M.R.O. 1—39,600—16-10-22.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

1

G.O. No. 1296 Press Mis.

124-125.

Dated 12. 9. 1865 19 .

617

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
12th September 1865.

No. 124. Read the following Proceedings of Government in the Military Department, dated 1st September 1865, No. 3233.

Communicating correspondence relative to the mode of dealing with insubordinate or intemperate Soldiers and Non-Commissioned Officers of the Unattached list. } (Vide Proceedings Military Department, dated 1st September 1865, Nos. 1 & 2.

No. 125. ORDER THEREON, 12th September 1865, No. 1296.

Communicated to the Inspectors General of Police and Jails, with reference to G. O. of the 2nd April 1864, No. 445.

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

To the Inspector General of Police.
„ Inspector General of Jails.

Rxd. J. Tulloch.

MILITARY DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers:—

From the Officiating Secretary to the Government of India, Military Department, Fort William, 4th August 1865, No. 76; to the Adjutant General.

In reply to your letter, No. 324E, of the 3rd ultimo, I am directed to acquaint you, for the information of the Commander-in-Chief, that Government approve of the Rules drawn up by the Committee, and of His Excellency's suggestions, in regard to the mode of dealing with insubordinate or intemperate Non-Commissioned Officers and Soldiers on the Unattached List.

2. Copies of the correspondence* on the subject will be sent for the information and guidance of Departmental Officers, and will also be communicated to the Governments of Fort Saint George and Bombay.

* *Military Department Consultation for November* 1864, *Nos.* 1118-21.
Letter No. 324*E*, *dated* 3*rd June* 1865, *from Adjutant General, with Proceedings of Committee.*

Proceedings of the Right Honorable the Governor General in Council, in the Public Works Department,—(No. $\frac{634E.}{3321}$ *dated Simla, the* 21*st July* 1864.)

Course to be pursued in sending back Soldiers of the Effective Supernumeraries to their Regiments.

Read the following:—

Entry No. 143 in the Proceedings of the Madras Government, in the Public Works Department, for the month of April 1864.

1. The Commander-in-Chief has learnt that Soldiers of the Effective Supernumeraries have been sent back to their Regiments from the various Departments under Government, Civil and Military, without any record to show what their conduct has been during absence from Regimental duty; while at the same time there is reason to suspect that many of them have by their misconduct forfeited all the benefits conferred by the Good Conduct Regulations upon the well-behaved Soldiers.

2. On these men re-joining their Regiments or Batteries, their Commanding Officers, in the absence of any information regarding them, are compelled to admit them to the advantages of the Good Conduct Warrant, and have even recommended them for the Good Conduct Medal with Gratuity.

3. Sir Hope Grant desires that measures shall be at once adopted to prevent for the future such evasions of the provisions of Her Majesty's Royal Warrant, and with this view, His Excellency requests that Departmental Officers will carefully record every instance of misconduct that Soldiers of the Effective Supernumeraries may commit, while serving under their orders. These entries are to be made in the Soldier's Defaulter Sheet which should have been received* with him from his Regiment, and that record should be completed to date and sent back to his Regiment with the Soldier when he returns to it.

* *If not application should be made for it without delay.*

4. The Soldier in Barracks is constantly under the supervision of his superiors, and his every act of misconduct is noticed, and often in such way as to involve pecuniary penalty. He has therefore just cause for complaint when he sees his comrade, whose conduct he knows has been no better than his own, in the enjoyment of advantages which he has forfeited.

5. The Commander-in-Chief must request Departmental Officers will adopt measures, whereby the habits of the Soldiers serving under their orders may be ascertained by them, and instances of intemperance or other misbehaviour at once detected, punished and recorded.

6. The Commander-in-Chief will not fail to bring to the notice of Government the name of any Officer who neglects the important duty enjoined in this Circular.

ORDER.—Ordered that a copy of the foregoing Resolution be forwarded to the Military Department, with remark that these orders seem of a nature that might well be extended to the Public Works Department under the Government of India, and that if approved in the Military Department, they might be issued to the Local Governments and Administrations, with a request that the same system may be adopted in regard to Soldiers employed in the Public Works Department under the Government of India.

(Signed) R. STRACHEY, Col., R. E.,
Secy. to the Govt. of India.

From the Secretary to the Government of India, Military Department, Simla, 10th October 1864, No. 89 ; to the Adjutant General.

I am directed to forward, for submission to the Commander-in-Chief, the accompanying communication* from the Government of India, in the Public Works Department, and to request that you will move His Excellency to furnish the Government with such remarks as may occur to him.

* *No. 534E, dated 21st July 1864. (return requested.)*

2. I am to state that the Government in this Department concurs with the opinion expressed by Secretary Colonel Strachey, but that it appears necessary that some specific instructions should be laid down to obviate the possibility of mere Departmental errors being entered against a man's name in his Defaulter's Sheet.

From the Adjutant General, Head Quarters, Simla, 28th October 1864, No. 1178E ; to the Secretary to the Government of India, Military Department.

Having submitted to His Excellency the Commander-in-Chief your letter, No. 89 of the 10th instant, forwarding certain documents* received from the Public Works Department, relative to the course to be pursued in sending back Soldiers of the Effective Supernumeraries to their Regiments, and stating that it appears necessary to the Government that some specific instructions should be laid down to obviate the possibility of mere Departmental errors being entered against a man's name in his Defaulter's Sheet, I am directed to reply as follows :—

* *Herewith returned.*

His Excellency is of opinion that a "Character Book" may be kept, without objection, and with advantage, of the conduct of Non-Commissioned Officers and Soldiers employed in the Public Works Department, in order that, in case of their remand to their Regiments, the Commanding Officer may have the means of judging of their past behaviour while employed extra Regimentally.

But entries in the Regimental "Defaulter's Book" can only be made of offences against Military discipline, which have been regimentally punished ; and no offence which has been Departmentally punished can be entered in that book, therefore no Departmental or Civil offence can be taken into account with reference to a Soldier's service for Good Conduct Pay.

From the Secretary to the Government of India, Military Department, Fort William, 25th November 1864, No. 819 ; to the Adjutant General.

With reference to your letter, No. 1178E, dated 28th ultimo, I am directed to acquaint you, for the information of His Excellency the Commander-in-Chief, that it will, in the opinion of Government, satisfactorily meet all requirements and secure the uniformity of procedure so desirable, as far as uniformity can be secured in such cases, if His Excellency will cause the Rules submitted with letter, No. 149, dated 15th April 1862, from the Adjutant General of the Army, for keeping Defaulter or Character Books in Departments in which European Non-Commissioned Officers and men are employed, to be modified as suggested in the 2nd and 3rd paragraphs. of my letter No. 865, dated 23rd May 1862 ; and also the general Rules with necessary explanations, for the guidance of Departmental Officers in keeping these books, to be framed as suggested in paragraph 4 of that letter.

2. It seems very desirable that these Rules should be drawn out in detail, avoiding references to the Queen's Regulations which might in any way mislead ; and it might also be well if a form of the Character Book, which His Excellency may think best adapted to the case, were annexed for general adoption.

3. An early reply is solicited.

From the Adjutant General, Head Quarters, Simla, 3rd June 1865, No. 324E ; to the Secretary to the Government of India, Military Department.

With reference to your letter, No. 819, dated 25th November last, I have the honor to state that a Committee of experienced Officers was assembled under the orders of the Commander-in-Chief at Lucknow on the 25th April last, for the purpose of considering fully the system of Departmental Defaulter and Character Books proposed to be adopted.

2. In submitting for the consideration and orders of Government the Proceedings and recommendations of this Committee, I am desired by Sir William Mansfield to remark, that it must be borne in mind that the so called Departmental Defaulter Books have not the character of legal evidence, which, as in the case of habitual drunkenness belongs to Regimental Defaulter Books, and can be adduced as evidence before a Court Martial.

3. In like manner an entry in a Departmental Book would not be a warrant to the Commanding Officer of a Regiment after the remand of a Soldier, to take away his Good Conduct Pay, or retain him in the 2nd Class.

4. Departmental Defaulter Books may be useful to Departments and may be good official records with respect to Departmental promotion. But it must be observed, according to His Excellency's apprehension, that offences perpetrated in a Department are not likely to receive that careful examination and weighing of circumstances which characterize the magisterial proceedings of Regimental Commanding Officers in their Orderly-rooms.

5. The result of a long experience of the unattached system leads the Commander-in-Chief to the following opinion, *viz.*, that private Soldiers on the Unattached List, who show a disposition to drink or irregularity, should be summarily remanded to their Regiments even in the absence of offences rendering them liable to trial.

6. Non-Commisioned Officers on the same list should generally be tried for acts of drunkenness, it being most inconvenient to Regiments, on the ground of discipline, to receive Non-Commissioned Officers who are remanded for misconduct.

7. Yet if they are remanded penally in the rank of private Soldiers, which they may have held on the occasion of their leaving their Regiment, the proceeding, in the absence of a conviction, is always open to future cavil, and the source of uneasiness to the man as well as to his Commanding Officer.

8. His Excellency is aware that it frequently happens in Departments, owing to the want of experince in such matters on the part of otherwise very able Officers, that it is difficult to obtain evidence, or so to collate the evidence when obtained as to ensure the conviction of a Non-Commissioned Officer, whose misconduct may be habitual and patent.

9. It is however better that the trial should fail of conviction rather than that such a man should not be tried at all.

10. In the case of defeated justice, the Department may fairly request the remand of the Non-Commissioned Officer concerned, who will then return to his Regiment as a marked man ; the cause of example, and therefore of discipline, being thus served.

11. The general course thus recommended is, His Excellency thinks, better than any new method of sending men away to stations for Military punishment.

12. Sir William Mansfield cannot recognize, as proposed, any system which would make Her Majesty's Regiments Penal Establishments except for their own offenders.

13. In the case stated in answer to query 1, the Departmental Officer should apply for a Court Martial on the offender ; he would then be treated according to Military Law.

Proceedings of a Committee assembled by order of His Excellency the Commander-in-Chief, dated Simla, 22nd February 1865, for the purpose of drawing up Rules for the better Government of Non-Commissioned Officers and Soldiers on the Unattached List in the Civil Departments of the Army.

PRESIDENT.

Brevet-Colonel C. F. CAMPBELL, 46th Regiment.

MEMBERS.

Captain D. WARD, R. E., Executive Engineer, Lucknow.

Captain W. LEES, 23rd Fusiliers, Offg. Deputy Judge Advocate General, Oude Divn.

LUCKNOW, 25th April 1865.

The Committee having assembled pursuant to order and having carefully considered the correspondence laid before it, together with the Assistant Adjutant General's letter No. 951E of the 22nd February, proceed to answer the queries in the above letter, according to order.

1st Query.—What punishments can be inflicted by Departmental Officers?

Answer.—The Committee is of opinion that all Officers above the subordinate rank, should have the power of stopping Departmental pay to the extent of five days, and that this stoppage of pay be the only punishment inflicted by Departmental Officers; but that in the event of riotous or insubordinate conduct, that any private Soldier when in or near a station where there is a Detachment of European Troops, may be handed over to the Officer Commanding to be dealt with in accordance with the Queen's Regulations.

2nd Query.—How far misconduct should be allowed to proceed before a man is remanded to his regiment?

Answer.—The Committee considers that every Departmental Head of a Circle should have the power of remanding any man to his Regiment, acting either on his personal knowledge or the reports of his subordinates.

3rd Query.—The character of the crime which would render remand to the Regiment necessary, and which might be met by sending the offender to the nearest Military Station?

Answer.—The Committee is of opinion that remand to Regiments ought to be left to the discretion of the Heads of Circles, and that the only cases when offenders should be sent to Military Stations, are, when under sentence of court Martial, or as mentioned in answer to query No. 1.

The Committee has drawn up rules and regulations for the use of Officers in Command of Soldiers on the Unattached List, which is marked A and attached to these Proceedings.

There is also annexed a Defaulter's Sheet marked B, which the Committee recommends for general adoption.

With regard to Character Sheets, the Committee recommends that each Department should frame one applicable to the qualifications required by it.

General Remarks.—The Committee in recommending fines as the only punishment in the hands of Officers, has been guided by the consideration that in the majority of cases it would be found difficult, if not impossible, to enforce other punishments.

In the Public Works Department especially, numbers of men are in isolated situations, where it would be impossible to carry out the punishments laid down in the Queen's Regulations.

In cases also where Military subordinates are serving under Civilians, it appears to the Committee that stoppage of Departmental pay is the only legal punishment that could be inflicted.

(Signed) T. WILLIAMS, Major-Genl.,
Comdg. O. D. A.

A.

1. On the commission of an offence, the offender shall be placed under suspension and so remain until his case be disposed of.

2. In the awarding of punishments, Officers should be guided by the offender's previous character as well as by the circumstances of the case.

3. "In all first offences not of an aggravated character, mild reproof and admonition are to "be tried, and punishment is not to be resorted "to until a repetition of the offence shall have "shown, that the milder treatment has not "been productive of the desired effect."

Q. R. page 120, *paragraph* 11.

4. In all offence of so grave a nature as to necessitate the removal of the offender to his Corps, it is advisable that the offender should, if possible, be tried by a Court Martial before remand.

5. When an offender from the frequency of his offences (not cognizable by Courts Martial) is deemed incorrigible, a special report should be made to the Head of the Departmental Circle, with a view to his being remanded to his Regiment.

6. When a Non-Commissioned Officer is remanded to his Corps under Rule 5, a full report of the case shall be made for the information of His Excellency the Commander-in-Chief, in order that His Excellency may, if he deem fit, exercise the power vested in him by the 139th Article of War.

7. All offences are to be investigated and witnesses examined in the presence of the offender, by the senior Officer (Civil or Military) of the Department on the spot.

8. An offender should not be awarded punishment until the day following that on which his offence was committed.

9. Every case should, if practicable, be investigated and disposed of within forty-eight hours of the offence being committed, unless it be preparatory to a Court Martial, or the case be submitted to higher authority.

10. Care should be taken when an offender has been drunk, that his case be not investigated until he is perfectly sober.

11. When several of a Department are serving in the same place or Station, the chain of responsibility and discipline should be preserved according to Departmental rank, and an offender should always, when practicable, be brought up for investigation of his case in charge of a Departmental senior.

12. In addition to any fine or punishment awarded, an offender shall forfeit his Departmental pay whilst under suspension and absent from his duties.

13. Every Officer with power to award punishment shall be in possession of the Defaulter's Sheets of the men under his immediate Command. All entries in these Sheets are to be made in his handwriting, and a copy of the entries forwarded monthly to the Head of the Departmental Circle for record in the Circle Defaulter's Book.

14. When a Non-Commissioned Officer or Soldier is transferred from one Station or branch to another, his Defaulter's Sheet shall be forwarded by post to the Officer under whose Command he is to serve.

15. No entry in a Departmental Defaulter's book in any way affects a Soldier's claim to Good Conduct pay.

16. Every Officer should be in possession of a copy of the Mutiny Act and Articles of War for his guidance, in cases of an aggravated nature cognizable by Courts Martial.

17. Trivial neglects and carelessness should not be made the subject of fines and entered in the Defaulter's Book. They more properly belong to the Character Book.

(Signed) C. F. CAMPBELL, Colonel,
46th Regt.—President.

(,,) W. LEES, Captain,
Offg. Dy. Judge Advocate Genl.

(,,) D. WARD, Capt., Royal Engineers,
Executive Engineer.

B.

No 351, Private JOHN GRAVES, enlisted 1st July 1860,—joined Public Works Department 1st February 1863—promoted.

Place.	Date.	Offence.	By whom reported.	Punishment.	By whom ordered.	Remarks.
Seetapore...	1st June 1863.	Drunk in his Office at 4 o'clock P. M.	Serjeant Jones.	Admonished.	Lieut. Smith.	Remanded to his Corps.
Do. ...	2nd Oct. 1863.	Drunk in his quarters at 10 o'clock A. M.	Do.	3 days' pay stopped.	Do.	
Lucknow....	1st Dec. 1863.	Insolence to his superior Officer.	Serjeant Marsh.	168 hours' imprisonment, H. L.	Lt.-Col. Brown, Comdg. 50th Regt.	
Do. ...	1st Jan. 1864.	Drunk at 5 o'clock P. M., and habitual drunkenness.	Do.	Deprived 1*d.* a day for 365 days—42 days' imprisonment H. L.	District Court Martial.	
Do. ...	1st do. 1865.	Neglect of duty in not inspecting daily a wall in No. 10 Barracks, Royal Artillery Lines, supposed to be in a dangerous condition, as ordered.	Assistant Engineer Jones—Overseer Jackson.	5 days' pay stopped.	Captain Smith..	
Fyzabad ...	2nd Feb. 1865.	Absenting himself from his Station without leave and not returning until 4 A. M.	Overseer Jackson—Supervisor Williams.	Do. do.	Do.	

(Signed) C. F. CAMPBELL, Colonel,
46th Regiment—President.
(,,) W. LEES, Captain,
Offg. Dy. Judge Advocate Genl.
(,,) D. WARD, Captain, Royal Engrs.,
Executive Engineer.

No. 77.

Copy of the above, and of the correspondence referred to, forwarded to the Secretary to Government, Fort Saint George, Military Department, for the information of His Excellency the Governor in Council.

By Order,
(Signed) H. K. BURNE, Lieut.-Colonel,
Offg. Secy. to the Govt. of India.

ORDER, No. 3233, 1st September 1865.

Communicated to His Excellency the Commander-in-Chief and to Departments, for information and guidance, in supersession of Proceedings of Government, No. 966, dated 19th March 1864.

(True Extract.)

Secretary to Government.

To the Adjutant General.
,, Public Works Department.
,, Revenue Department.
,, Inspector General of Ordnance.
,, Clothing Department.
,, Commissary General.
,, Remount Agent Oossoor.
,, Judicial Department. With 10 spare Copies.

Exd. J. E. Cashart.

No. 1296 — 12th September 1865
Communicated to the Inspectors General of Police & Sails, with reference to G. O. of the 2nd April '64 No. 445.

The Inspector Genl. of Police / Inspector Genl. of Sails. } dispd 13/9

Pro. 2nd April 1866 Nos. 13–14

Govt of Mysore

Judicial 1865. Department.

Lieut Gl Reeves

No. 3233.

PROCEEDINGS OF GOVERNMENT,

Military Department

Feb. 1300/66.

Dated 16th to 31st September 65–

Rs 1894

Communicating Correspondence relative to the mode of dealing with insubordinate or intemperate Soldiers & Non-Commissioned Officers of the Regt attached &c.

124. 125–

~~124 135.~~

76] Madras—Printed at the Government Press.

Extd Orders.