M.R.O. 1—80,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1798 Press ~~Mis.~~

144-145

Dated 19.11.1863. ~~19~~ .

415

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 19th November 1863.

No. 144. Read the following Proceedings of Government in the Military Department, dated 29th October 1863, No. 3480.

Communicate ruling of the Government of India, that the pay forfeited by European Soldiers in Civil custody, will continue to be undrawn in the Military Department for those sentenced to Penal Servitude, and that the expenses of their subsistence shall be borne entirely by the Jail. (Vide Proceedings Military Department, dated 29th October 1863, Nos. 599 and 600.)

No. 145. ORDER THEREON, 19th November 1863, No. 1798.

Communicated to the Commissioner of Police and to the Inspector General of Jails.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. T. O'Connor.

MILITARY DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers :—

From the Officiating Deputy Secretary to the Government of India, Military Department, Fort William, 10th October 1863, *No.* 352 ; *to the Secretary to Government, Military Department, Fort Saint George.*

With reference to your letter, No. 1337, dated 24th April last, asking by which Department, whether Civil or Military, Military prisoners in Civil custody and belonging to British Regiments, should be subsisted, I am directed to transmit, for the information of His Excellency the Governor in Council, the accompanying copy of an Extract from the Proceedings of the Government of India, in the Financial Department, No. 4742, of the 25th ultimo, determining that the Pay forfeited by European Soldiers in Civil custody, will continue to be undrawn in the Military Department for those sentenced to penal servitude, and that the expenses of their subsistence shall be borne entirely by the Jail, which, on the other hand, will have credit also for the profits from the labor of the Convicts.

Extract from the Proceedings of the Government of India, in the Financial Department, No. 4742, *dated 25th September* 1863.

Read Extract of Proceedings in the Military Department, No. 560, dated 19th May 1863, forwarding a reference from the Government of Fort Saint George regarding the Department, whether Civil or Military, at whose expense Military prisoners in Civil custody and belonging to British Regiments, should be subsisted.

Resolution.—The Honorable the President in Council observes that four Soldiers of Her Majesty's 102nd Regiment having been confined in the Madras Presidency for three years, under sentence of a Court Martial, the Commissioner of Police, Madras, claimed from the Military Department diet allowance at the rate of six Pence a day for each of the men, under the provisions of Section 32 of the Mutiny Act.

2. The Controller of Military Finance, Madras, explains that no similar charge was borne hitherto by the Military Department, because Soldiers on being sentenced to penal servitude used to be discharged from the Army ; but by an order of the Right Honorable the Secretary of State, dated 27th December 1862, such discharge from British Regiments is now prohibited, and Soldiers of those Regiments sentenced to penal servitude must continue on the strength of their Corps.

3.—In communicating this decision, the Secretary of State observed that, until the erection of Jails for European and American Convicts, the practice of sending Home Soldiers sentenced to penal servitude must be continued.

4. Under the 32nd Section of the Mutiny Act, the War Office in England is required to disburse to the keeper of the Jail or House of Correction, the cost of subsistence of every Soldier who is imprisoned therein, under sentence of a Court Martial, at one Shilling a day in Great Britain and Ireland, and at six Pence per diem in other parts of Her Majesty's Dominions.

5. The Controller of Military Finance and the Government of Madras consider this section of the Mutiny Act applicable to the present case, but hesitate to apply it, because, in the event of the Convict being sent to England, and yet being retained on the strength of his Regiment, it would involve the payment of a Shilling per diem on his account.

6. But the Honorable the President in Council observes that, as the Convict would be retained within the ordinary complement of his Regiment, not as a supernumerary,—and as the gross Pay of a Soldier is one Shilling a day, exclusive of Clothing, no extra charge would be involved in the payment of even the higher rate of subsistence in Jail, *viz.*, one Shilling per diem, for, under the 174th Article of War, no Soldier is entitled to Pay when in confinement under a sentence of any Court.

7. The settlement of any charge in England for a Military Convict sent to Europe may be left for disposal by the Secretary of State.

8. The question is, as to the necessity of applying the 32nd Section of the Mutiny Act to India, as regards re-payment to the Civil Department of the subsistence of European Soldiers confined in Civil Jails.

9. In England, the expenses of Jails are, in many cases, defrayed from local taxes, and it is necessary therefore to provide for the reimbursement to such Jails of the expenses incurred for Convicts who are chargeable to Imperial Revenue; but in India the expenses of Jails and of the Army are alike defrayed from Imperial Revenue, and no object would be gained by requiring the Military Department to reimburse the Civil to the extent of six Pence a day, for but a portion, after all, of the cost of subsisting European Military Convicts.

10. The Honorable the President in Council is accordingly pleased to determine that the Pay forfeited by European Soldiers in confinement will continue to be undrawn in the Military Department for those sentenced to penal servitude, and that the expenses of their subsistence shall be borne entirely by the Jail, which, on the other hand, will have credit also for the profits from the labor of the convicts.

Ordered that a copy of this Resolution be communicated to the Military Department, and the Military Finance Department,—original documents received from the former being at the same time returned.

(A true Extract.)

(Signed) E. H. LUSHINGTON,
Secretary to the Government of India.

ORDER, No. 3480, *29th October* 1863.

Communicated to the Commander-in-Chief and to Departments concerned, for information and guidance, with reference to Proceedings of Government, Nos. 1336, 24th April, and 2874, 7th September 1863.

(True Extract.)

A Marshall
Secretary to Government.

To the Adjutant General.
" Judge Advocate General.
" Judicial Department. With 10 spare Copies
" Controller of Military Finance.
" Examiner Pay Department.
" Military Accountant.
" Staff Officer, Fort Saint George.

Exd. R. Stephenson.

No. 1795 — 19 November 1863.
Communicated to the Commissioner of Police & to the Inspector Genl. of Jails.

The Comms. of Police,
" Inspector-Genl. of Jails. } dupd.

Feb 9 10
Mis Ct. Bl. Sept. 1863.
Pro. 20th Chap. 1863 & 1172 & 1173

Sick & Wounded

Prov. Marshal
Judicial 1863 Sept.

Prov. Marshals Genl
Western Dist Sept
No 3480

Sat. 29 Oct
Recd 2 Nov 1863.
No 2412 Wm Copies

Commencing
on the 1st Inst. after
that date pay for forfeiture
European Soldiers in Ci-
= vil custody, until continued
to be maintained in the Civil
Depts for three calendar months
Gratuitously, & that the expenses
of their subsistance shall
be borne entirely by
the Civil
Witness Orders

144 copies