M.R.O. 1—33,000—15-10-57.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1142 — Press — Mis. —

136-139

Dated 16 — 8 — 19 1865

3/3

Not to be folded or roughly handled

(1)

Proceedings of the Madras Government, Judicial Department, 16th August 1865.

No. 138. Read the following letter from G. A. BALLARD, Esq., Magistrate of Malabar, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Calicut, 5th August 1865, No. 100.

I have the honor to submit an original letter from the Acting Joint Mrgistrate, dated 3rd instant, and to request that the opinion of the Advocate General may be obtained on the question therein mooted.

No. 96.

From J. H. GARSTIN, Esq., Acting Joint Magistrate of Malabar, to G. A. BALLARD, Esq., Magistrate of Malabar; dated Tellicherry, 3rd August 1865, No. 96.

I have the honor to request you will favor me with your opinion on the following point in a case now pending before me.

2. A Company indicted their Agent at Cannanore for embezzling money which he received on their account, and which he ought to have remitted regularly to them, but did not.

3. The Company therefore directed a Firm here to remove the Agent from his situation, and take full security for the re-payment of the embezzled money, or else to prosecute him at once.

4. The Agent was at once removed from his situation. This occurred as far back as May 1864, and as he made abundant promises to the Firm who had removed him, and who were constituted Agents in his place, that he would make good the money, they took no steps to prosecute him till September last, when an employé of the Firm here came and applied for a Warrant against the Agent; but as he knew nothing of the circumstances of the case personally, and as the only ground on which he based his application was a sketch of the amounts received by the Agent, from time to time, on the Company's behalf, and of those remitted by him, showing also the amount embezzled, which was not, however, signed by the Company, I declined to issue any process.

5. The case, however, again came up three or four days ago, and I then, on grounds being shown, arrested the Agent.

6. It appears, however, that at different times after the Agent was removed from his Agency, but before the first complaint was made, the dismissed Agent paid up, in instalments, about an eighth part of the sum which he was charged with embezzling, and the question therefore is whether such receipt of that eighth part is a compromise, and prevents the Company prosecuting criminally for the embezzlement of the rest.

7. Should you have any doubt, I request you will submit the point for the opinion of the Advocate General.

No. 139. ORDER THEREON, 16th August 1865, No. 1142.

The Governor in Council is not prepared to refer the question put in Mr. Garstin's letter to the Advocate General. Officers of the Magistracy must decide all cases that come before them to the best of their judgment.

(True Extract).

Chief Secretary.

To the Magistrate of Malabar.

Exd. J. H. Burns.

No. 1142 - 16 August 1865.

The Governor in Council is not prepared to refer the question, put in Mr. Garstin's letter, to the Advocate General. Officers of the Magistracy must decide all cases that come before them to the best of their judgment.

By Order,

The Magistrate of Malabar. } Dated 18/8