In reply to para. 10, I must again demur to the unwarranted description of my "assumption of motives &c., being wholly gratuitous." I cannot admit the right *or ground* of either yourself or the Inspector to use such terms, I wholly deny and demur to them. I deal as I have said before, with *facts*. I have nothing to do with *motives*, nor did *I* impute *any*. To the Inspector's 11th para. I am sorry again to demur. I deprecate these vague, indefinite, general terms used; and I *call* on yourself or the Inspector to *particularize*, and *prove*, the instances of laxity or disregard of Jail Rules. I am not aware of *any*; and also how and when "parties from the Jail were placed at the disposal of irresponsible persons," not a *single* work went on but under my own *personal* and *daily* direction. I must beg leave to doubt if the Inspector of Jails visits his single work at Ootacamund, as frequently and regularly as I did all mine, in the less agreeable atmosphere of the plains. As to my "valuing the occupation afforded me," if the Inspector of Jails means to infer, (and I cannot see what *else* he *intends*), that it was an amusement to me, I beg to assure him his assumption is a mistake—that it was, on the contrary, a very troublesome duty, which neither of the Session Judges was anxious to undertake. *How* were *any* Jail Rules, I would beg to ask infringed, by my employment of the convicts? so far as I am aware, they were, (as then in force,) strictly and carefully adhered to. The Chittoor Rules referred to, I have *never* seen: I am not aware of *any* demi-official letters passing—that some change was proposed, I learnt only from a private note of Mr. Ward's, at *the* time, but that any such entire and abrupt withdrawal was intended, in the midst of several unfinished works, I by no *means* understood or expected. Some conversation passed between Mr. Rohde and His Excellency the Governor, to which I was not a party, but had I *thought* that the new arrangement would be carried out in the manner the Inspector has thought right to do it, I should certainly have appealed *then* to His Excellency, and elicited, I think, more consideration than I have now experienced from the Inspector of Jails.

Such as "anomolous position"—bitter feeling—"unauthorized interference"—"the convicts at the disposal of irresponsible persons"—"prison discipline infringed"—"projects"—"irregularities"—"disregards of Jail Rules &c."

5. To the Inspector's 16th paragraph, I beg to observe, I had no "projects" as he is pleased to designate them, though not very courteously—the convicts were almost entirely employed on Tank Bunds and Roads, their proper and legitimate employment—and I have already called on the Inspector, or the Session Judge, to show ONE *useless work done*, I object to the *vague* and *unfair terms* and designations used, without a single proof or fact in any single case. That the execution of any work was ever delegated to any Peon or Butler, I distinctly and officially deny, every work was *carefully* superintended by *myself*; as the *Session Judge* at least knows, and previous to any temporary absence in the District, I always pointed out to the European Jailor, and the Jail Duffadars, more work than could be done 'ere I returned—the only use made of any Peon of mine, was to place 2 or 3 old and trustworthy ones, as *extra* guards for safety-sake, and to repeat to the Jail Duffadars, (constantly changing) any work I had explained personally.

In a single agricultural experiment with 12 prisioners only, with the Session Judge's concurrence, the men doing the work of a pair of Bullocks, *I realized for the Jail nearly* 200 *Rupees.*

Not a single escape under my superintendence has occurred in 10 *years.*

6. With reference to paragraph 17 of the Inspector, I have only to observe, that I *have* challenged several times and do again now, the Inspector to show or prove *one* useless or unadvisable work—the Inspector has not met that challenge, except by the indefinite and vague expressions and accusations I have already deprecated.

7. Paragraph 18 is an instance of the above indefinite and vague manner of writing. I call on the Inspector to show *what* "interference" I ever claimed or used? I never did either one or the other. I am not aware of *any* remonstrance from the Inspector, at any time; and request Mr. Rhode to point it out.

8. Paragraph 19, whether prisoners should be employed in sanatory measures in a town, is a point, I beg to refer to Government, I think they can scarcely be better employed, if it can be shown, as it *can* here, that they (12 only) have been most beneficially so employed, for 30 years, without any escape or evil resulting, but this is not a point I insisted on, though it *is* my opinion, and in which I regret to differ from the Inspector as I do about watering topes and avenues, *how* they are "subversive of discipline," is not said or shown. I have made no "demands," but requests, I am sorry to correct the Inspector, but his tone is so disparaging and vague throughout, that I am compelled to defend myself from blame and accusation, where I have in reality discharged a troublesome and arduous public duty, concurred in by the Session Judges, and *especially* by Mr. George Bird, and in which the Inspector has only *now*, for the first time, (Mr. Rohde can set me right if I err, by a reference to records), discovered or noticed irregularity or error. The Inspector has done me much injustice. I can only attribute it to the very cursory enquiry and observation his short visits to Coimbatore, have led him to make. The "delegation" in paragraph 21, and the "demand" in paragraph 22, I must beg leave *entirely* to *deny*.

9. In reference to the Inspector's last paragraph 23, and your letter No. 15, under reply, I do request (unless the Inspector see fit to modify his proceedings) a reference to Government, as requested in my former letter to you, on 3 points—1st, whether as Magistrate and Collector I am not entitled to, at least, a portion of convict labor in the station. (I asked only 36 out of 276). I undertaking to work them under the new Police Rules, and having *nothing* to do with their discipline—2nd, whether if so allowed, I may or may not use my own discretion as to what public work best to employ them on—and, 3rd, whether *Government* deem the sanatory cleansing of a large populous town, are unfit work for convicts.

10. I am always averse to trouble Government with any lengthy or personal reference. If the Inspector will simply refer these 3 points, as I put them, I shall be obliged, and it is all

that is necessary I think in *fact*. If the Inspector goes *beyond the simple reference and enters further into the matter, then*, in *justice and fairness*, I request that copies of the *whole correspondence* may go up.

No. 118. ORDER THEREON, 20th July 1860, No. 907.

The Government observe that in their Orders of 27th ultimo, No. 804, and again in those of 11th instant, No. 864, they have settled the general question involved in the above reference, and have directed that the control of the Prisoners at Coimbatore is to be vested solely in the Sessions Judge under the Superintendence of the Inspector General of Jails, and that the Magistrate is not to interfere with them in any way whatsoever.

2. The Government cannot enter into the personal matters now submitted. They have in no wise arraigned Mr. Thomas' motives, intention or acts, but simply have laid down a plain rule for his future guidance, the necessity for which is amply shown by the present correspondence.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Judicial Department.

Proceedings of the Madras Government

Read the following letter from the Collector and Magistrate of Coimbatore.—
(Here enter 6 July 1860, No 34)

Order thereon 20th July 1860, No 907—

The Government observe that in their orders of 27 Ultimo, No 804 and again in those of 11th instant, No 864, they have settled the general question involved in the above reference, and have directed that the control of the Prisoners at Coimbatore is to be vested solely in the Sessions Judge under the superintendence of the Inspector General of Jails, and that the Magistrate is not to interfere with them in any

Encl. of Cir.

Judicial 1865 Depart.

№ 907

Proceedings of Govt.

Dated 25th July 1865.

Inform the Collector &
Magte of Coimbatore that
the Orders of Govt. 27th Ultimo
& 30th & 11th Instant have
settled the general question
on the Coolies labor

11th & 18th

Encl. of Cir. Judicial 1865 Depart.

№ 907

Proceedings of Govt.

Dated 25th July 1865.

Inform the Collector & Magte of Coimbatore that the Orders of Govt. 27th Ultimo & 30th & 11th Instant have settled the general question on the Coolies labor

11th & 18th

any way unbalanced.
2.— The Government cannot enter into the personal matters now submitted. They have no wish to express opinion on the Honble Mr Arbuthnot's motives, intentions or acts, but simply have laid down a public rule for his future guidance. The proceedings forwarded is accordingly returned by the present correspondence.

To the Collector & Magistrate of Trichinopoly.
Fort St. George 3 Augt 1865.