M.R.O. 1—89,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 1015 Press ~~Mis.~~

86-87

Dated 12. 8. 1861 ~~19~~

3/3

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 12*th August* 1861.

No. 86. Read the following letter from A. PURVIS, Esq., Magistrate of the Godavery District; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Cocanada, 25th July 1861, No. 258.

I have the honor to acknowledge the receipt of the Proceedings of Government in the Judicial Department, and of the Order thereon under date the 16th instant.

2. I trust I shall be excused for submitting a few observations in reply to the remarks of the Advocate General in the 5th paragraph of his letter reporting the result of the trial of the three Officers committed by me for manslaughter.

3. The first objection the Advocate General has to make to my proceedings is my omission to record the evidence of Major Doria. I did not do so because I had before me the statements of the accused parties themselves at the Court of Inquest, which were in much more detail than the hurried statement made on the night of the accident. That these statements were made by the accused, Dr. Wilkins, one of the Members of the Court and one of the witnesses in the case, could, as I pointed out in my letter forwarding copies of the depositions &c., to the Government Solicitor, depose. I moreover in the same letter suggested that possibly Major Doria's evidence might be required at the trial, and this suggestion was made in ample time to allow of his being summoned if thought necessary by the Law Officers of the Crown.

4. The Advocate General has been misinformed if he has been told that Messrs. Cunningham and Russell were not present when the evidence of the witnesses was taken down before me. Both these Officers were present the whole time. The statements of those witnesses, whose depositions were taken down in Telugu or Tamil, were carefully explained to them, and they were invited to cross-examine them if they wished so to do. I admit that the words "taken in the presence of the Prisoners" were not given at the heading of the depositions. Such a course is not usual in proceedings before the Magistracy, nor can I find that it is enjoined in any "Instructions" or "Manuals" to which I have access. The third Officer, Mr. Weston, was not present when the evidence was recorded. It was at the time a question whether he should not rather be a witness than a Prisoner in the case.

5. The Advocate General might, I venture to think, have given me credit for having at least so much knowledge of my duty as not to have *put the Prisoners on their oath*. I need, I hope, hardly say such was not done. Mr. Smyth would appear to object to the word "deposition" as applied to the statement of a Prisoner, but at the heading of each deposition in the case, it is distinctly stated whether it was, as in the case of the witnesses, taken on oath or solemn affirmation, or simply, as in the case of the Prisoners, taken down or given.

6. The Prisoners were, before they made their statements, told by me that what they said would be taken down, indeed they saw me recording their statements, and were well aware that what they did say might be used against them.

No. 87. ORDER THEREON, 12th August 1861, No. 1,015.

Communicated to the Advocate General for his information.

(Signed) J. D. SIM,
Secretary to Government.

Exd. F. Cartledge.

Order Nisi — 12th August 1861 No 1015.

Crn & Pl. Abstract to Fail
Settle for Certificate

L. 88

No
To be recorded.

A. E. A.

I hereby declare that
I have received the above
Certificate of Title
Dated 23/8