

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	18249	Press ~~Mis.~~
Dated	22-11-1918	1866

227-228

Not to be folded or roughly handled

*Order
waiting*

*Proceedings of the Madras Government, Judicial Department,
22nd November 1866.*

No. 227. Read the following letter from the Superintending Engineer, 7th Division, to the Secretary to Government, Public Works Department, Fort Saint George; dated Calicut, 5th November 1866, No. 169.

I have the honor to submit, for the orders of Government, the accompanying original letter from Major Farewell, requesting that 150 convicts may be placed at his disposal, for work on the Road

Enclosure 1.

Major Farewell's, No. 122 of 31st October 1866.

between Pykara and the new Goodaloor Ghaut, and on the Ghaut itself. During the five months from November to March inclusive, the weather on the Neilgherries is sufficiently settled to admit of the use of tents in the manner proposed by Major Farewell, provision being made for the warmth of their inmates at night by extra clothing. I commend the proposition, therefore, to the favorable consideration of Government, and request that, in the event of its being sanctioned, such orders may be issued to the Jail, Police, and the Commissariat Departments, as will ensure their prompt co-operation in carrying it out with so little delay as will make as much as possible of the five months to which I would limit the duration of the experiment, and at the expiration of which, accommodation for the men to be relieved will be available in one or other of the new Jails just sanctioned.

From Major W. FAREWELL, Executive Engineer, Neilgherry Range, to the Superintending Engineer, 7th Division; dated Wellington, 31st October 1866, No. 122.

Being under the impression that Government are desirous of having as many Convicts as possible employed on Public Works, the Convicts being temporarily accommodated on those works in as cheap a method as possible, and finding great difficulty in obtaining free labor for the construction of the road between Ootacamund and the head of the Goodaloor Ghaut at Neddiwattum, I have the honor to propose that a camp be established at Hamilton's Saddle for 100 Convicts—the Convicts to be accommodated in tents, such as are used by European Troops. In a camp of this kind, arrangements for latrines would be cheap, as trenches need only be dug outside the camp and filled in daily, as is done in standing camps in general. The camp might be moved once a fortnight, and thus clean ground be secured.

2. My reason for suggesting the use of tents is that, in the first place, to erect the most common kind of temporary huts, for the accommodation of such a gang, would take a long time to complete; secondly, that if free labor could be procured for this purpose, the huts would cost a great deal; thirdly, that huts built of such perishable materials as those only to be procured in the vicinity of the line, their cost would be a heavy tax on the estimate, and at the same time be totally lost; while, lastly, on road work, which, of course, is daily moving on, the distance the Convicts would have to go daily increases, and much of their time would thus be lost in men marching backwards and forwards, while, if tents are used, these can of course be moved as the work advances.

3. The tents necessary would be—one for the Police guard; four, to contain 25 each, for the Convicts; and a Hospital tent—all of the kind before noted; while about three Sepoy tents for the Police and one for the Dresser, another for the stores, and one for the Jailer, would complete the camp. To allow of the Police guards being reduced as much as possible, I propose that the Convicts be chained at nights, to a properly secured main chain, running down the centres of the tents.

4. I have already addressed the Inspector General of Prisons on the subject of placing at my disposal a gang of 40 men, to be located, as last year, in the Chuttrum at Pykara. These men I propose to employ in opening out the last section from Pykara to the Chinchona road crossing, and I consider that a gang of 100 men will, in about three months, complete the portion of the road, now untouched, between the long reach beyond Pykara to the second crossing, or the completed portion of the road leading to the new bridge over the Makoorty Stream; thus, nearly the whole line would be open for traffic during this official year.

Code of Criminal Procedure

*Proceedings of the Madras Government, Judicial Department,
22nd November 1866.*

I believe that there is ample room for the accommodation of more Convicts in the Jail built in the Chinchona Plantations at Neduvattam. If the gang already there were increased to the full number the building is calculated to hold, and say 50 of these men were placed at my disposal, they would be very useful, and allow of my speedily completing that portion of the Goodaloor Ghaut which runs through the Plantations, especially the heavy rock blasting almost in the centre of the Plantations, which portion of the Ghaut, when completed, will be of great use to these Plantations.

Referred to the Judicial Department, for favorable consideration.

FORT SAINT GEORGE,
18th November 1866.

(Signed) C. A. ORR, Colonel, R. E.,
Secretary to Government, P. W. D.

No. 228. ORDER THEREON, 22nd November 1866, No. 1849.

Referred to the Inspector General of Jails, for early report, and to the Inspector General of Police, as regards the Police Guard.

2. Major Farewell's proposal to have the prisoners chained together at night is inadmissible, as, in case of fire, the loss of life might be most serious.

3. The last paragraph of Major Farewell's letter will be communicated to Mr. McIvor for report.

(True Extract).

Chief Secretary.

To the Inspector General of Jails,
Inspector General of Police,
Public Works Department,
Superintendent, Chinchona Plantations.

Edw. J. H. Burns.

Statement of the Case.

An offence punishable under Sec 457 of the Indian Penal Code was committed in a Village, which circumstances the Head of the Village or Village Magistrate did not report to the Police.

The Superintendent of Police proposed to proceed against him criminally under Section 202 of the Indian Penal Code.

The Magistrate held that a conviction could not be had under that Section inasmuch as the Village Magistrate was not "legally bound" to give information to the Police of the commission of offences.

The Superintendent of Police contended that as under Section 138 of the Code of Criminal Procedure it is "the

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only
knowledge of
the occurrence*

"the duty of every person who is aware of
"the Commission of any offence made
"punishable under (certain specified) sections
"of the Penal Code to give information
"of the same to the nearest Police officer"
A fortiori
~~apart from~~ a village Magistrate is under
an express obligation to do so and in
support of this view he quotes Maynes
note on Sections 25-50 of Regulation VI of
1816 (See page 103 Maynes commentary
1st Edition and page 109. 3^d Edition)

It may be as well to remark here
that the above quoted Sections of Regulation
VI of 1816 have all been repealed since,
with the exception of Section 44 which
refers only to District Magistrates, by
Act XVII of 1862.

It appears very doubtful whether

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Medical 1866 Plaintiff

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Proceedings of Court

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Criminal

For orders

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