

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	52	Press
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	79-80-81	
Dated	13 - 1 -	19 86 4

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
13th January 1864.*

Read the following papers :—

No. 79. From WHITLEY STOKES, Esq., Administrator General, Madras ; to the Chief Secretary to Government, Fort Saint George, dated Madras, 15th December 1863, No. 1894.

I have the honor to bring to the notice of Government that I have in my possession a large quantity of loose Cadjan accounts (about four cubic feet), which I understand are connected with the estate of Manally Ponniah Moodelly. This estate was administered to by my predecessor Mr. Peter Cator in 1835, and the Cadjans in question have never since that time been required for reference, and appear to be utterly useless.

I request the orders of Government as to whether I may destroy these Cadjans, as since the removal of the Administrator General's records into the Office-room there is no place to keep them, and they are greatly in the way.

Referred for the opinion of the Advocate General.

FORT SAINT GEORGE,
19th December 1863.

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

No. 80. From JOHN ROBERT BOYSON, Esq., Government Solicitor, Madras ; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Madras, dated Madras, 6th January 1864, No. 4.

I have the honor to acknowledge the Order of Government noted in the margin, on the

Dated 19th December 1863, and made upon the Administrator General's letter to Government of the 15th idem, No. 1894.

Administrator General's application to Government for sanction to destroy certain Cadjan accounts in his possession, connected with the estate of Manally Ponniah Moodelly deceased.

2. I submitted the matter for the consideration of the Advocate General, and I now forward a copy of his opinion.

3. I likewise return the order above noted.

COPY OPINION.

The question put by the Administrator General seems to me to involve no matter of law whatever, but to be merely a matter of discretion, and I would respectfully suggest to Government that the Administrator General might be informed that in similar cases he must exercise his own discretion. He must know, much better than Government or the Advocate General, the ordinary run of circumstances connected with such Native estates as those of Manally Ponniah Moodelly : and he, and he alone (or those in his office) can know what is the nature of these Cadjans.

Some of them may be Title Deeds of landed property, or otherwise of a nature that ought not to be destroyed ; and without a complete list and description of all these Cadjans, I think Government would be incurring an unwise and unnecessary risk, were it to authorize the whole sole destruction of documents, of which it knows nothing whatever, merely in order to free the Administrator General, a well paid Officer, who has the means of knowing precisely what each document is, from the responsibility of so destroying them, or from the trouble of keeping them, or examining them, before he decides which may be destroyed (as I have little doubt, nine-tenths of them at least might be, and which had better be preserved.

There does not seem to be any particular urgency about the matter, and if the Administrator General were to go gradually through them, and ascertain what they are, I conceive he could find no difficulty in deciding which of them he might safely destroy : where he is in doubt, he ought not to destroy them.

This is what I would suggest as the reply that should be given to the Administrator General's question.

He says that Mr. Cator administered to Manally Ponniah's estate in 1835, meaning, I presume, that he took out Letters of Administration in that year ; but, as well as I recollect, litigation about that estate was going on very many years after 1835.

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Proceedings of the Madras Government, Judicial Department,
13th January 1864.

In my opinion, moreover, it is very desirable never to make the question of the destruction of any old records, especially when connected with Natives or their estates, a matter of public discussion, or official reference in writing, when it can possibly be avoided; for it too often sets a swarm of rogues on the *qui vive*, to bring forward fictitious claims, founded merely on the alleged existence of old documents, as soon as they hear of any wholesale destruction of papers in any place where their imaginary vouchers might probably have been.

(Signed) T. SYDNEY SMYTH,
Advocate General.

23rd December 1863.

(True Copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

No. 81.

ORDER THEREON, 13th January 1864, No. 52.

Resolved that the opinion of the Advocate General, on the question raised in the Administrator General's letter of the 15th December 1863, be communicated to that Officer, and that Mr. Stokes be informed that the Governor in Council concurs in Mr. Smyth's opinion.

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

Read letter from the Administrator General. 15th Decr. 1863/1864
" Govt. Solicitor 6th January 1864. 924.

Order thereon 13 January 1864. No. 52.

Resolved that the opinion of the Advocate General on the question raised in the Administrator General's letter of

the 15th Decr. 1863 be communicated to that officer & that Mr. Stokes be informed that the Govt. in Council concurs in his opinion.

in which the Administrator General should exercise his own discretion.

To the Administrator General
" Govt. Solicitor